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## **CALL TO ORDER & ATTENDANCE**

Pete Woll, Chair called the October 12, 310 permit meeting to order at 7:00 P.M. in the conference room.

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

**Board members absent:** John Ellis; Vice Chair; Absence is excused.

Also, in attendance were Hailey Graf, Samantha Tappenbeck, Virginia Rigdon, Ginger Kauffman, Flathead Conservation District (FCD) Staff; Fiona Handler, Big Sky Watershed Corps Member; Kenny Breidinger, Fish Wildlife & Parks (FWP); Michelle Frazier; Steve Shapero; Cathy Mitchell; Brian Sugden, American Forest Management; Roger Noble; Angie LeDuc; Doug White; Mark Waattii, Waattii Engineering; Melissa Brickl, Water & Environmental Technologies; Katie Ridinger, 406 Docks; Ann Becker; John Mielke; Gregory MacDonald; Emily Harkness, Associate Supervisor; Gordon Ash, Associate Supervisor; Andrea Fish; Shane Barfoot; Jeff Larsen, Larsen Engineering; Doug Yaeger; Leo Rosenthal, FWP; Jamie King; Jesse Smith; Paul Bishop, McCrumb Construction ; Vicki Bagley.

## **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: Tabled 310's**

**Griffin**, FL-2020-060C, Garnier Creek, tabled until work completed under permit FL-2021-022

### **Consent Agenda Item 3: Meeting Minutes**

The 9/27/2021 are complete.

### **Consent Agenda Item 4: Financial**

The following bills were reviewed:

(Check Detail dated 9/22/2021)

1. VISA – Samantha Tappenbeck \$674.55
2. VISA – Hailey Graf \$2, 22.05

(Check Detail dated 9/29/2021)

1. Anders Business Solutions \$105.00
2. Bug Hunters Pest Control \$125.00
3. Charter Communications (Spectrum) \$162.95
4. Flathead Beacon \$475.80
5. Montana Sky Networks \$10.00

### **Consent Agenda Item 5: Phone Poll**

9/30/2021 Phone Poll to commit \$5,000.00 in match funding for the Flathead Landowner Guide booklet and website development under a RAC grant which Flathead Lakers are applying for.

Lech Naumovich motioned “to approve consent agenda as presented.” Donna Pridmore seconded. Motion carried unanimously.

### **PUBLIC COMMENT**

Katie Ridinger, 406 Docks, asked if an onsite inspection could be scheduled for **Ghorai**, FL-2021-100, Swan River, dock: An onsite inspection was scheduled for Wednesday, November 3, 9:30 A.M. at the site.

### **310 Onsite Inspections**

**Glazier**, FL-2021-095, Weberg Creek, sediment removal: An onsite inspection was scheduled for Monday, October 18, 9:30 A.M. at the site.

**Grob Family Trust**, FL-2021-094, Unnamed, culvert replacement: An onsite inspection was scheduled for Monday, October 18, 1:00 P.M. at the site.

**Hale**, FL-2021-084, Swift Creek, rip rap/willow cuttings: An onsite inspection was scheduled for Wednesday, October 27, 9:30 A.M. at the site.

**Mitchell, FL-2021-099**, Stillwater River, debris & vegetation removal: An onsite inspection was scheduled for Monday, October 18, 10:45 A.M. at the site.

**Weaver**, FL-2021-092, Flathead River, debris removal & bank stabilization: An onsite inspection was scheduled for Tuesday, October 19, 9:30 A.M. at the site.

**White**, FL-2021-098, Flathead River, boat ramp/boat dock/fire pit area/patio: An onsite inspection was scheduled for Friday, October 22, 9:30 A.M. at the site.

### **310's**

**Aldrich**, FL-2021-079, Unnamed, graded drainage ditch/fill: Lech Naumovich explained this is a low area that is seasonally wet due to drainage and is not a project. Kenny Breidinger agreed.

Lech Naumovich motioned “this is not a project under the jurisdiction of the district.” Verdell Jackson seconded. Motion carried unanimously.

**Becker**, FL-2021-077C, Unnamed, complaint: Verdell Jackson explained this is an intermittent stream, and no water was running. Kenny Breidinger agreed that it is an intermittent channel and not near a stream.

Verdell Jackson motioned “this is not a violation as defined by district rules.” Lech Naumovich seconded. Motion carried unanimously.

**Becker**, FL-2021-080C, Unnamed, complaint: Verdell Jackson explained this is an intermittent stream, and no water was running. Kenny Breidinger agreed that it is an intermittent channel and not near a stream.

Verdell Jackson motioned “this is not a violation as defined by district rules.” Lech Naumovich seconded. Motion carried unanimously.

**Brisendine**, FL-2021-057C, Stillwater River, complaint: Verdell Jackson explained the waterslide/inflated items are not violations; however, the dock was installed without a permit. The landowner will be asked to submit an after the fact permit application for the dock and to include any trail work they are going to do.

Verdell Jackson motioned “activity is not a violation.” Donna Pridmore seconded. Motion carried unanimously.

**Brisendine**, FL-2021-097, Stillwater River, steps/gangway/dock: Verdell Jackson explained that the landowner submitted an after the fact application for the dock and steps. Kenny Breidinger stated if the landowner wants to extend the stairs or trail, they must submit a new application.

Verdell Jackson motioned “to approve the application as proposed.” Donna Pridmore seconded. Motion carried unanimously.

**Brown**, FL-2021-070, dock, gangway: Pete Woll explained the application is to remove an old dock and replace with a new floating dock which meets the standards of adopted rules. Katie Ridinger with 406 Docks verified that they are only removing the dock section, the gangway is staying, and they will build a new platform.

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

**Buck**, FL-2021-041C, Stoner Creek, complaint: Donna Pridmore motioned “to continue tabling the complaint until a Work Completion form is submitted under permit FL-2021-048.” Lech Naumovich seconded. Motion carried unanimously.

**Cahill**, FL-2021-071C, Flathead River, complaint: Lech Naumovich explained an onsite inspection was held 9/21/2021. The complaint was regarding t-posts and material being placed/deposited within the jurisdiction of the district. The Cahills own property on either side of a park in Columbia Falls. People trespass on his property due to difficult access to the park. This is a trespass issue which is outside the district’s jurisdiction.

Samantha Tappenbeck explained this is similar to an access issue on Swan River. She suggested that improvements could be made to help control the access, and outreach about river stewardship in the area could be effective for controlling the situation if it continues to be an issue.

Lech Naumovich motioned "this is not a violation under our jurisdiction." Donna Pridmore seconded. Motion carried unanimously.

**Demongin**, FL-2021-058C, Flathead River, complaint: Scott Rumsey explained the complaint was about people working on the riverbank downstream from the Columbia Falls bridge area. The landowner cleared some brush landward toward his house. It was beyond the immediate bank, and out of the districts jurisdiction and did not require a permit.

Scott Rumsey motioned "this is not a not a project under our jurisdiction." Lech Naumovich seconded. Motion carried unanimously.

**Demongin**, FL-2021-093, Flathead River, debris removal: Scott Rumsey explained the landowner wants to remove an embedded car frame from the shoreline. Flathead County landfill oversees removal of junk vehicles and can remove the car once it is brought to a location that is safe for removal. A 310-permit is needed to remove the vehicle. Kenny Breidinger stated he had no issue as the car is not underwater. There will be minimal disturbance to the shoreline. Donna Pridmore noted that there are sharp pieces sticking up off of the vehicle which might pose a safety hazard.

Scott Rumsey motioned "to approve the application with modifications per the Team Member Report." Donna Pridmore seconded. Motion carried unanimously.

**Druyvestein**, FL-2021-073C, Flathead River, complaint: Scott Rumsey explained the team found the work that was done (sod) was not in violation of district rules. The landowner was asked to contact the district about planting.

Scott Rumsey motioned" this is not a violation as it is not a project per district rules." Lech Naumovich seconded. Motion carried unanimously.

**Fraser**, FL-2021-056C, Swan River, complaint: Pete Woll motioned "to table the complaint until the Work Completion form under permit FL-2021-091 is submitted." Lech Naumovich seconded. Motion carried unanimously.

**Fraser**, FL-2021-091, Swan River, dock, ramp/platform: Pete Woll stated the complaint was handled at the last meeting and requested the landowner submit an after the fact application. The application was received August 26, 2021. No additional onsite inspection is needed. The landowner did not realize they needed a permit until the onsite inspection was held. Andrea Fish raised concerns about the project being in a 100-year floodplain, and that Floodplain and Army Corps of Engineers permits may be needed. Michelle Fraser noted they did submit a permit application to the Army Corps of Engineers.

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

**Green Diamond Res Co.**, FL-2021-085, Pleasant Valley Fisher River, culvert: Verdell Jackson explained the applicant wants to install a culvert for timber access. Kenny Breidinger stated this is an existing crossing and the culvert is appropriately sized. Brian Sugden added that it is a 5-foot equivalent squash culvert.

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

**Green Diamond Res Co.**, FL-2021-086, Pleasant Valley Fisher River culvert: Verdell Jackson explained the existing culvert will be removed and replaced with a new one. Kenny Breidinger stated the culvert will be on an existing road, is appropriately sized, and meets the Adopted Rules.

Verdell Jackson motioned “to approve the application as submitted.” Lech Naumovich seconded. Motion carried unanimously.

**Green Diamond Res Co.**, FL-2021-087, Pleasant Valley Fisher River, culvert: Verdell Jackson explained the application is to reinforce an existing culvert, adding riprap to the inlet and outlet, removing a tree, and reseeding the disturbed area. Kenny Breidinger added that the culvert has been there for some time.

Verdell Jackson motioned “to approve the application as submitted.” Lech Naumovich seconded. Motion carried unanimously.

**Hodge Creek Reserve HOA**, FL-2020-052E, Hodge Creek, notice of emergency: Verdell Jackson explained the emergency was modified on October 26, 2020, and the landowner was required to submit an application for a permanent solution. The application was submitted 1/12/2021. This will remain open until a final design is submitted under FL-2021-003.

**Hodge Creek Reserve HOA**, FL-2021-003, Hodge Creek, replace flow control:

Verdell Jackson motioned “to table until additional information is received.” Lech Naumovich seconded. Motion carried unanimously.

**Holwick**, FL-2021-083, Swan River, seawall: Pete Woll stated the application is to replace a retaining wall. Roger Noble explained that the wall was placed about 1910 and is failing. Work will be done during low water. Pete added that the concrete pad will be replaced as it is over the old crib wall.

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

**Klempel**, FL-2021-076C, Unnamed, complaint: Pete Woll reported that an onsite inspection was held on 9/22/2021. A culvert was placed with large fill across a draw,

however there was no sign of a perennial stream. Kenny Breidinger added there was no defined channel.

Shane Barfoot stated he is the complainant and noted that historically this is an intermitted stream that runs only in the spring. He was concerned that the culvert will stop any flow onto his property, and that the landowner did not submit an application for the work. Pete Woll explained that since the stream is intermittent and did not meet the definition of a perennial stream, it was not under our jurisdiction.

Pete Woll motioned "this is not a violation as defined by the district rules." Verdell Jackson seconded. Motion carried unanimously.

**Maldonado**, FL-2021-054C, Flathead River, complaint: Kenny Breidinger stated access to view the site was made via a side channel from the neighbor's house, as the landowner did not respond to the complaint letter. It was noted that a structure was placed in the channel without a permit.

Lech Naumovich motioned "to table the complaint until John Ellis can present the information" Verdell Jackson seconded. Motion carried unanimously.

**Mielke**, FL-2021-074, Flathead River, dock/shore station boat lift: Pete Woll stated revised information was received 10/4/2021. Kenny Breidinger added there are multiple options in the revision. Paul Bishop explained there is no gangway, just a conventional dock supported by pilings, and explained that they prefer option C to avoid driving pilings through the rip rap and damaging the rip rap This option exceeds the Adopted Rules by 10-feet, but it avoids the rip rap. The board discussed the option and came to the consensus that this would be acceptable as an exemption to the Adopted Rules to avoid damaging the existing riprap.

Pete Woll motioned "to approve the application with modifications submitted 10/4/2021 - being Option C on page C2, per the Team Member Report." Verdell Jackson seconded. Motion carried unanimously.

**Peerman**, FL-2021-046C, Stillwater River, complaint: Verdell Jackson stated the landowner did not respond to the complaint letter, however, Mr. Peerman has passed away. Verdell has tried to contact Mrs. Peerman without success. Photos show where the bank has caved off and trees were removed. Caitlin Overland, County Attorney's office, had recommended to view the site from the closest vantage point possible. Verdell will contact Caitlin Overland for more information.

Verdell Jackson motioned "to table the complaint until the next 310-meeting and information is received from Caitlin Overland." Lech Naumovich seconded. Motion carried unanimously.

**Ray Family Trust**, FL-2021-088, Stoner Creek, stream restoration, cistern/ debris removal etc.: Donna Pridmore motioned "to table until additional information is received." Lech Naumovich seconded. Motion carried unanimously.

**Scott**, FL-2021-050, Flathead River, replace boathouse/lift/deck: Pete Woll motioned “to table until the new design information is received.” Lech Naumovich seconded. Motion carried unanimously.

**Shapero**, FL-2021-078, Flathead River, kayak rack: Pete Woll explained this project is on one of the side channels of the harbor in Eagle Bend. The rack is already existing and is portable. This is within the jurisdiction of the district. Recently the district received 3 letters from the homeowner’s association (HOA) who are opposing the kayak rack and do not want anything built within the lagoon. It is not the position of the FCD to enforce HOA rules. This is not a permanent structure as is sitting on the ground and can be moved. Donna Pridmore noted this is a temporary storage device. Lech Naumovich agreed that the district cannot enforce HOA rules.

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

**Smith**, FL-2021-082, Stillwater River, stairs/ reseeding: Verdell Jackson explained the project is to place stone stairs using a skid steer, then reseed and replant. Kenny Breidinger stated the stairs meet the Adopted Rule’s and will sit on the existing terrain. The steps lead down to a bench and will end before reaching down to the stream. There is no boat dock. Jesse Smith stated the area is eroding due to a sprinkler system. Kenny added that they want to level the area downhill from where the stairs will be and said that as a modification, hand tools are to be used to level the area located at the bottom of the stairs.

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

**Smith**, FL-2021-089, Fish Creek, pond: Verdell Jackson explained the application is for a pond in a wetland area. There was no evidence of a stream and not within the district’s jurisdiction. Kenny Breidinger added that this is a swale that goes to the north side of the road, but there is no evidence of a stream or channel.

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

**Switzer-Rogers**, FL-2021-059C, Swan River, complaint: Pete Woll stated the property is up for sale, and the riverbank is not visible from any public place. Leo Rosenthal stated the only contact would be the real estate company to view the site with one of their realtors.

Pete Woll motioned “to table and contact the realtor to view the site.” Lech Naumovich seconded. Motion carried unanimously.

**Turner**, FL-2021-081C, Swan River, complaint: Pete Woll explained work has been done within the jurisdiction of the district. The landowner must submit a permit application for work done.



Pete Woll motioned “activity has been initiated on a perennial flowing stream without a valid permit.” Lech Naumovich seconded. Motion carried unanimously.

**Turner**, FL-2021-096, Swan River, retaining wall: Leo Rosenthal stated the landowner built a retaining wall with 7-8 feet of fill behind it. The concern is that it will fail and go into the river. The landowner also wants to build a deck. The Board agreed that an engineering review should be done to see if the wall is stable before anything else can be done. Lech Naumovich asked about specifics of the contract and the bid process. Hailey Graf explained that if the work will not exceed \$5000.00 than the district can select a contractor. Hailey Graf will write up a scope of work and forward it onto Leo Rosenthal for review before sending it to contractors.

Pete Woll motioned “to request a technical review.” Lech Naumovich seconded. Motion carried unanimously.

**White**, FL-2021-014, Flathead River, violation of permit/remediation: Donna Pridmore made a motion “to table the complaint until the next 310-meeting.” Lech Naumovich seconded. Motion carried unanimously.

**Winter Sports Inc.**, FL-2021-090C, Haskill Creek, complaint: Lech Naumovich explained an onsite inspection was held 10/7/2021. Donna Pridmore noted that Winter Sports was concerned whether a 310 -permit was needed. They felt that they got everything they needed because they received approval from the Department of Natural Resources and Conservation (DNRC) that all Streamside Management Zones (SMZ) laws were being followed. Donna explained during the onsite visit all the best management practices (BMP's) were in place. The road in question was placed in the 1920's and probably would not have been permitted under the SMZ laws as they stand today. She noted the Winter Sports was trying to do fire hazard mitigation and clear a fire exit. Donna contacted Caitlin Overland, County Attorney's office, and asked about the intersection between the 310 and SMZ. Caitlin stated both the 310 and the SMZ law apply, and each is on a case-by-case basis. Donna continued, after further discussions between Caitlin and Kenny Breidinger this case could have used a 310 permit.

Donna explained that there was no gravel added to the road, and that Winter Sports kept sediment out of the stream and drug logs out on the road. Kenny added that there was work done within the FCD's jurisdiction. He explained that there are some impacts to the resource in terms of vegetation reduction, and stream shading. He continued that he thought Winter Sports was acting in good faith and thought that there was some confusion about this issue, but it should have been permitted under the 310.

Donna Pridmore explained that according to Caitlin, 310's and SMZ are both under Department of Natural Resources and Conservation (DNRC) as the umbrella agency. This complaint does have a letter from Rick Moore, DNRC, who looked at the project and it conforms to SMZ laws. This site-specific complaint is not a violation because it



conforms to SMZ laws, but she does not want to set a precedent if you follow the SMZ laws you do not need a 310 permit.

Lech Naumovich said that in his knowledge there is some overlap between laws, but in certain cases one can be working within a SMZ law and it will not trigger a 310 permit. He added that there is a public perception to be aware of and this is a highly visible area. He suggested that in the future an application be sent in to the FCD for review.

Doug Yaeger added that the general public does not understand or are exposed to logging procedures. The 310-law was never on their radar for this particular project. He explained the process for commercial logging operations and how the DNRC becomes involved in the process to oversee the project. He felt this was a gray area because the nature of it being a commercial logging operation has it falling under BMP/SMZ guidelines and that Rick Moore, a DNRC forester, was overseeing the project. He continued that in the future he had no problem reaching out to FCD about upcoming work.

Pete Woll agreed that reaching out to the FCD was a good idea but requested that Winter Sports send the letter to district office so that it can be filed. This would allow staff to be able to answer questions from the public about the project. Lech Naumovich noted that it would be appropriate to submit a 310 application in the future to avoid more confusion. Pete added that more information would likely be following from Helena about the intersection of the 310 and SMZ laws. Discussion continued among the board, and all concluded that more communication between agencies was needed.

Donna Pridmore motioned “to close the complaint because the activity is not a violation as defined by our adopted rules – and to note this might be an ongoing issue and we expect more communication on this about the interaction between the 310 and the SMZ laws.” Lech Naumovich seconded. Motion carried unanimously.

**Wright, FL-2021-072**, Flathead River, bank stabilization: Pete Woll explained that the project is located in Mayport Harbor. There is rip rap on the bank, but between boat wakes and wind from the lake, waves roll in and undermine the rip rap. Kenny Breidinger agreed that rip rap would be a good option. Jeff Larsen noted that there were two options for materials to be placed behind the rip rap and that the landowner preferred filter fabric over pit-run. Work will be done during low water. Discussion amongst the Board continued regarding the effectiveness of filter fabric. Jeff Larsen explained that rip rap slides on fabric and that it does not work well on steep slopes. He explained that pit-run is more stable as the riprap can be pushed into the gravel.

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

### **NEW BUSINESS**

**Office Lease Agreement:** Hailey Graf stated this is a new lease and had been previously presented to the Board.

Lech Naumovich motioned “to approve the office lease agreement as previously presented.” Verdell Jackson seconded. Motion carried unanimously.

**Watershed Management Grant:** Hailey Graf stated the Watershed Management grant application period is currently open and requested approval from the Board to apply for additional funding for the Trumbull Creek project, the study of erosion on Flathead River, and/or the Cow Creek project. She noted that no match is required under this grant. No more than \$35,000 can be requested. Staff time was estimated at approximately 10 hours to submit the application.

Lech Naumovich noted that this is within the district’s work plan and the Board supported applying for the grant.

**MATTERS OF THE BOARD/STAFF**

**Performance Review:** Pete Woll stated an annual performance review for Hailey Graf is required. He asked Supervisors to provide comment on the evaluation form provided and return it to him by October 20<sup>th</sup>.

**Personnel Policy Updates:** Hailey Graf asked the Board to review the Personnel Policy updates prior to the October 25, 2021, Business meeting.

The next business meeting is scheduled for Monday, October 25, 2021, 7:00 P.M. via ZOOM.

Adjournment: Donna Pridmore motioned “to adjourn” Lech Naumovich seconded. Motion carried unanimously. As there was no further business, the meeting was adjourned at 10:40 P.M.

Submitted By:

Virginia Rigdon Administrative Assistant	Ginger Kauffman Administrator	Hailey Graf Resource Conservationist
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Minutes approved by FCD Board motion made on:

<u>10/25/2021</u>	<u>Pete Woll</u>	<u>Chair</u>
(Date)	(Signature)	(Title – Chair etc.)