
CALL TO ORDER & ATTENDANCE

Vice- Chair, John Ellis called the 310-meeting to order at 7:00 P.M. in the conference room.

Board members present: John Ellis; Vice Chair; Donna Pridmore, Secretary/Treasurer; Scott Rumsey, Supervisor; Verdell Jackson, Supervisor; Lech Naumovich, Supervisor; being a quorum of the Board.

Board members absent: Pete Woll, Chair; Absence is excused.

Also, in attendance were Virginia Rigdon, Samantha Tappenbeck, Ginger Kauffman, Flathead Conservation District (FCD) Staff; Kenny Breidinger, Fish Wildlife & Parks (FWP); Robert Ragland; Doug White; Gordan Ash, Associate Supervisor; Chris Thompson; Robert Lewis; Melissa Brickl, Water & Environmental Technologies (WET); Angie LeDuc, Rocky Mountain Law Partners; Casey Malmquist; Cathy Mitchell; Mark Waatti; Katie Ridinger, 406 Docks; Colter Urbani, Joe Urbani, Urbani Fisheries; Tamara Tamburg; Jacob Feistner, Plan4Approval.

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

- Buck, FL-2021-041C, Stoner Creek, complaint
- Switzer-Rogers, FL-2021-059C, Swan River, complaint
- Turner, FL-2021-081C, Swan River, complaint

Consent Agenda Item 3: Minutes

- January 10, 2022, 310 Stream Permitting Minutes
- January 24, 2022, Business Meeting Minutes

Consent Agenda Item 4: Phone Poll

- January 26, 2022, Home and Garden Show
- February 8, 2022, Purchase of promotional items

Consent Agenda Item 5: Financial

Check Detail (January 20, 2022)

1. VISA \$1,484.63

Check Detail (January 26, 2022)

1. Charter Communications \$162.95

Check Detail (February 2, 2022)

1. Flathead Beacon \$528.00
2. Lake County CD \$364.50
3. Montana Sky Networks \$10.00
4. Mountain States Leasing – Kalispell \$1,884.86
5. Grizzly Security ShredEx \$76.00

Consent Agenda Item 6: Correspondence

- None

Lech Naumovich requested “to pull Turner, FL-2021-081C off of the consent agenda.”

Donna Pridmore motioned “to approve the consent agenda with the exception of the Turner, FL-2021-081C.” Verdell Jackson seconded. Motion carried unanimously.

PUBLIC COMMENT

No one was present to comment on items not listed on the agenda.

310 Onsite Inspections

Mapeli, FL-2022-002, Flathead River, rip rap: An onsite inspection was scheduled for Friday, February 18, 2022 at 9:00AM at the site.

Siblerud, FL-2022-004, Half Moon Slough, floating dock: An onsite inspection was scheduled for Monday, February 21, 2022 at the site.

Thompson, FL-2022-003, Flathead River, dock: An onsite was scheduled for Monday, February 21, 2022 at approximately 12:30 at the site. Supervisors and Kenny Breidinger from FWP will be traveling there after the Siblerud inspection.

310's

95 Karrow LLC, FL-2021-027, Whitefish River, applicant transfer: John Ellis explained that the ownership has changed and that they would like to transfer the permit over to the new owner.

Samantha Tappenbeck explained that she consulted with the county attorney and that they verified that the board could modify and re-issue the permit to the new applicant/ landowner. She added that the board could also choose to retain the original timeline or re-issue the permit and set a new one-year timeline.

Casey Malmquist, the representative for the new landowner and applicant explained that this project is the same and nothing has changed within the permit. This is simply an entity name change.

John Ellis felt that the board should allow the name change but keep the current timelines in effect.

Lech Naumovich asked Casey Malmquist whether he thought the project would be complete by the permit deadline on 6/14/2022. Casey felt that the project would not be completed and therefore the applicant would be requesting a one-year extension.

Kenny Breidinger expressed that he would like to see the board take this opportunity of the change in ownership to try and minimize the potential impacts of this project. He expressed concerns about the 12-foot road and the bridge.

John Ellis replied by saying that they were valid concerns however he felt that the board should grant the name change now and re-evaluate the project at the time of extension.

Donna Pridmore motioned “to approve the name change from 95 Karrow to Karrow Whitefish Investments LLC with the timelines remaining intact.” Lech Naumovich seconded. Motion passed unanimously.

Gordan Ash asked if there would be a special meeting held to discuss the project with the new ownership prior to the extension. The board discussed the possibility of a meeting with the intentions of explaining the 310 law to the new landowners and making sure that everyone was on the same page. Samantha Tappenbeck explained that the new landowners and applicant have retained Casey Malmquist as their representative to maintain continuity.

Donna Pridmore asked if the modifications listed in the current permit have addressed any of Kenny Breidinger’s concerns. John Ellis explained that many aspects of the project were not in dispute however the location of the trail and the bridge were a point of conversation. He explained that the trail had been moved further away from the river after some concerns were expressed.

Maldonado, FL-2021-054C, Flathead River, complaint: John Ellis explained Mr. Maldonado has responded to the complaint letter that was mailed and put in his mailbox on 12/10/2022. The response and the complete record were referred to the county attorney for prosecution.

Samantha Tappenbeck explained that the attorney advised us that the board should do further investigation into determining who completed the work because the landowner’s response indicated that the work was completed prior to the purchase of the property. A law enforcement agency will not take on that investigation and therefore it is the FCD’s responsibility to try and determine who completed the work. This will require the district to document any contact with the complainant as well as document the process of what was done to gather the information. She added that according to the law, it is possible to require the previous landowner to mitigate, however we may need to wrap in the current landowner in order to allow access to the land to mitigate the violation.

John Ellis motioned “to table FL-2021-054C until the next 310 meeting of the Flathead Conservation District in order for us to investigate the placement of the concrete pipes.” Lech Naumovich seconded. Motion passed unanimously.

Mitchell, FL-2021-099, Stillwater River, remove vegetation: Verdell Jackson read the following points from the technical review received January 5, 2022, from Water & Environmental Technologies (WET).

- Installation of the pathway from the top of bank to the inset floodplain will require excavation into the outer channel bank. If not stabilized properly, excavation in this area has the potential to result in unstable cut banks susceptible to ongoing erosion.
- It is our understanding that grading within the project area is proposed to be completed by balancing the volume of fill material with the material to be cut. Removal of material near the toe of the outer channel bank may destabilize the slope, and result in erosion and/or slumping.
- The location of the project relative to the base flood elevation is unclear, this project may require a floodplain permit and may have the potential to change the hydraulics of the stream channel during periods when the Stillwater River is at flood stage.
- Grading/leveling of inset floodplain terrace may result in increased surface runoff to the Stillwater River. Depending upon the vegetative buffer, the increased surface runoff may result in erosion along the banks of the active channel and sediment loading to the stream.

He then explained that Cathy Mitchell met with WET to discuss each point.

The application amendment received on 2/7/2022 was displayed on screen and the dimensions of the area to be leveled were discussed.

Scott Rumsey asked the board what they felt was in the jurisdiction of the district. Discussion surrounding the map displayed on screen continued.

Lech Naumovich added that the grass proposed to replant the graded area was a nonnative and that the grass proposed to replant the steep banks was a native reclamation mix. The board then discussed the potential effects of removing native vegetation from the banks and expressed concern about the bank eroding into the river.

Lech Naumovich then asked Verdell Jackson to restate the purpose of this project. Verdell explained that the purpose was to create a place where the owners could get down to the river, have a fireplace and some chairs. Lech asked if it was reasonable to grade a large area for a place to have a fireplace and chairs. The area proposed for leveling is 16,646 square feet, equivalent to 0.38 of an acre.

Lech Naumovich and Scott Rumsey believe that this project does not meet the intent of the law, which is to preserve streambanks in their natural and preexisting state. Scott believes that this project is not reasonable and will cause a lot of disturbance.

Cathy Mitchell stated that she has decreased the area proposed for leveling from 37,679 square feet to 16,646 square feet. She also indicated that she was leaving a buffer of natural vegetation along the river. She explained that she felt she did everything in her power to work with the district.

Verdell Jackson expressed his opinion on private property rights. He feels that this project is not in our jurisdiction. The board then discussed jurisdiction. Kenny Breidinger explained that in the past under certain conditions, jurisdiction was based on imagining rolling a ball downhill from a

terrace and if the ball hit the river, then it was in our jurisdiction. He feels that this project is in our jurisdiction. Scott Rumsey agrees.

Kenny Breidinger continued by explaining that in the adopted rules our jurisdiction is defined by the immediate banks and does not speak to a specific distance. The jurisdiction is based on the potential impacts to the river and not on a distance.

Lech Naumovich noted that he would have liked to have visited the property, however an email from the owner listed people who were not allowed to visit the site and he was one of those listed.

Verdell Jackson motioned to “approve the projects with the changes that have been made.” No second. Motion fails for lack of a second.

Scott Rumsey motioned “to deny the project as proposed.” Lech Naumovich seconded. John Ellis, Lech Naumovich and Scott Rumsey voted in favor of the motion. Donna Pridmore and Verdell Jackson voted to oppose the motion. Motion passes three to two.

Verdell Jackson motioned “to accept the part of the project that takes out the car and approves the picnic area and leveling. That area would not include the road that goes south. The area would be re-seeded with native grasses.” Donna Pridmore seconded.

Scott Rumsey asked how to define the picnic area. The board raised concerns about designing the project.

Lech Naumovich and Verdell Jackson discussed property rights.

John Ellis asked for further discussion on the motion. Verdell asked if this could be tabled, and John replied stating that if he wanted to withdraw his first motion then that could be done. Verdell withdrew the motion and Donna agreed to withdraw her second. (Not in formal language)

Verdell Jackson “motioned to table the application until the applicant can come back with another drawing.” Donna Pridmore seconded.

The board then discussed how to rectify the two motions as we have already had a motion to deny the application that passed. John Ellis then suggested that we could make a motion to reconsider the denial to allow the applicant the opportunity to amend the application. It was determined that we would move ahead in the agenda allowing supervisors the time to think that option through clearly and return to this item at the end of the meeting.

The board returned to this agenda item later in the evening.

John Ellis read the rules for a motion to reconsider.

Samantha Tappenbeck noted that in the interim we have received an updated map from Ms. Mitchell.

John Ellis noted that he felt it was not in good faith for Ms. Mitchell to not allow members from the Flathead Conservation District on her property to view the site. Ms. Mitchell noted that the intent of the email was to not allow members from FCD on the property when the hydrologist was there. She did not want members to sway the opinions of the hydrologist.

Verdell Jackson asked if Ms. Mitchell would still like to work on providing a map of the picnic area. She indicated that she did and that she had sent in an updated map this evening.

John Ellis motioned "to reconsider our previous denial of FL-2021-099 and to table it until the next 310 meeting." No second. Motion fails for lack of a second.

Cathy Mitchell will be putting in a new application.

Ray Family Trust, FL-2021-088, Stoner Creek, stream enhancement: Donna Pridmore explained that Kenny Breidinger had concerns about the project as it is laid out. The project is designed to return the lost lake wetland complex as it exists now to its lake-like hydrologic function by means of improving fish habitat. She noted that on the onsite visit there was evidence of successful brook trout habitat and spawning.

Donna Pridmore continued by saying she felt that the only part of the project she wanted to approve was the livestock exclusion fencing and the riparian planting. She added that this would allow time for the stream to recover from the impacts of the livestock and opportunity to reassess the health of the stream down the line. Kenny Breidinger agreed. He expressed concerns about the placement of the proposed root wads and the dimensions of the beaver dam analogs. He added that he felt there was sufficient spawning gravel on site. Finally, he expressed concern about the channel migrating and joining the ponds located onsite.

Colter and Joe Urbani, the contractors hired to complete this project, spoke about the placement and dimensions of the root wad structures. Kenny and the contractors then discussed the dimensions of the beaver dam analogs (BDA's) and the height in comparison to bank full. The contractors noted that they have completed several restoration projects in the past and have restored over 100 miles of stream. They continued by noting that the spawning gravels that were seen on site were clogged, and the interstitial spaces were filled. They believe that the creek is impaired.

Robert Lewis, the landowner, added that he is trying to improve the stream and work with the district.

The ponds on the side of the diagram on sheet 6 of the application addendum received 11/24/2021 will not be a part of the project as noted by the contractors for the project. Kenny Breidinger explained that this alleviated many of his concerns.

Donna Pridmore asked the landowner if he was still planning to install bridges and crossings, and if those would be included in another 310-permit application. He confirmed that if they planned to add crossings that those would be addressed in another permit application.

Kenny Breidinger recommended some conditions as follows:

1. Spawning gravel is unnecessary

2. No revetments as pictured on 12-14 on the application addendum received 11/24/2021. Large boulders and root wads lining the stream are not necessary. More traditional course woody debris is acceptable.
3. BDA's should not extend above bank full. This will be topped at bank full or lower.
4. BDA's should not block fish passage.
5. Proposed ponds are not a part of the application.

Donna Pridmore motioned "to approve the application with modifications submitted 11/24/2021 and per the team member report. The modifications would be as follows: no additional spawning gravels, no revetments as diagramed on page 12-14 of the application addendum received 11/24/2021, no BDA's above bank full and the BDA's should not block fish passage, the ponds as they appear on the diagram are not part of the application, the fencing should be at least 10 feet away from the stream to allow for plenty of area for riparian revegetation." Scott Rumsey seconded. John Ellis, Donna Pridmore, Lech Naumovich and Scott Rumsey voted in favor of the motion. Verdell Jackson voted in opposition to the motion. Motion passes four to one.

White, FL-2021-014, Flathead River, permit violation: Donna Pridmore explained that this is the permit violation where the board required Mr. White to send in an after-the-fact 310-permit application to remedy the situation. This new application is FL-2021-098.

Donna Pridmore motioned "that FL-2021-014 be closed as the violation has been fulfilled by the creation of the permit application FL-2021-098." Verdell Jackson seconded. Motion carried unanimously.

White, FL-2021-098, Flathead Rv, boat ramp/boat dock etc.: Donna Pridmore explained that we received new plans on 1/27/2022. She explained that the boat ramp was removed and that he would re-slope the sides leaving a gravel path down to the existing riprap on the river. He would also revegetate around the construction zone. He will also cut back the squared off sides of the stairwell and place some native rock on top to camouflage the stairwell. She noted that he asked for recommendations on native shrubs and grass to plant in the disturbed area. Mr. White has complied with the requirements to satisfy this violation.

Lech Naumovich expressed that he was completely opposed to the stairwell. Donna noted that removing it may cause more damage and therefore it is not required for the stairwell to be removed.

Scott Rumsey asked about the details of the revegetation plan. Lech Naumovich suggested that we help Mr. White with the selection of local native plants and recommend conditions for plant survival and establishment. He also suggested that the district set up a vendor list with people who do restoration planting work in the area, so we can help future applicants with the process.

Donna Pridmore noted that the dock length was outside of the adopted rules standards to accommodate the length of Mr. White's boat.

Donna Pridmore motioned to "accept the application with the current modifications as presented on 1/27/2022, with the conditions that native shrubs, grasses, forbs, and trees be

included in the vegetation. We will offer to help Mr. White with the selection.” Scott Rumsey seconded. Motion passed unanimously.

Turner, FL-2021-081C, Swan River, complaint: Mr. Feistner explained that we would be helping Mr. Turner put together a new application to present to the board. They were unable to complete the application for this meeting but plan to have it ready for the next 310 permit meeting. A2Z engineering is providing plans for the new wall, and they will be a part of the project proposal.

NEW BUSINESS

End of Month Report, December 2021:

Donna Pridmore motioned “to approve the end of the month report for December 2021.” Lech Naumovich seconded. Motion passes unanimously.

Flathead River Commission (FRC) Appointments: The Flathead River Commission letters of interest submitted by 1/10/2022 need to be approved and appointed to the FRC. Kenny Breidinger noted that there were still three positions available after tonight. Donna Pridmore is representing the Flathead Conservation District.

Lech Naumovich motioned to “approve the five applicants who have submitted letters to serve on the Flathead River Commission.” Verdell Jackson seconded. Motion passes unanimously.

The members approved are as follows: Hailey Graf, Bob Storer, Ron Trippet, Mark Siderius, and Elise Robocker.

Local Working Group Meeting: Samantha Tappenbeck explained that Sean Johnson from NRCS requested for the FCD to cover the venue expense for the Local Working Group Meeting in the amount of \$225.00. The meeting will be held on 3/31/22. Samantha explained that we should also commit to covering light refreshments for the group in the amount of \$100.00 maximum. This can be charged to our education and supplies budget. It was noted that the Local Group meetings are modeled so that the conservation district is the lead.

Lech Naumovich motioned “to spend up to \$400.00 for the local working group meeting including expenses to cover the venue and light refreshments.” Donna Pridmore seconded. Motion passes unanimously.

MATTERS OF THE BOARD/STAFF

2022 Big Sky Watershed Corps (BSWC) Member: Due to personal circumstances the BSWCM has decided to move on from his position. The FCD has the option of replacing the member or being refunded for what we have paid at this point, which is half of the amount for the full member term. Samantha Tappenbeck noted that she feels she cannot commit to the process of candidate screening and recruitment at this point in time. She noted that the Montana Conservation Corps (MCC), the ones in charge of the BSWC program would help FCD to find a new member and specifically screen for what we need in a candidate. Samantha asked for feedback from the board. The board agreed to support Samantha in whatever she feels is the appropriate action moving forward.

Home and Garden Showcase: The Home and Garden Showcase takes place on March 5th and 6th. The supervisors were asked to sign up for a shift.

Special Meeting: The special meeting will be rescheduled for Thursday March 3, 2022, at 10:00am.

Clarification on County Board Training: Samantha Tappenbeck explained that discussion of a matter over email cannot take place if there is a quorum of the board, this was verified by the county attorney. She clarified that the board cannot discuss, express opinions or in any way act on a matter upon which they will ultimately make a decision. She further explained that supervisors could not have a discussion in person if there is a quorum of the board present and it is not publicly noticed. It was also noted that each supervisor should have their own email through the district and not use a personal email for district business.

Trumbull Creek Project: Samantha Tappenbeck explained that this project is a restoration of 7,000+ feet of stream to reduce flooding, channelize flow, improve hydraulic conveyance, and protect water quality for the shallow groundwater aquifer. The district has secured \$125,000 from the Department of Natural Resources and Conservation Renewable Resource Grant and Land Program for a portion of that project. There is a certain amount of funding for the design and a certain amount for construction and contingency. We have secured approximately \$76,000 for construction and contingency.

The district has a contract for services from River Design Group for planning and engineering. The planning for the Birch Grove Road Crossing is complicated and therefore required more money. The district then secured funding from the Watershed Management Grant Program and got enough to finalize the planning and engineered design. We also received a detailed cost estimate for completing the construction of 1600 feet of channel which includes two private drive crossings. The cost estimate is \$137,500 however we have only secured approximately \$76,000.

She continued by explaining that we have not secured any funding for the Birch Grove Crossing because Flathead County Road and Bridges had originally committed to covering the cost and doing the work, however the cost estimate is substantially higher than originally anticipated by the County. If the construction costs exceed \$80,000 than the County must put this project out to bid. The cost estimate is approximately \$100,000.

She summarized by explaining that we do not have enough funding for any part of the project except for the planning and design. We need to look into alternative funding sources.

The board discussed other funding sources. Ultimately it was decided that we needed to start a Projects Committee to work on this project and brainstorm ideas to keep it afloat. Donna Pridmore, Lech Naumovich, and Scott Rumsey agreed to serve on the Projects Committee. The first meeting of the Projects Committee was scheduled for Thursday, February 17, 2022, at 10:00am.

Petition for No Wake Zone on Church Slough: Kenny Breidinger explained that FWP received a petition for a no wake zone on Church Slough and the agency needed to decide whether they

would start the rule making process or deny the petition. FWP decided to create a working group to look at the issue of erosion and boat wakes on the slough. The parallels what is happening with the Flathead River Erosion Study.

Sethre, FL-2021-099 Church Slough, riprap: The district will reschedule this discussion for the business meeting on February 28th as this was accidentally put on the agenda with notes and not the public agenda.

Update on the Flathead River Erosion Study: Samantha Tappenbeck explained that the Flathead River Commission was meeting the following evening and she would like to bring feedback to the meeting from the board. She explained the background of the Flathead River Erosion Study. The next Water Policy Interim Committee (WPIC) meeting will be held March 15-16. WPIC would like a draft of potential outcomes from the study bill SJ28 and input from statewide stakeholders. She explained that she needed feedback about what outcomes the district desires from this study so that they can be presented to WPIC. The board discussed and decided that the Projects Committee could address and assist with this project as well. They will discuss the topic on Thursday, February 17, 2022.

The next Business meeting is scheduled for 7:00P.M. via ZOOM.

Adjournment: Donna Pridmore "to adjourn." Verdell Jackson seconded. Motion carried unanimously. As there was no further business, the meeting was adjourned at 11:03P.M.

Submitted By:

Reviewed By:

Virginia Rigdon
Administrative Assistant

Samantha Tappenbeck
Interim Resource Conservationist

Minutes approved by FCD Board motion made on:

3/14/2022
(Date)

Pete Woll
(Signature)

Chair
(Title – Chair etc.)