
CALL TO ORDER & ATTENDANCE

Chair Pete Woll, called the April 22, 2024, Business meeting to order at 1:00 P.M. in the conference room.

Board members present: Pete Woll, Chair; Roger Marsonette, Vice-Chair; Mike Kopitzke, Supervisor; Scott Rumsey Supervisor; Bill Yankee, Supervisor; being a quorum of the Board.;

Board members absent: Donna Pridmore, Secretary/Treasurer. Absence is excused.

Also, in attendance were Samantha Tappenbeck, Jessie Walthers, Ginger Kauffman, Flathead CD Staff; Kenny Breidinger and Leo Rosenthal, FWP; Karli Becher, NRCS; Kevin Kleckner; Mary T. McClelland; Karli Becker, NRCS; Don Murray; Bill Whitsitt; Jay Winslow; Bill Meyers; David Stalowy; Lewis Heil; Hailey Graf, DNRC; Chris & Shannon Parrott; Bill Meyers; Don Murray.

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: Minutes

- FCD 3/25/2024 Business Meeting Minutes
- FCD 4/4/2022 Closed Meeting with DNRC Attorney
- FCD 4/18/2024 Special Meeting Minutes

Consent Agenda Item 3: Financial

The following bills were reviewed:

1. CHS \$200.00
2. Daily Interlake \$723.19
3. FFE \$3,500.00
4. Fisher's Technology \$649.39
5. JBUR Solutions, LLC \$88.00
6. Land to Hand \$627.62
7. Mountain States Leasing – Kalispell \$1,884.86

Consent Agenda Item 4: Correspondence

- Public concern regarding Brosten project on Flathead River.

Mike Kopitzke motioned “to approve the consent agenda.” Bill Yankee seconded. Motion carried unanimously.

PUBLIC COMMENT

Myers/Bigfork Bay: During the 2/26/2024 meeting Bill Myers had requested a letter of support for placement of buoys in Bigfork Bay due to boats hitting their propellers on rocks. Mr. Myers was informed that at the 4/8/2024 meeting and upon further discussion, the Board decided not to provide a letter of support as it is not relevant to the district and does not have any conservation value. Mr. Myers stated he wants to donate a portion of his property so boats will not hit their props on the rocks in Bigfork Bay. He thought the district should take jurisdiction on boat safety in the bay and asked for a re-discussion on the matter.

Brosten/Flathead River: Chris and Shannon Parrott explained that they live on Lower Valley Road and received a Notice for Public Comment Request for Floodplain Development Permit from Flathead County Planning & Zoning. FDP-24-08 is a request by APEC Engineering on behalf of Dan Brosten for the placement of fill to protect an existing dike and active agricultural land within the 100-year flood plain in S33T28R20 and S4T27R20. Copies of the full application were available at the Flathead County Planning & Zoning office, and comments were due April 22, 2024.

Chris stated that a large amount of earthwork is to be done on the Brosten property, and in the application paperwork he noticed a statement that in the future Brosten may submit to manually breach the dike. He voiced concern that the dike protects adjacent and downstream properties and a wetland.

Samantha Tappenbeck stated that she sent copies of the Brosten 310-files to Mr. Parrott. Scott Rumsey stated that the 310-permit application was determined not a project, and it did not indicate any breaching of the dike. Mr. Parrott added the notice stated that the intent was to replace material on an existing dike. Samantha stated that all applications should be the same, and asked if the Board would want to pursue looking at this again. Scott Rumsey added that the district will investigate it and discuss it at the May 13th 310 meeting.

310's

Stalowy, FL-2024-015C, Bear Creek, complaint: Samantha Tappenbeck stated a violation was determined on 4/8/2024, and a cease-and-desist and civil penalty order was issued to the landowner (alleged violator #1). There are two alleged violators listed on the complaint. Legal counsel advised that the Board make a decision regarding alleged violator #2.

Pete Woll motioned "to hold alleged violator #2, Lewis Heil, in violation for placement of spoils/excavated fill on the banks immediately adjacent to Upper Beaver Pond and Beaver Pond near the outflow of Bear Creek" Mike Kopitzke seconded.

Mr. Heil asked why he is being considered a violator, stating he has invoices showing that his transactions and interactions with Mr. Stalowy were strictly for SWPP inspections and attending district meetings in his absence. He added that he did not give directions for placement or removal of dirt as it is not his responsibility. Mr. Stalowy confirmed Mr. Heil's statements and added there was no collaboration between him and Heil about excavation or fill. He only contacted Lewis Heil to take over the SWPP in his absence, and at no point was Lewis involved

in the construction of the pond; he was not an advisor and did not give orders. He was only a SWPP administrator. He added that a SWPP book is onsite and was assigned to Lewis for SWPP inspections in his absence, containing records showing when Lewis went out to check rain gages in rain events and took water samples.

Discussion was held regarding the need for additional written documentation outlining what Mr. Heil was contracted to do, and from Mr. Stalowy and from the complainant, which is to be submitted one week prior to the next meeting, so the Board can make a determination. Pete Woll withdrew his motion and Mike Kopitzke withdrew his second.

Pete Woll motioned “to table FL-2024-015C until the next 310 meeting on May 13th, and the complainant, landowner, and contractor must submit information to the district before that meeting so it can be reviewed before that meeting.” Mike Kopitzke seconded. Motion carried unanimously.

Stalowy, FL-2024-021, Bear Creek, restoration: Samantha Tappenbeck stated this application was submitted for corrective action of the violation (FL-2023-101C) which included excavation/removal of vegetation/cattail around Beaver Pond. The onsite inspection was completed 3/21/2024, and the application was tabled on 4/8/24 until the Business Meeting.

Discussion held regarding work done, work being requested, future restoration requirements, and that a cease-and-desist order is currently in place.

Pete Woll motioned “on FL-2024-021 to deny because there is a cease-and-desist order already in place on the area, and because there has been a history of noncompliance with the restoration requirements at this site, and because there are competing issues going on within the area of land that is hydrologically connected, and if approved, may impact potential future restoration work that would be required.” Bill Yankee seconded. Motion carried unanimously.

Lewis Heil described BMPs/stormwater issues they want to work on. Samantha clarified that the district is in contact with the other agencies, and any work that needs to be done falls under the cease-and-desist order. DEQ reached out to the district, and they will be including the district in all correspondence to Mr. Stalowy and Mr. Heil. If there are requirements that they are holding Mr. Stalowy to, then Mr. Stalowy could bring a written request to the Board stating he has been ordered by DEQ to do those specific BMP installations for consideration of approval under the standing cease-and-desist order.

Stalowy, FL-2024-022, Bear Creek, bridge deck runners: The onsite inspection was completed 3/21/2024, and the application was tabled on 4/8/24 until this Business Meeting.

Pete Woll motioned “on FL-2024-022 to deny because there is already a cease-and-desist order in place, and because there are competing issues going on within the area of land that is hydrologically connected and if approved it may impact some of the potential future restoration work that would be required.” Mike Kopitzke seconded. Motion carried unanimously.

Stalowy, FL-2024-029, Bear Creek, board walk/decking/stringers: Samantha Tappenbeck explained the recommendations on this application are the same regarding the standing cease-and-desist order, the hydrologic connection, and potential for future restoration requirements.

Pete Woll motioned “on FL-2024-029 this is a complete application.” Mike Kopitzke seconded. Motion carried unanimously.

Pete Woll motioned “on FL-2024-029 to deny because there is an existing cease-and-desist order already in place, and because there are competing issues going on within the area of land that is hydrologically connected, and if approved it may impact some of the potential future restoration work that would be required.” Bill Yankee seconded. Motion carried unanimously.

Mr. Stalowy asked about the development of a restoration plan. Samantha responded that there has been no development of a restoration plan at this point and no specification that he supply a restoration plan. Mr. Stalowy was reminded that June 3rd is the deadline for him to submit payment of the civil penalty. Don Murray, representative for Brig Klyce, voiced he thought that a full inventory of all the violations is needed so everyone knows where to start, and what needs to be restored.

Samatha Tappenbeck reviewed the complaint procedure, Rules 18 and 19 in the Adopted Rules outlining each phase of the process the district has followed.

NEW BUSINESS

Petition for Declaratory Ruling: Samantha Tappenbeck explained that on 4/8/2024 Kevin Kleckner submitted a Petition for Declaratory Ruling and request to reevaluate the Board’s decision on application #FL-2022-032. The petition was tabled until this Business Meeting. The Board needs to determine if this constitutes a matter of significant public interest, and if so, appoint a Hearing Officer within 30 days of the filing of the petition.

Samantha stated legal counsel advised that because Mr. Kleckner is an affected party that he should go through the declaratory ruling process. Kevin Kleckner discussed issues with application FL-2022-032 and noted that the applicants have since stated they want a liner in this pond. He asked the Board to look at the project again and take jurisdiction. Additionally, Bill Whitsitt provided brief comments.

Discussion was held regarding the Adopted Rules, the pond’s connection to the canal, groundwater, site visits, time frames, and appointment of a Hearings Officer. The process for a Declaratory Ruling was reviewed. Submittal of additional comments/information from parties involved (the HOA, Montana Outdoor Legacy, applicant) and affected landowners was discussed, and how that could help in the decision-making process.

Pete Woll motioned “on the petition for Declaratory Ruling that this is not of significant public interest and that if passed the board would like to review this with the HOA and the previous applicant.” Bill Yankee seconded.

Pete Woll amended the motion “that Information is due by May 20, 2024.” Bill Yankee seconded the amendment. Motion carried unanimously.

Vote on the amended motion: “on the petition for Declaratory Ruling that this is not of significant public interest and that if passed the board would like to review with the HOA and previous applicant, and that information is due by May 20, 2024.” Motion carried unanimously.

MCDEO Time and Travel: Samantha Tappenbeck explained that she is an Area V Director for the Montana Conservation Districts Employee Organization. The MCDEO is now a 501(c)3 organization and provides on-boarding and training for districts. She asked for Board approval to attend the Spring Board Meeting, Training, and EO planning session on June 11-June 13, in Helena; and the NCDEA meeting on August 20-22, in Billings. Other district Staff were encouraged to attend.

Bill Yankee motioned “to approve the time and travel for Samantha Tappenbeck for the Spring Board MCDEO planning session and the NCDEA meeting.” Mike Kopitzke seconded. Motion carried unanimously.

College Scholarship Awards: Jessie Walther explained that the district received 14 scholarship applications. She and Donna Pridmore reviewed the applications and recommended 10 awards for \$500 each.

Mike Kopitzke motioned “to accept the recommendation for the scholarships for the fiscal year 2023-2024.” Scott Rumsey seconded. Motion carried unanimously.

Furniture & Equipment Disposal Request: Ginger Kauffman explained that a new phone and security system was set up in the office this past week, and requested disposal of the old phones and headset as they are no longer compatible with the new phone system.

Mike Kopitzke motioned “to approve the Furniture & Equipment disposal list.” Scott Rumsey seconded. Motion carried unanimously.

REPORTS

Flathead CD Staff: Attached

Natural Resources Conservation Service (NRCS): Attached

DNRC Conservation Districts Bureau: Attached

Flathead County Planning Board (FCPB): Attached

Haskill Basin Watershed Council (HBWC): Samantha Tappenbeck reported on 4/2/2022 she and Mike Kopitzke attended a meeting with stakeholders and the City of Whitefish to review the city water master plan, and to discuss what would be considered and reviewed, and possible funding sources.

Flathead River Commission (FRC): No report.

Western Montana Conservation Commission: Scott Rumsey reported that he is on the Monitoring & Coordination Committee which is just beginning to get set up. The next WMCC meeting will be held in June.

Montana Conservation Districts Employee Organization: Attached.

MATTERS OF THE BOARD/STAFF

Hedgerow: Samantha Tappenbeck explained that a quote of \$1200-\$2400 was received for trimming back the hedge on the north side of the building to expose sprinkler heads. She noted that this is not an expense that the district should pay for as the building is not owned by the district, and the building landowner does not want to pay for trimming. No action taken.

Forestry Expo: Jessie Walthers explained that Family Forestry Expo will be held May 6-10, and provided a sign-up sheet for Supervisors interested in helping run the Riparian Station.

Rolling Rivers Trailer: Samantha Tappenbeck explained that the Montana Association of Conservation Districts is applying for a grant from DEQ to replace the Rolling Rivers Trailer. She noted that Flathead CD has submitted a letter of support for MACD’s grant application.

The next 310-Stream Permit meeting is scheduled for Monday, May 13, 2024, 1:00 P.M. in person and via ZOOM.

Adjournment: Bill Yankee motioned “to adjourn.” Mike Kopitzke seconded. Motion carried unanimously. As there was no further business, the meeting was adjourned at 4:31 P.M.

Submitted By:

Ginger Kauffman
Administrator

Reviewed By:

Samantha Tappenbeck
Resource Conservationist

Minutes approved by FCD Board motion made on:

<u>6/24/2024</u>	<u>Pete Woll</u>	<u>Chair</u>
(Date)	(Signature)	(Title – Chair etc.)