

Cordry-Sweetwater Conservancy District
Board of Directors Meeting
November 21st, 2023

1. **Board Members Present:** Josh Edwards, Pat Sherman, Herb Benshoof, Aaron Parris, Mark Rasdall, Ted Adolay, and Mike Leavitt
2. **Board Members Absent:** None
3. **Also, Present:**
 - a. **Staff:** Brittany Bay & Nick Johann
 - b. **CSCD Attorney:** Roger Young
 - c. Approximately 40 freeholders in attendance & numerous online viewers
4. **Welcome:** Mr. Edwards called the meeting to order at 7:01 PM.
5. **Agenda Modifications:**
 - a. Mrs. Bay requested move line-item old business to line item 5.a Old Business: Wake Recommendations. Mrs. Bay asked to add line items 6.a.iii Resolution 2023-16 and 8.d. Hiring a full-time maintenance employee.

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

6. **Approval of Minutes:**

MOTION: Mr. Sherman motioned to approve the October 17th, 2023, Special Session Board Meeting Minutes, seconded by Mr. Leavitt. Motion passed unanimously.

MOTION: Mr. Parris motioned to approve the October 17th, 2023, Board Meeting Minutes, seconded by Mr. Adolay. Motion passed unanimously.

7. **Freeholder Concerns:**

- a. Scott Casey (SW 199) spoke about being on the wake committee. Mr. Casey went over the wake test that was done on June 10th on Sweetwater Lake and the results of that test. Mr. Casey brought in blocks to show the Board and freeholders the height of the waves that were created during the test. Mr. Casey noted that some members of the wake committee felt that the test done on Sweetwater Lake was not scientific.

- b. Jason Reese (WS53) read an opposition to the proposal to ban wake boats and wake surfing. Mr. Reese noted that 63 people have signed this opposition. Mr. Reese also mentioned he believed wake surfing is the fastest growing water sport.
- c. Chris Buckman (WS 164) noted that he had signed the opposition to the wake committee proposals. Mr. Buckman noted that he believed with the current restrictions wake boats are already banned. Mr. Buckman noted all of the studies used to argue banning wake boats or activities were done using wake enhancing devices which are prohibited on the lakes here. Mr. Buckman believes the current rules for dry weight and length combined with the restriction of wake enhancing devices already addresses the issue at hand. Mr. Buckman mentioned he believes on busier days or weekends when there are many boats on the lake there is going to be choppy or rough water. Mr. Buckman also explained he lives on the main body of water and has seen no erosion issues.
- d. Greg Caldwell (lot 26) believes the wake committee failed because some of the committee members suffer from what he called confirmation biased. Mr. Caldwell believed that many of the committee members already had their minds made up to ban the boats and dismissed any evidence that was not supportive of this. Mr. Caldwell gave examples of evidence and experts that were disregarded by the committee. Mr. Caldwell discussed the wake test that was done on Sweetwater Lake.
- e. Shena Johnson noted that she is on the ecology commission, and she had questions about the budget that was approved in particular the money that was approved for card readers at the gas pumps. Mr. Sherman explained the card readers are so that freeholders could purchase fuel during certain hours. Mrs. Johnson then asked about them being unattended pumps and asked if freeholder will have access 24/7. Mr. Sherman explained that it would not be 24/7 but it would be open later in the season. Mrs. Johnson then asked if there was any discussion about if there was a spill while marina stations were unattended. Mr. Sherman explained that is something that still needs discussed as well as the parameters of when the card readers would be accessible.
- f. Marcia Harper (WS 387) noted that she served on the wake committee and how the committee went over research on wake boats, the waves they create, and how they affect the community. Mrs. Harper believes some people have accused some committee members of being self-serving and biased from the beginning. Mrs. Harper went over some of what she referred to as half-truths regarding the wake committee that she has heard at meetings and seen on social media.
- g. Greg Harper (WS 387) went over wake boats and mentioned that wake boats cannot be permanently disabled even though every freeholder agreed to this when putting their boat on the lake. Mr. Harper went over shoreline erosion and expressed if others did not believe there was erosion to read the wake survey comments available on the website from freeholders regarding erosion. Mr. Harper went over the wake test that was done on this lake and explained that this was meant to be a demonstration not a scientific study. Harper believed the two members of the wake committee who were interested in doing this demonstration were discrediting scientific studies. Mr. Harper also noted these scientific studies are available on the website.

Marcia Harper then gave a written copy of what they had just presented to the Board.

- h. Tammy Burroughs (L24) expressed she is against the ban on wake surfing, and she lives on the main body of water on Cordry Lake, and she watches people every day and sees dangerous activity that is not ticketed. Mrs. Burroughs suggested reinforcing current rules. Mrs. Burroughs said that she believes that wake surfing is the safest activity that can be done on the lake. Mrs. Burroughs lastly suggested that the lights and time be aligned. Mrs. Burroughs mentioned that she did not own a wake boat and as a paddleboarder the biggest wake she has seen is with a pontoon pulling tubes.
- i. Mark Quigly (SW 515) thanked the Board for considering this issue. Mr. Quigly noted that he opposed banning of wake boats or wake surfing. Mr. Quigly then noted that he does not own a wake boat, but he does wake surf. Mr. Quigly expressed why he enjoys wake surfing and why he feels it is a safe sport.
- j. Jeff Simmons (7499 Hummingbird) noted that he has lived here for 15 years. Mr. Simmons' concern was if the Board starts what he referred to as the slippery slope of banning things that there are already rules about it will set a precedent that is hard to follow. Mr. Simmons noted that he lives on the main body of water and doesn't feel this is an erosion issue and he hasn't seen any erosion. Mr. Simmons noted he believes that wake surfing is the fastest growing and safest lake activity.
- k. Keleigh Glover believes the wake debate is as she refers to it an us versus them topic. Mrs. Glover then noted that she doesn't believe this is a safety issue and discussed tubing. Mrs. Glover expressed she believed that erosion is being used to push an agenda. Mrs. Glover noted that they live in the white house on the point, and they have been there for 30 years. Mrs. Glover believes they receive more wake than anyone else; and noted she has no more erosion than they had 30 years ago. Mrs. Glover expressed that she felt the wake committee was biased and noted that some members did not attend the wake test done on the lakes or left early. Mrs. Glover recommended that a shoreline committee be created to ensure freeholders maintain their property.
- l. Brian Clancy (WS 375) noted that he was secretary of the wake committee, and he would be reiterating what he said at last month's board meeting. Mr. Clancy noted that of the freeholders who took the survey it showed 50% of freeholders voted to ban wake boats & 57% to ban the activity. Mr. Clancy expressed this is not about personal feelings or individual wants and the Board should vote based on how constituents are telling you to vote.
- m. Rob Tulley (WS 293) noted he had lived at the lakes since 2007. Mr. Tulley noted that when he first moved here there were rules in place when he purchased his boat. Mr. Tulley noted that he believed if freeholders adhered to rules that are currently in place, then everyone would be in good shape. Mr. Tully discussed the different types of boats and the wakes they create.
- n. John Sahm (G29) noted he has lived on the lake for 17 years and raised four kids here at the lakes. He noted he has pulled a lot of tubers and skiers. Mr. Sahm noted he purchased a wake boat in order for his family to add another lake activity. Mr. Sahm noted he feels that if the rules are followed then wake surfing can be safe and it will prevent a lot of issues that have been discussed.

- o. Brenda Maulden (SW 264) discussed what the ecology commission's mission is. Mrs. Maulden noted she joined the ecology commission 5 years ago. Mrs. Maulden discussed the importance of protecting/preserving the lakes and water sheds. Mrs. Maulden discussed the importance of the lake ecosystem. Mrs. Maulden noted that she felt allowing self-fueling at the marinas for convenience invites many problems.
- p. Jim Donnells (J 23) explained he came to the meeting tonight to summarize the ecology commissions position on the card readers at the marinas. Mr. Donnells noted that the card reader was added into the 2024 budget and for the past few years the ecology commission has been doing research on self-fueling at lakes. Mr. Donnells mentioned that adding a self-fueling option at the marinas did not get passed by the ecology commission because of its ecological impact. Mr. Donnells noted that included in the Board meeting packets tonight is a DNR fact sheet about concerns of fuel/oil in the lakes in Indiana. Mr. Donnells requested the Board reconsider this card reader.
- q. Tom Quill (WS 98) noted his first concern was the safety of the dam and erosion on the dam. Mr. Quill noted he reviewed past dam inspection reports, and the dam rating has gone down. Mr. Quill noted he met with the dam inspector and asked if larger wakes were affecting the dams, and the inspector didn't say that they were or that they weren't. Mr. Quill mentioned that enforcing the rules we currently have is difficult to do. Mr. Quill noted that erosion happens, and larger and powerful wakes cause more damage. Mr. Quill discussed the wake demonstration.

8. Wake Recommendations:

- a. Mr. Parris suggested going through the 20 wake committee recommendations one at a time. Mr. Parris read recommendation number 1.

MOTION: Mr. Rasdall motioned to approve ban all plowing, wake surfing activity, or any activity that creates an enhanced wake seconded by Mr. Leavitt.

Discussion: There was some board member discussion. Mr. Sherman spoke about the term plowing being subjective. Mr. Sherman suggested supplying boat patrol staff with cameras to have proof of someone using a ballast/wake enhancing device issuing them a ticket, then if the freeholder has an issue with the ticket, they can go to the security commission and then the Board. Mr. Edwards asked if this was to ban the devices or the activities. Mr. Rasdall spoke about the green rule book and how it was modified with a 2015 resolution. Mr. Rasdall spoke about wake surfing. Mr. Rasdall then asked about the wake demonstration and the information Scott Casey provided at the beginning of the meeting and how he wanted a comparison of the data from the same distances. Mr. Parris explained the data in total is on the website and included in the minutes and pulled up the information for Mr. Rasdall. Mr. Rasdall expressed he didn't believe the 2015 resolution anticipated wake surfing. Mr. Leavitt noted he agreed wake surfing is a safe activity, but the problem is high wake low speed activity occurring at the same time as high-speed activities do not safely co-exist. Mr. Parris discussed freeholders enjoy the lakes differently. Mr. Sherman mentioned

that as the motion is currently made it is very wide and would ban multiple lake activities. Mr. Sherman noted that the rule needs to be definitive and a rule that can be enforced.

MOTION WITHDRAWN: Mr. Rasdall withdrew his motion.

Mr. Rasdall motion to approve banning wake surfing activity.

MOTION WITHDRAWN: Mr. Rasdall withdrew his motion.

- b. Mr. Parris read recommendation number 2. Mr. Sherman discussed that rules should be enforced. No action by the Board.
- c. Mr. Parris read recommendation number 3. Mr. Sherman explained that any Board member can contact the CSCD attorney. No action by the Board.
- d. Mr. Parris read recommendation number 4. Mr. Sherman mentioned he believed infractions first go to the security commission and can be appealed to the Board. No action by the Board.
- e. Mr. Parris read recommendation number 5. Mr. Sherman discussed when manufacturers put out specifications, they include every option with the largest engine so if a freeholder were to take their boat to a certified scale and weigh their boat and its under 4,000 lbs. it would meet requirements. Mr. Sherman noted that is why the CSCD measures boats the manufacturers include the swim platform in the length specifications. No action by the Board.
- f. Mr. Parris read recommendation number 6.

MOTION: Mr. Leavitt motioned to approve that all commissions biannually review all of their rules and present that to the Board, seconded by Mr. Edwards. Motion passed unanimously.

- g. Mr. Parris read recommendation number 7. No action by the Board.
- h. Mr. Parris read recommendation number 8. Mr. Young discussed safety inspections. Mr. Sherman asked Mr. Young to review and update the affidavit and inspection of boat rules. No action by the Board.
- i. Mr. Parris read recommendation number 9. Mr. Sherman requested that the security commission put together a boating course to present/recommend to the Board before the next 2-year season decals are issued. Mr. Adolay mentioned anyone who drives a freeholder's boat should have to pass the course and an ID card should be issued when passed. Mr. Parris noted that he felt that was an overreach and if the freeholder took the test and knew the rules, they are the ones who are responsible and would receive the ticket if someone else drove their boat and violated a rule. No action by the Board.
- j. Mr. Parris read recommendation number 10. Mr. Leavitt went over possible future state legislation. There was discussion over a requirement for length of rope when wake surfing.

MOTION: Mr. Leavitt motioned to approve that wake surfing activity be banned from any outboard or I/O boat configuration where the prop is located behind the transom, seconded by Mr. Rasdall. Roll Call Vote:

Mr. Rasdall: Aye
Mr. Leavitt: Aye
Mr. Adolay: No
Mr. Sherman: No
Mr. Edwards: No
Mr. Benshoof: No
Mr. Parris: No

Motion Failed 2-5

- k. Mr. Parris read recommendation number 11. No action by the Board.
- l. Mr. Parris read recommendation number 12. Mr. Sherman discussed the term disabled and expressed this was another term that was hard to define. Mr. Sherman expressed he would rather have a rule that was enforceable.

MOTION: Mr. Sherman motioned to approve amending the affidavit and ask Roger to review it and that anyone who has a wake enhancing device on their boat will sign an affidavit that they will not use that on our lakes and acknowledge if they are found using a wake enhancing device they understand they are going to lose lake rights for 12 months and that rule is strictly enforced and boat patrol is provided cameras that they can take a photo of the violation, then they write the ticket and send a copy to the security commission, and if it is appealed it will come to the Board. Motion seconded by Mr. Adolay.

Discussion: There was some discussion amongst the Board about modifying the 2015 Resolution.

Roll Call Vote:

Mr. Rasdall: No
Mr. Leavitt: Yes
Mr. Adolay: Yes
Mr. Sherman: Yes
Mr. Edwards: Yes
Mr. Benshoof: Yes
Mr. Parris: Yes

Motion Passed 6-1

- m. Mr. Parris read recommendation number 13. Mr. Sherman mentioned he believed if the affidavit is amending it would take care of this recommendation. No action by the Board.
- n. Mr. Parris read recommendation number 14. No action by the Board.
- o. Mr. Parris read recommendation number 15. Mr. Rasdall mentioned he believed this would contradict Mr. Sherman's last motion. No action by the Board.
- p. Mr. Parris read recommendation number 16. Mr. Parris mentioned he believed this would contradict Mr. Sherman's earlier motion. No action by the Board.

- q. Mr. Parris read recommendation number 17. Mr. Parris suggested this was an added expense to differentiate decals for different types of speedboats. Mr. Leavitt mentioned that boat patrol would easily be able to identify the wake boats this way. There was some discussion amongst the Board about whether only wake boats can create a large wake and if by having different decals was it suggested that other boats could not create a wake. Mr. Leavitt noted that wake boat owners sign an affidavit saying they won't use these devices and it would give a visual to boat patrol by having different decals if they are violating that. Mr. Rasdall asked the audience if they would have a problem with having different decals on their wake boats. A freeholder mentioned that you can add a ballast to a ski boat, and it would be the exact same thing as a wake boat. There was some discussion about the three types of boats listed in the wake committee recommendation.

MOTION: Mr. Rasdall motioned to approve boats that have factory installed equipment that people have agreed with an affidavit not to use have a different color sticker, seconded by Mr. Leavitt.

Roll Call Vote:

**Mr. Rasdall: Aye
Mr. Leavitt: Aye
Mr. Adolay: No
Mr. Sherman: Aye
Mr. Edwards: No
Mr. Benshoof: No
Mr. Parris: No**

Motion Failed 3-4

- r. Mr. Parris read recommendation number 18. No action by the Board.
s. Mr. Parris read recommendation number 19. Mr. Rasdall asked about requiring freeholders to sign a new affidavit. Mr. Leavitt discussed policy and process.

MOTION: Mr. Rasdall motioned to approve boat owners who previously signed an affidavit will sign a revised affidavit that says you cannot use wake enhancing equipment and here are the terms if you get caught using it, seconded by Mr. Benshoof. Motion passed unanimously.

- t. Mr. Parris read recommendation number 20.

MOTION: Mr. Sherman motioned to approve a specific route/course for wake surfing near the middle of the lakes, to stay 400 feet away from the dams; it would be limited to a specific area and ask for a list to be provided to security commission to make a recommendation of what those course boundaries would be to the CSCD Board for approval, and if wake surfing was occurring outside of the course it would be a ticket able offense, seconded by Mr. Rasdall.

Discussion: There was some discussion with the Board and freeholders about studies done on wake surfing.

Roll Call Vote:

Mr. Rasdall: Aye
Mr. Leavitt: Aye
Mr. Adolay: No
Mr. Sherman: Aye
Mr. Edwards: Aye
Mr. Benshoof: Aye
Mr. Parris: Aye

Motion Passed 6-1

Discussion: Mr. Parris thanked everyone for their time. Mr. Sherman thanked everyone for being there and their time and participation and acknowledged these are not easy decisions. Mr. Benshoof thanked the wake boat committee. Mr. Rasdall thanked everyone for their open speaking, and remaining polite, and civil through the wake recommendations.

9. Management Reports:

a. Director of Finance & Administration:

1. Mrs. Bay summarized the fund report. The current balance is \$2,933,923.79.

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

2. Mrs. Bay summarized the appropriation report and monthly claims list. The monthly claims total is \$233,656.58. The unexpended remaining balance is \$707,400.23 or 27.92% remaining.

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

3. Resolution 2023-16: Transfer of Funds w/in the Budget.

MOTION: Mr. Sherman motioned to approve Resolution 2023-16: Transfer of Funds w/in the Budget, seconded by Mr. Rasdall. Motion passed unanimously.

b. Director of Operations:

1. Mr. Johann summarized his report.
2. Mr. Johann went over surplus property (1981 tractor, 2016 Durango, 2017 Durango, 2019 Durango, western plow, sno-way plow, dixie chopper lawn mower, wacker roller, and 2 John Deere Gators. Mr. Young noted that all of the equipment has some

value. Mr. Young then noted there would be two steps; first the Board would need to declare all of the equipment surplus and of no further use to the District; once that is established the next step is to determine how you will dispose of the equipment. Mr. Young then noted that collectively assumed the value of the total items would exceed \$1,000; because of this they would have to be disposed of through some competitive offering. Mr. Johann brought up online bidding for municipalities.

MOTION: Mr. Sherman motioned to declare all of the listed equipment surplus and of no further use to the District and authorize it to be disposed of through the Govdeals, conditionally for the (2) John Deere gators and authorize Nick Johann to establish the terms and conditions of the sale, seconded by Mr. Rasdall. Motion passed unanimously.

Discussion: Mr. Leavitt brought up that the gators were part of the federal excess property program; and if they are they would have to go back to the DNR.

10. Commission Reports:

a. Building:

1. Mr. Sherman reviewed the building applications.

MOTION: Mr. Rasdall motioned to approve building applications 23-084, 23-091, and 23-092 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. Benshoof. Motion passed unanimously.

2. Mr. Sherman reviewed the dredging applications.

MOTION: Mr. Sherman motioned to approve dredging applications 23-009 and 23-010 for approval from the CSCD Board contingent upon lot owners meeting all conditions by the Building Commission, seconded by Mr. Benshoof. Motion passed unanimously.

3. Mr. Johann reviewed the Wanninger Variance Request at 7457 Grizzly Drive
4. There was some discussion amongst the Board. It was noted there was one case of remonstrance amongst the 30 letters sent out.

MOTION: Mr. Sherman motioned to approve the Wanninger variance request at 7457 Grizzly Drive, seconded by Mr. Leavitt.

Roll Call Vote:

**Mr. Rasdall: Aye
Mr. Leavitt: Aye
Mr. Adolay: Aye
Mr. Sherman: Aye**

Mr. Edwards: No
Mr. Benshoof: Aye
Mr. Parris: Aye

Motion Passed 6-1

5. Mr. Sherman noted the other variance request at 7015 Opossum was sent with the wrong date and there was remonstrance with this variance request, and it should be tabled until the December Board of Directors Meeting.

b. Ecology:

1. Mr. Benshoof summarized the Ecology Minutes.

c. Roads:

1. Mr. Rasdall summarized the Roads Minutes.

d. Security:

1. Mr. Adolay summarized the Security Minutes.
2. Mr. Adolay went over the measuring of boats and a freeholder's fishing/speed boat that was brought to the security commission. Mr. Sherman noted this is a new type of design for this boat. Mr. Edwards discussed taking the subjectivity out of measuring boats. Mr. Parris mentioned if there are other boats that are different design bring it to the Board.

MOTION: Mr. Parris motioned to approve changing the boat measuring rule wording on measuring boats to the lowest forward part of the transom, and if it is a new design comes out bring that boat and measurements to the Board, seconded by Mr. Rasdall. Motion passed unanimously.

e. Water:

1. Mr. Parris summarized the Water Minutes. Mr. Parris noted they reviewed the rate study. Mr. Young noted he would contact Baker Tilly to review the water rate study and create a Resolution to consider.

f. Financial Advisory Committee:

1. Mr. Sherman summarized the FAC Minutes.
2. Mr. Sherman summarized that based off the financial model it was the recommendation of the Finance Committee to raise the equal assessment from \$370 annually to \$400 annually.

MOTION: Mr. Sherman motioned to approve increasing the equal assessment from \$370 annually to \$400 annually based on the financial model, seconded by Mr. Benshoof. Motion passed unanimously.

3. Mr. Sherman discussed boat decal pricing and the FAC's recommendation to modify the pricing.

MOTION: Mr. Sherman motioned to approve the FAC's recommendation of modifying boat decal pricing for a two-year period to be \$166/\$86/\$10, seconded by Mr. Benshoof. Motion passed unanimously.

4. Mr. Sherman requested adding a November meeting for the Financial Advisory Committee to the 2024 Commission/Committee Schedule.
5. Mr. Sherman reviewed a chart showing the properties in the District assessed value and explained most of the funds generated from the District are coming from homes assessed in the \$200,000-500,000 range.

11. New Business

a. Resolution 2023-15 Annual Meeting Location for 2024

MOTION: Mr. Sherman motioned to approve Resolution 2023-15 Annual Meeting Location for 2024, seconded by Mr. Benshoof. Motion passed unanimously.

b. Approval of Commission Meeting Times/Dates

MOTION: Mr. Sherman motioned to approve the 2024 Board and Commission Meeting Times/Dates with the addition of a November FAC meeting, seconded by Mr. Benshoof. Motion passed unanimously.

c. Approval of CSCD Observed Holidays for 2024

Discussion: There was discussion over the Total Solar Eclipse on April 8th.

MOTION: Mr. Sherman motioned to approve the 2024 Observed Holiday Schedule with the addition of the Total Solar Eclipse Date, seconded by Mr. Parris.

d. Hiring Full-Time Maintenance Employee

MOTION: Mr. Rasdall motioned to approve hiring a full-time employee Jeffrey Ward, seconded by Mr. Benshoof. Motion passed unanimously.

12. Board Members Concerns

1. Mr. Benshoof thanked everyone.
2. Mr. Rasdall thanked everyone for coming and noted while there are different opinions, he was thankful everyone was civil.
3. Mr. Leavitt thanked everyone for coming and voicing their opinions.

13. Adjourn (10:03 PM)

MOTION: Mr. Sherman moved to adjourn, seconded by Mr. Adolay. Motion passed unanimously.

Respectfully submitted,


_____, Board Secretary

Date Submitted: