



133 Interstate Lane, Kalispell, MT 59901
www.flatheadcd.org | 406-752-4220

CALL TO ORDER & ATTENDANCE

Chair Pete Woll called the January 10, 2023, 310-meeting to order at 7:00 P.M. in the conference room.

Board members present: Pete Woll, Chair; John Ellis, Vice Chair; Donna Pridmore, Secretary/Treasurer; Scott Rumsey, Supervisor; Gordon Ash, Supervisor; Angela Jacobs, Supervisor; being a quorum of the Board.

Board members absent: Roger Marsonette, Supervisor. Absence is excused.

Also, in attendance were Samantha Tappenbeck, Jessie Walthers and Ginger Kauffman, FCD Staff; Scott Rumsey, Supervisor; Kenny Breidinger, FWP; Bill Yankee, Associate Supervisor; Doug White; Tory Baughan; Bill Meyers; Dan Wallen; Leo Rosenthal, FWP; Tamara Tanberg.

2023 Election of Board Officers

John Ellis motioned “to nominate Pete Woll as Chair.” Donna Pridmore seconded. Motion carried unanimously.

Donna Pridmore motioned “to accept standing officers.” John Ellis seconded. Motion carried unanimously.

Chair: Pete Woll
Vice-Chair: John Ellis
Secretary Treasurer: Donna Pridmore

CONSENT AGENDA

Consent Agenda Item 1: Signature Authority

- Authorization for Samantha Tappenbeck to sign on behalf of Supervisors attending the meeting virtually.

Consent Agenda Item 2: Tabled 310s

- **BigSky Invest**, FL-2022-052, Garnier Creek, boring/stormwater/sub: 9/22/2022 Tabled waiting for additional information.
- **Inspiration Drive**, FL-2022-007, Whitefish River, path/ret wall/stairs: 9/22/2022 Tabled waiting for further information from Casey Malmquist. John Ellis informed the FCD Board that the City of Whitefish has put out for bids the walkway over the river. The condominiums at Inspiration Drive are being built. John noted that he walked the

proposed trail, and nothing is being constructed there. The portion of the bank that they want to put the trail on is fenced off, so none of the construction that has taken place on the condominiums is getting into that area. Pete Woll asked about the Riverbend Condos area. John replied he did not think it was within the jurisdiction of the district because the city is applying to do the work, so it would be a 124 permit. Angela Jacobs agreed that it would be a 124 permit and added that the city is moving forward with an RFP for an engineering firm, but still does not have an agreement from the condominium owners. The city is moving forward with preliminary engineering and surveying.

- **Sneed**, FL-2022-057C, Meadow Creek, complaint: 11/14/2022 Tabled, determined violation, landowner must submit 310-application for work done.
- **Sneed**, FL-2022-058C, Patterson Creek, complaint: 10/11/2022 Tabled, determined violation, landowner must submit 310-application for work done. 11/7/2022 406 Engineering sent email they are working on the application.
- **Turner**, FL-2021-081C, Swan River, complaint: 5/9/2022 Tabled until FL-2022-008 is completed, permit expires 5/9/2023

Consent Agenda Item 3: Minutes

- 11/28/2022 Business Meeting Minutes

Consent Agenda Item 4: Financial

Check Detail dated 12/14/2022:

1. Fisher's Technology \$249.50

Check Detail dated 1/4/2022:

1. Montana Sky Networks \$10.00
2. Mountain States Leasing – Kalispell \$1,884.86

Consent Agenda Item 5: Correspondence – None

John Ellis motioned "to accept the consent agenda as presented." Donna Pridmore seconded. Motion carried unanimously.

PUBLIC COMMENT

Bill Meyers, Bayside Park & Marine Center, stated he had a permit (FL-2020-031) that was approved for a project in Bigfork Bay to replace a dock. He received a one-year extension until 7/27/2022, completed the work by June, then submitted the Work Completion form. He expected someone to come out to inspect the project and called the office several times before pulling the dock out. He noted that no one has come to inspect or sign off on his permit. He also requested to be on the January 23, 2023, business meeting agenda to discuss past issues with certain Board members.

Pete Woll stated he received a phone call from Bill this morning and did not have time before this meeting to call back but will contact him shortly. Leo Rosenthal stated he had informed Bill that he could also submit photos with the Work Completion form.

310 Onsite Inspections

Andrews, FL-2022-069, Flathead River, bank stabilization/dock: An onsite inspection was scheduled for Tuesday, January 17, 9:30 A.M. at the site.

Buck, FL-2021-041C, Stoner Creek, complaint: Donna Pridmore explained that the site is not viewable. A reminder was sent to Buck that permit FL-2021-106 expired 12/13/2022, and that he must submit the Work Completion Form. To date we have not received that.

Donna Pridmore motioned “to table until information is received from the applicant.” John Ellis seconded. Motion carried unanimously.

The complaint will be placed back on the tabled section of the Consent Agenda.

Carlson, FL-2023-002, Ashley Creek, generator: Kenny Breidinger stated he would waive a site visit, and as it is a little over 200 feet from the creek and is to install a generator on an established pad inside a fenced off area for communication towers, he did not think it was under the jurisdiction of the district.

Donna Pridmore motioned “this is not a project.” John Ellis seconded. Motion carried unanimously.

Glacier Village Greens HOA, FL-2023-001, Whitefish River, remove debris: Pete Woll motioned “to table until the Supervisor is in attendance at the next (2/13/2023) meeting.” John Ellis seconded. Motion carried unanimously.

Hodges, FL-2022-071, Giefer Creek, fill beaver pond: This remains tabled until the site is viewable, and will be moved back to the tabled section of the consent agenda.

MT MOKKO, FL-2022-067C, Stillwater River, complaint: An onsite inspection was scheduled for Thursday, January 12, 1:30 P.M. at the site.

Stober, FL-2022-070, Flathead River, bank stabilization: An onsite inspection was scheduled for Tuesday, January 17, 10:30 A.M. at the site.

310's

Lucke, FL-2022-043C, Flathead River, complaint: Pete Woll explained this is a violation and the landowner was notified to submit 310-permit application, however a date of submittal was not specified. As of 12/12/2022 no application had been received. In December a motion was made to send the landowner a second letter asking them to submit the application by 12/31/2022. Due to staff illness, vacation and holidays in December, the letter did not get sent.

Donna Pridmore motioned “to send a letter to Lucke to submit an application by 2/9/2023.” John Ellis seconded. Motion carried unanimously.

Patterson, FL-2022-066, Garnier Creek, bank stabilization & re-vegetation: Roger Marsonette was unable to attend this evening's meeting. This application will remain tabled until

Supervisors Roger Marsonette, Angela Jacobs, and Scott Rumsey, along with Kenny Breidinger can further discuss the application and schedule an onsite inspection.

Sneed, FL-2022-060C, Meadow Creek, complaint: Pete Woll explained that he Scott Rumsey and Leo Rosenthal completed an onsite inspection on 12/15/2022. After looking at the site, they recommended that it is not within the district's jurisdiction.

Pete Woll motioned "this is not a violation because it does not fall within the district's guidelines." John Ellis seconded.

Leo Rosenthal explained this was a part that they didn't look at during the first onsite inspection. This was a complaint about the proximity of a building to Meadow Creek. There were hook ups for a pipe to potentially have a bathroom in the building, but none of that is currently done, and the building itself was far enough away from the stream that we didn't feel that it was within 310 jurisdiction. Scott Rumsey agreed and noted that it didn't appear to be a violation because of the proximity.

Dan Wallen asked to clarify what the proximity of a building to the streambed needs to be in order to be considered within 310 jurisdiction. Pete Woll replied that is considered on a case-by-case basis. In this case, they felt the building was back far enough that it was not affecting the stream or area along the stream. The septic system is existing and has been approved by the Health Department would flow well out of 310 jurisdiction.

Dan Wallen stated that he can factually prove that the bathroom currently exists and that the alleged violator likely provided misleading information during the onsite inspection. Dan Wallen displayed an enlarged photograph showing the location of the old streambed and noted that the alleged violator built a road across the culvert. Mr. Wallen also made reference to historical photos and flow records. Mr. Wallen indicated that the holding tank is located underneath a large haybale shown in the photo. Further discussion was held about the area inspected during the onsite.

John Ellis stated that the Board has investigated it, and determined it is not a violation as defined by district rules. But he (Dan) is bringing up an issue different. He is bringing up an issue whether the county has validly or invalidly given this man a permit for a septic system. Unless the septic system is within 20 feet of the stream, I don't see that it's our business.

Dan asked for further clarification on jurisdiction and stated that the alleged violation includes a building, multiple roadways, and multiple culverts installed without a permit. He alleged that the natural streambed is completely gone for hundreds of yards so that the alleged violator can have a place to drive equipment, park, and build. I don't know how that doesn't fall within your jurisdiction. John Ellis asked if the complaint alleged illegal culverts moving of the stream? Dan stated yes. Pete Woll stated that some areas/work in the alleged violation may have been covered up and we wouldn't have been able to see it.

Leo Rosenthal stated that he did not feel that the building was close enough to affect the stream. There has undoubtedly been manipulation of parts of the stream channel and Mr. Sneed admits that. Seasonally it flows through the portion of his property that is to the east of the area being discussed, and to the south where it flows through the corrals, and he did

manipulate that stream channel in there. That flows seasonally and he's trying to route that water. So that is a violation, but the building did not appear to Leo to be a 310 violation. Pete Woll noted that under FL-2022-057C, Mr. Sneed is supposed to be coming back with all the information for us on that.

Dan Wallen noted his history and familiarity with the property and historical flows and location of the creek. He noted the work that has been completed in recent years by the alleged violator. He also noted that Mr. Sneed didn't just move it, he put it all underneath in a culvert and that the entire area now floods where the holding tank is, and that photo documentation of that flooding had been submitted. Mr. Wallen stated that his well was contaminated with *E. coli* last year from cow and horse waste being forced onto his property because it can't flow anywhere. John Ellis asked Mr. Wallen thinks is causing the problem with his well, specifically what has changed with the stream, other than its location, that is causing you problems. Mr. Wallen responded that it's the runoff, and that Mr. Sneed has bulldozed and clearcut about 25 acres right up to the edge of the stream. Mr. Wallen noted that there is no vegetation there anymore and for 2 months in the spring it floods because the water is bottlenecked through culverts now and no longer flows naturally. John Ellis asked for clarification on whether or not the culverts have caused it to flood. Dan Wallen replied it has flooded one time on his property prior to that maybe 4 years ago. but that it has flooded the last 2 years Mr. Sneed has done this work.

Further discussion was had about the complainant's legal action.

Pete clarified that the alleged violator has hired an engineer and will be submitting an application for the work he has done. The motion made is just to cover the building. The holding tank was not visible during the onsite inspection. The board will need to wait and see what the alleged violator submits in his 310 permit application for the work that was completed.

Additional discussion and request for clarification by Mr. Wallen regarding 310 jurisdiction. Samantha Tappenbeck explained there are many factors that go into determining that potential impact, which is why it is intentionally left vague in the law. The supervisors look at slope, change in vegetation, proximity of the natural flood plain, and other factors. There are many characteristics of a stream that can vary with stream size, and for streams that have been manipulated as this one has, those factors may change further. To be able to draw a distinct line in the sand for all streams is nearly impossible. That's why it's left to the discretion of the supervisors to determine those characteristics on site.

Additional discussion regarding timing of submitting complaints and what the board of supervisors is able to consider and review with the information provided.

Donna Pridmore called question.

A hand vote was taken. 4 in favor, 1 opposed. Motion passes 4 to 1.

Weaver, FL-2021-092, Flathead River, permit extension request: Pete Woll explained Mr. Weaver submitted a request dated 12/13/2022 for a one-year permit extension for rip rap.

Pete Woll motioned "to give a one-year permit extension." John Ellis seconded. Motion carried unanimously.

White, FL-2021-098, Flathead River, permit extension request: Donna Pridmore explained Mr. White sent an email, with current photos, stating he has not been able to get the dock done, and is requesting one year extension.

Donna Pridmore motioned “to grant a one-year permit extension.” John Ellis seconded. Motion carried unanimously.

Kenny Breidinger asked if it is being extended with all the same conditions that were on the original permit. Donna Pridmore confirmed.

NEW BUSINESS

Signature Authorizations: Verdell Jackson’s term as a district Supervisor ended 12/31/2022. Ginger Kauffman explained that the district needs to remove Verdell as a signer on all district accounts and asked if the Board wanted to add Gordon Ash as a signer on all district accounts.

John Ellis motioned “to remove Verdell Jackson from all district accounts”. Donna Pridmore seconded. Motion carried unanimously.

John Ellis motioned “to add Gordon Ash as a signer on all district accounts”. Donna Pridmore seconded. Motion carried unanimously. Gordon Ash abstained from voting.

End of Month Reports (September, October 2022): Donna Pridmore asked if the Supervisors had questions regarding the September and October End of Month reports which were included in the Meeting Packet. No questions.

Donna Pridmore motioned “to accept the September 2022 and October 2022 End of Month reports.” John Ellis seconded. Motion carried unanimously.

Urban Supervisor Appointment: Samantha Tappenbeck explained that the City of Whitefish has reappointed Angela Jacobs as an urban supervisor; this is a clerical issue. Now John Ellis and Angela Jacobs have been reappointed, however, both have indicated that will serve only temporarily until we can find replacement urban supervisors. We have already approved the reappointment of John Ellis. To resolve the record keeping on this, we need to approve the reappointment of Angela Jacobs.

Donna Pridmore motioned “to approve the reappointment of Angela Jacobs.” John Ellis seconded. Motion carried unanimously.

Samantha noted that we are currently working with the City to advertise the urban supervisor positions. It has been publicly noticed and there has been some interest expressed. She added that per statute, urban supervisors do not have to reside within Whitefish City Limits, but they must reside within the boundaries of the conservation district. The boundaries of the Flathead Conservation District follow the county boundary line with the exception of the original 1945 city limits of Kalispell and Columbia Falls, which are excluded.

Supervisor Areas: Samantha Tappenbeck explained that since Verdell Jackson’s term ended, we need to assign a supervisor to the west valley area so staff knows who to send 310s to. A

map of supervisor areas was provided, and Samantha stated it was drafted based on where supervisors live. Samantha suggested the following: Donna Pridmore take west valley, Scott Rumsey take south of Hwy 2 and lower valley, Gordon Ash take east of Flathead River along Hwy 206 and the three forks area. Discussion was held by the Board, and it was noted that Supervisors will complete 310s for their current area. The updated areas just affect new applications, complaints, or notices of emergency.

John Ellis motioned “to approve new supervisor areas as suggested by Samantha Tappenbeck with the map shown tonight.” Donna Pridmore seconded. Motion carried unanimously.

Supervisor Training: Samantha Tappenbeck explained the Flathead County Board Training is to be held Tuesday, January 24, 2023, 1:00-4:00 P.M. in the Earl Bennett Conference Room, 2nd floor. Supervisors were asked to contact the district office they wanted to attend. Staff will register and coordinate attendees, so a quorum of the Board is not at the meeting.

Travel Support Request, Lewis & Clark CD: Samantha Tappenbeck explained that Lewis & Clark Conservation District (LCCD) is sending Karl Christians, one of their Board Supervisors, to the NACD Annual Meeting to present on MACD Resolution 22-01: Streamline Floodplain Permits for Streambank Restoration. LCCD has requested financial support from other CDs for travel expenses. \$100-\$200 recommended.

John Ellis asked that LCCD send a budget for the Board to review and consider. Pete Woll agreed and asked Samantha to send LCCD an email stating Flathead CD is interested in helping but needs more information such as airline, hotel, rental car costs, and amount of funding LCCD is providing since they are sending one of their supervisors.

Travel Authorization: Samantha Tappenbeck provided estimated travel expenses at \$600 for one staff and one supervisor to travel to Helena for the CD Awareness Rotunda Event, MACD Legislative Meet & Greet Event on January 24, 2023. Discussion was held regarding sending more than one Supervisor, as Scott Rumsey stated he will attend, and Bill Yankee was a maybe.

John Ellis motioned “to approve the travel expenses up to \$900 for several supervisor and one staff to travel to Helena for the CD Awareness Rotunda Event, MACD Legislative Meet & Greet Event on January 24, 2023.” Donna Pridmore seconded. Motion carried unanimously.

MATTERS OF THE BOARD/STAFF

Reschedule Special Meeting – CD Operations Review: Samantha Tappenbeck explained we would like to formally re-schedule the CD Operations Review for Friday, February 17, 2023, 10:00 A.M. - 12:00 P.M., and will need to publicly notice if we have a quorum.

John Ellis motioned “to reschedule the special meeting on CD Operations on 2/17/2023 at 10:00 A.M.” Donna Pridmore seconded. Motion carried unanimously.

Flathead County Planning Board (FCPB) Representative: Samantha Tappenbeck explained Gordon Ash has been appointed to the FCPB as the FCD representative but is unable to attend until April/May, and FCBP no longer has a virtual option to attend. Samantha asked if the board was interested in appointing someone to fill in until Gordon was able to attend; she noted that

according to statute it can be a supervisor or associate. Bill Yankee stated he would be interested. Gordon explained that information is sent to representatives a week prior to a meeting providing time for review. Bill noted that he will attend and listen in on the upcoming meeting.

Bill Meyers, Bayside Park & Marine Center: Samantha Tappenbeck explained that Mr. Meyers' frustration is that he must submit paperwork but wants the district to respond in a timely manner and do the follow-up inspection. Supervisors and FWP agreed that follow-ups are not required, and that applicants can submit photos along with the Work Completion Form. Samantha stated she explained that to him, that we had over 100 310's last year and we are working our way through the follow-up inspections. Pete Woll stated he did get messages from the office and that he will contact Bill. Regarding Mr. Meyers' other issue, the Board noted that Supervisors are elected and if any supervisor has a conflict of interest when an application is submitted, they just need to abstain. The Board agreed that no action needs to be taken at this time as Mr. Meyers has no 310's before them. Samantha noted that Mr. Meyers asked to be placed on the January business meeting agenda.

Article re: Stoltze L&L in Flathead Living magazine. Samantha Tappenbeck noted that an article on Stoltze Land & Lumber was in the last Flathead Living magazine, which included a photo and comment from Ronald Buentemeier. Samantha noted that she can get hard copies of the magazine if Supervisors want one.

310 Motion Guidance: Samantha Tappenbeck noted that a 310-presentation guidance document is stapled to the inside of each meeting folder and encouraged supervisors to use it when making motions. Motion guidance posters have also been updated and reprinted to help make processing permits more efficient.

310 Paperwork: Pete Woll stated that with new supervisors coming on, it would be helpful to have a special in-house meeting with Supervisors, FWP and Staff to discuss 310 reports etc. Samantha agreed to begin to outline and schedule a time, possibly in March.

The next Business meeting is scheduled for Monday, January 23, 2023, 7:00 P.M. in person and via ZOOM.

Adjournment: Donna Pridmore motioned "to adjourn". John Ellis seconded. Motion carried unanimously. As there was no further business, the meeting was adjourned at 9:01 P.M.

Submitted By:

Ginger Kauffman
Administrator

Reviewed By:

Samantha Tappenbeck
Resource Conservationist

Minutes approved by FCD Board motion made on:

<u>2/13/2023</u>	<u>Pete Woll</u>	<u>Chair</u>
(Date)	(Signature)	(Title – Chair etc.)