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## **CALL TO ORDER & ATTENDANCE**

Chair Pete Woll called the July 11, 2022, 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; Roger Marsonette, Supervisor; Verdell Jackson, Supervisor; being a quorum of the Board.

**Board members absent:** None.

Also, in attendance were Kenny Breidinger, Leo Rosenthal, FWP; Ronald Buentemeier; Samantha Tappenbeck, Ginger Rigdon, Ginger Kauffman, Jessie Walthers, FCD Staff; Mikel Siemens, Core Watershed Consulting; Doug Siderius; Bill Yankee; Jessica Brookie; Andrea Fish; Andrew Ferris, TDH Engineering; Kristin Bruninga; Scott Thomas; Harold Kowalka; Linda Engh-Grady, Whitefish Community Foundation.

## **CONSENT AGENDA**

### **Consent Agenda Item 1: Signature Authority**

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

### **Consent Agenda Item 2: Tabled 310's**

- Buck, FL-2021-041C, Stoner Creek, complaint
  - Tabled until remediation work completed under FL-2021-106
- Trehwitt, FL-2022-025, Logan Creek, crossing
  - Tabled until the water goes down and the landowner contacts the district
- Turner, FL-2021-081C, Swan River, complaint
  - Tabled until FL-2022-008 is completed

### **Consent Agenda Item 3: Financial**

Check Detail dated 6/30/2022

1. Unemployment Insurance Division \$179.05
2. VISA (Donna Pridmore) \$2,020.00
3. Charter Communications \$162.95

### **Consent Agenda Item 4: Correspondence**

1. 2022 Montana Range Tour, August 30-31, 2022, Great Falls, MT. To register, contact 406-866-0028, [secretary@cascadecd.com](mailto:secretary@cascadecd.com)
2. FWP announces open house for Somers Beach State Park development, July 19, 4-7 P.M. at the state park. Virtual informational meeting July 28, 608 P.M. Zoom webinar

<https://mt.gov.zoom.us/j/86795209090?pwd=bVNUaXc4TjhhR0FjMzB5Wm5pbGN0dz09>  
Passcode: 225017  
Dial: US: +1 206 337 9723 or +1 213 338 8477 or +1 646 558 8656  
Webinar ID: **867 9520 9090** Passcode:**225017**

Roger Marsonette motioned “to approve the consent agenda.” John Ellis seconded. Motion carried unanimously.

### **PUBLIC COMMENT**

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

### **310 Onsite Inspections**

**Big Mountain River LLC**, FL-2022- 040, Whitefish River, dock etc.: John Ellis explained that the old permit expired. The applicant submitted another application with the exact same information.

John Ellis motioned “this is a project.” Donna Pridmore seconded. Motion carried unanimously. Kenny Breidinger approved waiving the onsite inspection. John Ellis motioned “to approve the application as submitted.” Donna Pridmore seconded. Motion carried unanimously.

**Bigfork Harbor Homeowner’s Association**, FL-2022-039, Swan River, riprap: Pete Woll motioned “this is a project.” Verdell Jackson seconded. Motion carried unanimously. An onsite inspection was scheduled for Wednesday, July 20, 9:00 A.M. at the site.

**Klempnow**, FL-2022-036, Teepee Creek, replace decking: Pete Woll explained that a permit was issued two years ago. An extension was requested by the applicant however the extension expired. Pete read a letter from the landowner into the record, which explained that work was not completed due to contractor and fire issues and noted that the bridge is their only escape route. Pete added that the application is the same as the previous one. Ronald Buentemeier explained that he had installed a railroad car a long time ago and the planking is now rotted. The planking will be replaced, and a waterbar will be installed on the north end to keep water from running on to the bridge. Kenny Breidinger approved waiving the onsite inspection.

Pete Woll motioned “this is a project.” John Ellis seconded. Motion carried unanimously.

Pete Woll motioned “to approve the application as submitted and waive the onsite inspection.” Scott Rumsey seconded. Motion carried unanimously.

**Patterson**, FL-2022-041E, Garnier Creek, Emergency: John Ellis stated the road and driveway washed out due to all the rain this spring. John Ellis motioned “this meets the definition of an emergency under Rule 15 of the Flathead Conservation District Adopted Rules.” Donna Pridmore seconded. Motion carried unanimously. An onsite inspection was scheduled for Thursday, July 21, 11:30 A.M. at the site.

**Radtke**, FL-2022-038, Swan River, riprap: Pete Woll motioned “this is a project.” Donna Pridmore seconded. Motion carried unanimously. An onsite inspection was scheduled for Wednesday, July 20, 10:00 A.M. at the site.

**Saurey**, FL-2022-037E, Unnamed stream, Emergency: John Ellis motioned “this meets the definition of an emergency under Rule 15 of the Flathead Conservation District Adopted Rules.” Roger Marsonette seconded. Motion carried unanimously. An onsite inspection was scheduled for Thursday, July 21, 12:30 P.M. at the site.

**Stutzman**, FL-2022-042, Ashley Creek, placement of fill: Donna Pridmore and Kenny Breidinger noted that the landowner proposed to place fill over 600-feet away from stream. Kenny asked if any work is being proposed near Ashley Creek. Andrew Ferris explained that the reason for the application is based on the elevation. There is a section of the property with a hole that is less than the high surface water elevation of the stream. As part of the development of the property, the City asked them to contact the district to find out if a 310-permit is needed because they are technically filling in the floodplain, filling above the base flood elevation. Kenny asked is there a possibility that some property to the south of the building site would be connected to wetlands? Andrew stated the only issue was the floodplain extends way out and is a really flat area with minimal slope. He added the only development planned for the site is over 600-feet away from the stream. Kenny thought it prudent to do the onsite inspection.

Donna Pridmore motioned “this is a project.” Roger Marsonette seconded. Motion carried with one no vote. An onsite was scheduled for Thursday, July 21, 9:00 A.M. at the site.

### **310's**

**Brassaw**, FL-2022-019C, Whitefish River, complaint: John Ellis explained the complaint was regarding trimming two trees by the river. An onsite inspection was held 6/28/2022, and at that point in time the river covered the base of the trees.

John Ellis motioned “activity is not a violation as defined by district rules.” Verdell Jackson seconded. Motion carried unanimously.

**Dunham**, FL-2022-010, Hemler Creek galvanized arch: Scott Rumsey stated the application was tabled at the last meeting waiting for additional information from the applicant. The applicant, Scott Thomas, explained he submitted a quote to the district on 7/7/2022 from a company in Missoula for an engineered bridge with a prefabricated deck and steel forms for the abutments. He explained that the bridge will be placed on the new abutments, the old abutments will stay in place so the creek will not be disturbed. The old bridge deck will be removed. The new structure will be placed on top. Scott Rumsey stated this complies with HS20 standards. The new bridge is wider than the crossing. Scott Thomas added this bridge is 27-feet, the current/old bridge is 14-feet, and the super sills will be set back from the existing bank.

Scott Rumsey motioned “to approve the application with modifications submitted 7/6/2022.” Donna Pridmore seconded. Motion carried unanimously.

**Eagle Bend West Community Association**, FL-2022-032, Unnamed stream, sump pump drainage outlet: Pete Woll explained originally this was declared a project. An onsite inspection was held

6/22/2022, during which they learned that water is pumped from one side of the road into another waterhole. Water is then pumped out and circulated through the waterfall in the common area. It then returns to the pond, goes underground, across the road into another area on the golf course. Water is pumped from that area onto the golf course and greens. A home is sitting next to the common area, and because so much water is being pumped through the area, water is saturating the crawl space. A few years ago, the landowners put in a french drain system. Water comes out of the system and feeds into the common area. The HOA now cannot mow the lawn due to the water and wants to run a pipe under and back into the lagoon where the water comes out of. This does not affect the bed or banks of the stream. Kenny Breidinger noted that the pond behind the house has no surface connection to Eagle Bend Harbor; so, it is an off-channel pond and not within our jurisdiction.

Pete Woll motioned "this is not a project under our jurisdiction." John Ellis seconded. Motion carried unanimously.

**Francis**, FL-2022-027, Flathead River/Church Slough, floating dock: Donna Pridmore explained an onsite inspection was held 6/22/2022. The floating dock was already built and would have been permitted anyway. This is an after-the-fact application.

Donna Pridmore motioned "to approve the application as submitted." Verdell Jackson seconded. Motion carried unanimously.

**Guy**, FL-2022-028C, Flathead River tributary, complaint: John Ellis explained the complaint was for brush clearing and driveway construction along the stream. The onsite inspection was held 6/28/2022. He explained property had been cleared, but they did not see what would be considered a violation as far as the driveway. There was possible burning that may have taken place within 20-feet from the top of the stream. What did concern them was that there looked to be two perennial streams on the property, one of which had flooded recently and went over the road due to a backed-up culvert. The other stream came from a spring and flowed through the property. They were installing a water diversion device for household water. Piping and electricity were run down to the pump location. The violation is the water diversion and burning. Kenny Breidinger noted that the power line and water line to the spring were incomplete. There is no infiltration gallery, and you could see where the trench went. Roger Marsonette stated the applicant needs to submit detailed plans on how they intend to finish the water supply etc. Mikel Siemens stated she had been to the site the month prior, and the waterline was not there. She was surprised to see they had moved the pump location, as it had been up closer to the house. She noted that Ray Halloran with CORE Water Consulting has not been able to reach the client to find out what the actual intent is. The client is waiting on a well to be drilled on the property. Mikel added that she will find out more information. John stated that the landowner must obtain a 310-permit if they are going to get water from the perennial stream and to not burn 20-feet within top of the bank.

John Ellis motioned "this is a violation. Activity has been initiated on a perennial flowing stream without a valid permit." Donna Pridmore seconded. Motion carried unanimously.

**Hodge**, FL-202-015C, Stillwater River tributary, complaint: John Ellis stated Lech Naumovich was the previous supervisor on this complaint. Ginger Rigdon explained the complaint was tabled at the last meeting waiting for further information about the nature of the complaint from the

complainant. A letter was sent to the complainant on 6/21/2022, however, there has been no response to date. John Ellis noted the complaint only notes *stakes for a driveway*. Kenny Breidinger stated this is by the Stillwater Bar and that he and Lech stopped but did not go onto the property. They could not see anything like a perennial stream.

John Ellis motioned “to table the complaint until the next 310-meeting.” Roger Marsonette seconded. Motion carried unanimously.

**Inspiration Drive Properties**, FL-2022-007, Whitefish River, path/infrastructure/retaining John Ellis reported he recently walked the entire Whitefish trail that hasn’t been built, or some that has been built, from the Hwy 93 bridge to JP Road where the trail will end. Today he attended the Whitefish Bike/Pedestrian Trail Committee meeting where they discussed the Riverbend Condominiums next door to the Inspiration Drive property. John discussed the easement with Bruce Boody. Bruce said the easement as set forth in the deed simply says it will be an easement that the parties, being the property owners and the City of Whitefish, can agree on. The city has proposed a trail that Bruce designed but that does not go on the easement as provided to Flathead CD by the homeowner’s association. He noted that the only way the city can get that trail built is if they go to court and sue the Riverbend Condominium Association to determine the easement. The parties aren’t ever going to agree, so a court will have to make the decision, which could take years. He added that Casey Malmquist was at that meeting today, and he is comfortable with decoupling his building any trail from building his project.

John Ellis motioned “to table the application until the next 310-meeting.” Verdell Jackson seconded. Motion carried unanimously.

**Jag Capital Invest. LLC**, FL-2022-035, Autumn Creek, widen road: Verdell Jackson explained the onsite inspection was held 6/22/2022. He stated the subdivision project affects Autumn Creek and Ashley Creek. He provided photos and noted that the main concern is the culvert. Verdell reviewed considerations and modifications in the Team Member Report.

Andrew Farris explained recently upon state review there was an issue with the sewer, and they had to make some adjustments. Because of the adjustments the existing culvert will need to be replaced with an arch pipe. Andrew noted that he received the updated plans just this afternoon and will provide them to the district. Kenny Breidinger noted that there is an outfall with a low gradient which he had no comments on it, however anything that has to do with the crossing/culvert he will need to look at it.

Verdell Jackson motioned “to table the application waiting for additional information, until the next meeting on July 25.” John Ellis seconded. Motion carried unanimously.

**Johnson**, FL-2022-030, Patrick Creek, remove veg, excavate pond: Donna Pridmore explained an onsite inspection was held 6/27/2022. The landowner purchased 11 acres of wetland and wanted to dredge a 3-4 acre in-stream pond. They wanted to pile silt up on the road, set up a hot dog stand, and build a deck to view the pond. The team explained to the landowners the relevance of wetlands and that the district does not permit in-stream ponds. Donna Pridmore motioned “to deny the application.” Scott Rumsey seconded. Motion carried unanimously.

**Kowalka**, FL-2022-029C, Lost Creek, complaint: Verdell Jackson explained an onsite inspection was held 6/27/2022. The complaint is regarding a pond and is on the same property where the landowner had a permit for a culvert. Verdell provided photos and stated the pond was approximately 6 to 8 inches deep. Kenny Breidinger stated the pond is approximately 50-60 feet from the stream. Roger Marsonette noted that he walked the entire perimeter of the pond and there is no inlet channel; the pond is fed by groundwater seepage. Verdell added that there is no evidence that the pond could affect the stream. Kenny stated the pond is outside of our jurisdiction. Harold Kowalka noted that he had talked with Samantha Tappenbeck about planting vegetation and grasses, trees, and adding more fencing on the property.

Verdell Jackson motioned “this is not a project under our jurisdiction.” Donna Pridmore seconded. Motion carried unanimously.

Pete Woll motioned “this is not a violation under conservation district law.” Donna Pridmore seconded. Motion carried unanimously.

**Kuhns Road LLC**, FL-2022-012C, Stillwater River tributary, complaint: A 30-day extension request to respond to the complaint was approved until 7/11/2022. Ginger Rigdon explained Apec Engineering called and sent an email at 4:30pm today requesting another 30-day extension.

Doug Siderius explained the project was started earlier this spring (March). It is in the middle of a field in the bottom of a draw and is several hundred feet from the river. He stated they dug several feet out of the bottom of the draw and moved the material out and around. It is a low-lying area, and some years in the spring, there is runoff water. It does have groundwater coming up from the bottom. The bottom of it was 7-feet above the highwater mark of the stream when we shot it. There is no inlet or outlet. There is grass around it and grass and alfalfa will be planted back around it. The landowner’s idea is to create habitat and to build a house overlooking it. Steve and Katherine Rodgers are the current owners and have water rights to pump water into the pond. Research from the 1970’s and 1980’s showed some water in it, but it was farmed through for many years. John Ellis asked what the complaint is. Kenny Breidinger read the complaint, which states *excessive disruptions of wetlands and tributaries are possible*. Doug asked about continuing work re-leveling the spoils and planting. Supervisors stated we are not asking you to stop work. An onsite inspection was scheduled for Friday, July 22, 10:30 A.M. at the site.

**Larson**, FL-2022-031, Unnamed stream, culvert: An onsite inspection was held 6/22/2022. Verdell Jackson provided photos and explained the 40’x2’ culvert is to access the site for logging; they will use an excavator and truck to do the work. Kenny Breidinger stated the stream does have a defined channel and is under our jurisdiction. He noted it is a small stream, the channel is at least 2-feet deep and the culvert will span bank full. He did not have concern about the culvert being oversized. Kenny described how the road angles and the placement of the culvert. Verdell noted that modifications are the addition of drain dips and silt fencing.

Verdell Jackson motioned “to approve the application with modifications per the Team Member Report.” Donna Pridmore seconded. Motion carried unanimously.

**Mohr**, FL-2021-053, Flathead River, move hot tub: John Ellis explained that the landowner had placed a building and a hot tub on the bank of the river. The Board determined that the hot tub



had to be moved. Due to military duties, the landowner has requested an extension until July 30<sup>th</sup> to complete the work.

John Ellis motioned “to approve a permit extension until 7/31/2022.” Donna Pridmore seconded. Motion carried unanimously.

**Roth, FL-2022-026, Swan River, staircase:** Pete Woll explained an onsite Inspection was held 6/27/2022. The applicant wants to replace an old set of stairs down to the dock. Timbers up on the bank, that are holding everything, are rotting off and the structure is almost ready to go down into the river. They will replace it with timber and put in better pilings to anchor it to keep it from sliding into stream. The dock will be tied to it and work will be done by hand. Straw waddles will be placed at the bottom to catch sediment. Pete noted that at the time of the onsite, water was up on the steps due to flooding. Leo Rosenthal added that this is the preferred method to replace the stairs and there will be no bank disturbance. Pete reviewed the considerations in the Team Member Report.

Pete Woll motioned “to approve the application as submitted per the Team Member Report.” Scott Rumsey seconded. Motion carried unanimously.

**Whitefish Community Foundation, FL-2022-033, Whitefish River, path:** John Ellis explained the application is to build a path to the river. The pavilion and sidewalk will not be done. The applicant will submit another application later if they do decide to proceed with those projects. An onsite inspection was held 6/28/2022. The area has over-grown dense vegetation, and they couldn’t see where the path will be. John reviewed considerations in the Team Member Report, with the following modifications: 1) Retain as much native vegetation as possible, 2) Replant with native grass and vegetation, 3) Grade path so water doesn’t flow straight into river, 4) The applicant is to notify the district when the grading for the path is finished and the location of the path marked, so a site visit could be scheduled.

John Ellis motioned “to approve the application with modifications per the Team Member Report. The 15-day waiting period is waived.” Donna Pridmore seconded. Motion carried unanimously.

## **NEW BUSINESS**

**Conservation Grant extension request:** Samantha Tappenbeck explained the district received a request from Flathead Audubon for an extension of CD-2021-01 through 12/1/2022. Due to wet weather and water inundation, Flathead Audubon could not book someone to treat noxious weeds in the Owen Sowerwine area. The Conservation Grant is for \$2, 000.16. John Ellis motioned “to extend Conservation Grant #CG-2021-10 through 12/1/2022.” Donna Pridmore seconded. Motion carried unanimously.

## **MATTERS OF THE BOARD/STAFF**

**Potential Violation Discussion:** Samantha Tappenbeck explained the office received a verbal report based on an observation that looked like a potential violation on Flathead River. Work has been done as there is raw bank that has been laid back, and there is no sediment or runoff control in place. Kenny explained the site is on the lower Flathead River across the river from Brosten's property. After researching google earth and older photos it was not clear when the work had been done. There is a large boat at the site. Both Kenny and Pete Woll agreed that it is a violation. Kenny stated that he is willing to submit a complaint form and noted that it has eroded quite a bit as you can see the line right above the rock line in front of the boat. There is no erosion control, and no vegetation. Pete Woll stated the office researched the site and found that in 2005 an application was approved for shaping, rip rap and one dock. Now major work has been done and they have added another dock. This is a blatant violation. It is the same landowner, so they are aware they need a 310-permit. Kenny did not think the site is viewable from the county boat access but noted that it can be seen from the river. His concern is it looks like it has been professionally done by a contractor. The Board agreed that a complaint should be filed, and the district could go through the process.

Kenny stated there are a lot of violations that no one is complaining about. It just seems we have a big problem with violations, and people are getting away with a lot of stuff that should be permitted; it's not fair to the people that are getting permits. Samantha Tappenbeck added this is happening a lot, and that speaks to the fact that people are generally uneducated (about the 310-law), but that is not an excuse. There is more we can explore in the future about how we get that information out to the community such as targeted mailings. What it comes down to is we do not have an enforcement division, so we have to be able to take those opportunities when we notice these things. We need to make it right and get the information out there. We have a process, but not an enforcement division, and it is incumbent upon Supervisors, FWP or Staff to bring these potential violations to the attention of the Board.

Discussion held regarding filing complaints, using the fining option, and getting information out to the public. Ginger Rigdon noted that the office gets calls, however people do not want to submit complaints and make an enemy of their neighbor. Samantha added this is not just occurring on Flathead River, it is occurring all over Flathead Valley. What comes to mind is the enormous burden placed on a volunteer board of supervisors to carry out that task. Conservation Districts do not have the capacity to do inspection and enforcement. Other districts are also dealing with this, and it is no doubt resulting in unpermitted work on streams, and this is not the intent of law. Leo Rosenthal added that Missoula CD also deals with this issue. Samantha noted maybe we need to bring a resolution to our statewide legislative body or our advocates at the state level to try to address this.

The next business meeting is scheduled for July 27, 2022, 7:00 P.M. in the conference room of the USDA/FCD building.

Adjournment: Donna Pridmore motioned "to adjourn." John Ellis seconded. Motion carried unanimously. As there was no further business, the meeting was adjourned at 9:32 P.M.



Submitted By:  
Ginger Kauffman, Administrator

Reviewed By:  
Samantha Tappenbeck, Resource Conservationist

Minutes approved by FCD Board motion made on:

|                 |                   |                    |
|-----------------|-------------------|--------------------|
| <u>8/2/2022</u> | <u>John Ellis</u> | <u>Vice-Chair</u>  |
| Date            | Signature         | Title (Chair etc.) |