



CALL TO ORDER & ATTENDANCE

Chair, Pete Woll called the August 9, 2021, 310-meeting to order at 7:00 P.M. in the conference room.

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

Also, in attendance were Hailey Graf, Samantha Tappenbeck and Ginger Kauffman, FCD Staff; Fiona Handler, Big Sky Watershed Corps Member; Kenny Breidinger, FWP; Michelle Fraser; Richard Ginnett; Allen Brien; Chad & Kelly Bruns; Trevor Hull; Wayne & Susan Hull; Mikel Siemens, Core Water Consulting; Allen Rean; Leo Rosenthal, FWP; Bill Whitsitt; Shane Hatfield; Mitch King, Montana Outdoor Legacy Foundation; Mike Cotton, FH Stoltze L&L; Bill & Dena Brunskill; Doug Yaeger, Winter Sports Inc.; Brian Switzer; Brad Bennett, WET; Andrea Fish.

CONSENT AGENDA

Consent Agenda Item 1: Signature Authority

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

Consent Agenda Item 2: Table 310's

- Buck, FL-2021-041C, Stoner Creek, complaint
- FH Stoltze, FL-2021-023, various streams, annual maintenance
- Griffin, FL-2020-060C, Garnier Creek, complaint
- Heil, FL-2020-042C, Blaine Creek, complaint
- Heil, FL-2021-032, Blaine Creek, bridge

Consent Agenda Item 3: Minutes - None

Consent Agenda Item 4: Financial

The following bills were reviewed (Check Detail dated 8/4/2021)

1. Flathead Beacon \$528.00
2. Montana Big Screen \$2,495.00
3. Montana Sky Networks \$10.00
4. Mountain States Leasing – Kalispell \$1,599.73
5. Whitefish Lake Institute \$10,000.00

Consent Agenda Item 5: Correspondence - None

Consent Agenda Item 5: Phone Poll

7/27/2021 Approving the contract with River Design Group for design and construction oversight services on the Krause Creek Project.

Donna Pridmore motioned "to approve the consent agenda." Verdell Jackson seconded. Motion carried unanimously.

PUBLIC COMMENT

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

310 Onsite Inspections

Bruns, FL-2021-065, Whale Creek, bank stabilization/veg tree removal/well: An onsite inspection was scheduled for Monday, August 18, 9:45 A.M. at the site.

Dahn, FL-2021-064, Swan River, remove cut logs from bottom of stream: An onsite inspection was scheduled for Thursday, August 26, 9:30 A.M. at the site.

FH Stoltze L&L, FL-2021-062, Haskill Creek, culvert: An onsite inspection was scheduled for Monday, August 18, 1:00 P.M. at the FH Stoltze L&L office.

Ginnett, FL-2021-068, Garnier Creek, bridge/home/driveway: An onsite inspection was scheduled for Tuesday, August 24, 9:15 A.M. at the site.

Hull/Iron Gate MT, FL-2021-066, Cedar Creek, utilities: An onsite inspection was scheduled for Monday, August 18, 11:30 A.M. at the Columbia Falls post office.

Mountain Cleft Resort, FL-2021-069, unnamed, wetland alt/fill: An onsite inspection was scheduled for Monday, August 18, 3:00 P.M. at the site.

SPP Montana, FL-2021-061, Lazy Creek, bridge: An onsite inspection was scheduled for Tuesday, August 24, 1:15 P.M. at the site.

Wachholtz, FL-2021-060, Wild Bill Creek, culvert: An onsite inspection was scheduled for Monday, August 16, 9:30 A.M. at the site.

Winter Sports, FL-2021-067, Haskill Creek trib., veg & tree removal/culverts: An onsite inspection was scheduled for Tuesday, August 24, 11:00 A.M. at the base lodge.

310's

Bayside Park & Marine Ctr, FL-2020-031, Swan River, permit extension request: Pete Woll explained that the landowner is requesting an extension to complete the work.

Pete Woll motioned "to approve a one-year extension request." Verdell Jackson seconded. Motion carried unanimously.

Brisendine, FL-2021-057C, Stillwater River, complaint: Verdell Jackson explained that a response has not been received yet.

Verdell Jackson motioned “to table until the next meeting and pending receipt of the complaint letter.” Lech Naumovich seconded. Motion carried unanimously.

Brunskill, FL-2021-016, Flathead River, permit denied, extension request: The Brunskill’s submitted a letter stating they disagreed with the district’s decision, will be seeking legal counsel, and requested a 90-day extension in addition to the 30-day response time.

Pete Woll stated Hailey Graf consulted with Caitlin Overland, Deputy County Attorney. Hailey explained that if a landowner does not agree with the district’s decision, they have 30 days to decide if they want to go through arbitration or court and must submit the Decision form back to the district. The Brunskill’s have asked for a 90-day extension to make that decision. In conversation with the county attorney’s office, there is no legal reason why the Flathead CD (FCD) would be legally obligated to grant the request. It is up to the district, but not necessary for the district to grant the extension request. The landowners can make the decision within 30-days, or they can file a lawsuit with the county courts.

Dena Brunskill stated they would like to have time to consult with an attorney. Pete Woll asked how many days they have left until that 30-day limit expires. Hailey stated they have 30-days after receipt of the decision to submit the signed Decision form if they want to go to arbitration or court. Hailey provided that the paperwork was processed and the letter sent out on July 2. If we assume a maximum of one week for the paperwork to reach them by mail, they would have received it by July 9. Given that, 30 days from the date of receipt of the decision paperwork would be August 9. Lech Naumovich asked, what steps have the Brunskill’s taken in the past 30 days. Hailey stated they contacted her immediately following the meeting asking for the meeting minutes, which were sent to the Brunskill’s after they were approved by the Board. They then asked for a transcript of the meeting, so the audio recording was placed on a thumb drive and sent to the Brunskill’s sometime between 7/2/2021 and 7/9/2021. Lech asked for clarification that their 30 days are up as of this meeting to which the board and staff agreed. He further clarified that they had three weeks above and beyond those 30 days between the last meeting and when the letter was sent out. Lech asked the Brunskill’s if they had any extenuating circumstances as to why 45 to 50 days is not enough time. Dena Brunskill replied that they have not been able to get an appointment with the attorney yet; that will be hopefully next week.

John Ellis asked if the 310-Permit Conservation District’s Decision form says it must be within 30 days. Hailey replied yes. He suggested FCD give them an extension until the 16th.

John Ellis motioned “to deny the request for a 90 -day extension, but to grant a request for an extension until August 16, 2021, at 4:30 P.M.” Lech Naumovich seconded. Motion carried unanimously.

CFAC, FL-2021-055, Flathead River, bridge: Scott Rumsey explained that additional information has been submitted regarding the bridge. Kenny Breidinger added that the bridge has a center pier, but is a long span, and work will be done when it's dry.

Scott Rumsey motioned "to approve the application with modifications per the modifications submitted 8/5/2021 and per the Team Member Report." Donna Pridmore seconded. Motion carried unanimously.

Demongine, FL-2021-058C, Flathead River, complaint: Scott Rumsey explained that a response has not yet been received.

Scott Rumsey motioned "to table until the next meeting." Lech Naumovich seconded. Motion carried unanimously.

Fraser, FL-2021-056C, Swan River, complaint: An onsite inspection was scheduled for Thursday, August 26, 10:30 A.M. at the site.

Hodge Creek Reserve, FL-2021-003, Hodge Creek, remove dam install culvert: Verdell Jackson motioned "to table the application until the next 310-meeting." Scott Rumsey seconded.

Discussion held that no additional information has been received since February 22, 2021.

Verdell Jackson motioned "to amend the motion to send a letter to the applicant stating that the application will be withdraw if no additional information is received by the September 310-meeting." Lech Naumovich seconded. Motion carried unanimously.

Johnson, FL-2020-038, O'Neil Creek, culverts: A request to withdraw the application was received from the landowner.

Verdell Jackson motioned "to withdraw the application per the request of the applicant." Donna Pridmore seconded. Motion carried unanimously.

Maldonado, FL-2021-054C, Flathead River, complaint: John Ellis explained that the complaint letter was sent twice and returned both times marked return to sender/unclaimed/unable to forward/no mail receptable.

John Ellis motioned "to refer the complaint to the county attorney." Verdell Jackson seconded Motion carried unanimously.

Peerman, FL-2021-046C, Stillwater River, complaint: Verdell Jackson explained that the landowner signed the return receipt on 6/15/2021 but has not sent in a response. This is past the required 15 days.

Verdell Jackson motioned "to refer the complaint to the county attorney." Lech Naumovich seconded. Motion carried unanimously.

Scott, FL-2021-050, Flathead River, remove & install boathouse/lift: Pete Woll explained modifications were received, however, another onsite is necessary. An onsite inspection was scheduled for Tuesday, September 7, 9:30 A.M. at the site.

Switzer-Rogers, FL-2021-059C, Swan River, complaint: The complaint letter was mailed 7/28/2021. A response has not yet been received.

A tentative onsite inspection was scheduled for Thursday, August 26, 11:30 A.M. at the site.

Wheeler, FL-2021-063C, Lost Creek, complaint: Verdell Jackson explained that a complaint response was received 8/6/2021.

An onsite inspection was scheduled for Tuesday, September 7, 1:20 P.M. at the site.

White, FL-2021-014, Flathead River, dock/boat ramp: Donna Pridmore explained that FCD received emails and photos from a concerned citizen that potentially showed more work being done than was permitted, so she and Scott Rumsey met with Mr. White onsite, during construction, to discuss the potential deviation from the permit. She stated that they were specifically concerned about the attachment of the gangway and the boat ramp. During the site investigation, Mr. White was amenable to stopping work until the Board decided on what he should do.

Mr. White sent an email with a copy of the original application stating because these things were in his original application, he believed he was within what has been permitted. Donna disagreed with this email and explained that he sent a picture of the gangway which implied that he was going to put in a platform on the top of the bank and have the gangway go down to his dock. Scott noted that this was specified in his permit; that it would be on top of the bank. Based on the field investigation done by Donna and Scott, Mr. White has instead excavated the bank and put in an L-shaped stairway with lights. Donna noted that she put together a timeline of what happened. She added that in his email Mr. White stated there would be no disturbance to any part of the shoreline. Scott clarified that what was proposed to be on top of the bank was actually excavated into the bank and has a concrete stairway poured into it. Donna stated this is outside of what FCD permitted. Verdell asked when the work was done and Donna responded that FCD received the photos around July 26th, so the work was done sometime between May and July 26th. Supervisors also noted an electrical outlet. Donna stated conduit is sticking out of the bottom of the concrete and he is going to run lights all the way down the bank; this is not in the permit either.

The application submitted in March included an 85-foot-long dock on his property. Donna explained that after receiving the original application, she contacted Sam Strickler with Waatti Engineering and explained that the only way that the district would allow a dock longer than 20 feet is if you don't have 5 feet of depth and can't get your boat in. The 5-foot depth is the only exception the district makes to the 20-foot length on a dock. The engineer said Doug White wanted to stick with what was in his original application.

Pete, Scott, Kenny Breidinger and Donna went to the site on April 21st talked to him about the length of his dock and the fact that it was going to be a piered dock. It was noted that the neighboring dock downstream was 50 feet in length. It was agreed that Mr. White could put in a 50 foot piered dock because of how deep the water had to be to get his boat up to his place.

Donna explained that following the onsite inspection discussion, Mr. White sent an email and they discussed how he was going to get down to his dock. Mr. White said he would put the gangplank on one side or the other of the ponderosa tree and sent a picture/diagram showing how the gangway would just go to a pad on the top of the bank on existing grade. He also provided a diagram of the boat launch with his original application, and there was no mention of excavation. Donna and Scott agreed that the diagram in his application shows it would be at exiting grade with no mention of excavation. Mr. White actually scraped it down to the very top of the rip rap and then he wanted to spray Quick Crete on the entire sides and bottom. Pete added that we did not permit a ramp in there.

Donna Pridmore motioned “the Board find Mr. White in violation of his existing 310-permit.” Lech Naumovich seconded. Motion carried unanimously.

The Board discussed process and remedial action for the violation. Donna asked the board for input on how to require him to remediate the streambank. Pete suggested we ask the County Attorney’s office how best to proceed. Hailey described the violation process as two options, criminal or civil, and asked for clarification on how the board would like to proceed. John expressed that FCD should proceed with civil penalties. He added that FCD should consult with Caitlin Overland but send Mr. White a letter telling him he’s in violation and to remedy that violation he needs to remove the stairwell structure, the electricity, and the boat ramp and restore the property to the original condition. John suggested we give him 30 days and if it’s not done by then we would assess a fine. Lech Naumovich agreed and added that Mr. White needs to employ a professional to remediate the work. Hailey added that they would need a new 310 application to do the remediation work. Scott and Lech expressed concerns about predicted difficulties in getting the site revegetated and the high potential for erosion. Pete suggested we need some type of barrier to prevent erosion.

Hailey asked if the board would consider hiring a consultant to guide us on determining how it needs remediated. Lech disagreed and suggested that the responsibility is on the landowner and FCD should require the work to be done by a qualified engineer. Gordon suggested that the letter also include a requirement that work stop immediately on the project. Lech suggested that FCD include a work-stop order and give Mr. White 30 days to consult with an engineer and put together a plan, then FCD will evaluate it. Pete again suggested that we consult with Caitlin. Lech suggested we send the letter first and give Mr. White an opportunity to respond. Gordon suggested that the extent of the violation doesn’t warrant much compassion. Donna suggested we include in the letter information about what is in violation. Lech suggested the letter specify what is not in compliance with the existing permit. Verdell Jackson agreed.

The board discussed additional concerns with the boat ramp. Kenny added that Mr. White has done much more than he described during the onsite inspection or in his application. He also noted that there was previously an old boat ramp there and he wouldn't necessarily have to restore that. He noted that the boat ramp looks very unstable because the banks are vertical and will slump.

The board further discussed how to get work to stop immediately. Lech suggested we send some kind of certified cease-and-desist order. Donna suggested we include that requirement in the letter he'll be sent. John suggested we send a letter stating Mr. White is in violation of his existing permit, that he must stop any work, and he must obtain a 310 permit to properly restore the banks to pre-construction condition. He'd then have an opportunity to respond.

John Ellis motioned "to send a letter to the applicant stating that he is

1. In violation of permit approved on 5/10/2021;
2. To stop any further work on the streambank including but not limited to boat ramp, stairwell, and dock;
3. Must submit a new 310-application within 15-days of receipt of the letter to restore the bank to its preconstruction condition."

Donna Pridmore seconded. Motion carried unanimously.

The letter will be forwarded to Caitlin Overland, Deputy County Attorney, and to the Board for review before it is sent via certified mail.

NEW BUSINESS

2022 Big Sky Watershed Corps (BSWC) shared position: Samantha Tappenbeck explained that we had received a request from Lake County CD for funding to support a Big Sky Watershed Corps member (BSWCM) who would be managing the septic reimbursement program. At the preliminary budget meeting the Board approved \$3000 to support that position. Recently she learned the position would be working one quarter time on the septic maintenance program here in Flathead and Lake County and the rest of their time would be education and outreach. They are open to the BSWCM working on Flathead programs, but their office space would be in Ronan. Samantha asked if the Board wanted to change the amount in the budget.

Donna Pridmore motioned "to leave the \$3000 in the budget line for the BSWC shared position." Verdell Jackson seconded. Motion carried unanimously.

MATTERS OF THE BOARD/STAFF

Legal options for non-responsive landowners: The Board discussed documenting attempts to contact alleged violators, not tabling complaints more than two times, forwarding complaints to the county attorney and providing Supervisors with detailed information in the Agenda with Notes.

NW Montana Fair Booth: Samantha Tappenbeck explained that the Forest Service and Glacier National Park will not be attending the fair this year due to COVID numbers. The

fair office asked that Flathead CD move into a space under the grandstand, so the booth will be unstaffed.

Language in 310-permit/letters: Hailey Graf explained that there is current language in 310-permits and letters stating the applicant is required to post the permit at the work site. She researched this and found that it is not required under the law, and noted that it creates extra paperwork, time, and cost to process. The board agreed that the language should be removed.

Personnel Hiring: Hailey Graf reported that she made an offer to Virginia Rigdon for the Administrative Assistant position. Virginia will start work on August 30th.

Flathead Waters Clean Up Event: Hailey Graf explained that this event will be held Saturday, August 14th, and that Flathead Basin Commission (FBC) has a grant that will cover everything related to the event. To incentivize people to register, FCD would offer 40, \$20 meal vouchers to Sacred Waters at the after party. Procedurally, Flathead CD would run a tab, close it out at end of the event and put the \$800 on the district credit card. Hailey asked if she could charge that to her district card and submit the invoice to FBC for reimbursement. The Board agreed.

Covid Discussions: The Board discussed local COVID numbers in relation to planned events and agreed to cancel the open house until the spring. Hailey Graf stated she would like to move forward with the September 2nd 310-training as it will be field trip based, with discussion outside at the sites. The Board agreed.

Office policies were also discussed in relation to COVID. The board agreed to wearing masks in the office and for board meetings. N95 masks, which are more comfortable for talking, will be provided

Quorum: Hailey Graf explained that with our current board being 6, a quorum is 4. A gathering of 3 or fewer is not a quorum and does not have to be noticed. We can hold trainings but cannot discuss any open business of any kind and cannot make any decisions.

Potential violations: Discussion held regarding 310 numbers, violations, 310-education, and outreach, and how to create better processes.

The next meeting is scheduled for Monday, August 23, 2021, 7:00 P.M. via ZOOM.

Adjournment: Verdell Jackson "to adjourn." Donna Pridmore seconded. Motion carried unanimously. As there was no further business, the meeting was adjourned at 9:50 P.M.

Submitted By:

Ginger Kauffman
Administrator

Hailey Graf
Resource Conservationist

Minutes approved by FCD Board motion made on:

9/27/2021
(Date)

Pete Woll
(Signature)

Chair
(Title – Chair etc.)