

Flathead Reservation Water Management Board

DRAFT Meeting Agenda

January 12, 2023, from 3-5 PM

(meeting time may run longer if needed)

In-person: Flathead Reservation Water Management Board Office
400 Main Street Southwest, Ronan, MT 59864

Virtual at Zoom Link: <https://zoom.us/j/92788267196>

Join via phone: 1 (6690 900- 6833 | Webinar ID: 927 8826 7196

1. Call to Order (Board Chair)

1.1. Opening Prayer

1.2. Attendance (Present): Clayton Matt, Georgia Smies, Teresa Wall-McDonald, Kenneth Pitt, Shane Hendrickson

Absent: Roger Noble

Introduction of Shane Hendrickson. New BIA Superintendent for the Flathead Reservation and new board member for the FRWMB.

1.3. Announce meeting minutes on DNRC & CSKT websites

1.4. **Adopt agenda, (With changes)**

Motion by to adopt agenda with changes: T. Wall-McDonald

Second by K. Pitt

Vote result: 3 of 3

Add Item 1.5 Approve meeting minutes for 12/8/2022

1.5 **Approve minutes from 12/8/2022**

Motion by to adopt minutes from 12/8/2022: T. Wall-McDonald (With follow up on K. Pitt's inquiry)

Second by K. Pitt

Vote result: 3 of 3

2. Public Comment (for items not on the agenda)

No Public Comment.

3. Board Bylaws Work Session (Ethan Mace and Hallee Frandsen)

E. Mace: I am providing a coordination step on by laws. The laws are your bylaws, and I will only give suggestions. You oversee drafting your bylaws. It is for you to decide your own by laws. I'd like to offer a little bit of context of bylaws and what you see in front of you. They are a product of your legal counsel and Engineer, what we were able to work going back and forth to provide this draft for you. This is only a draft and some items that are in orange are things that need your attention. There was some interplay with some of the information that was presented in a draft employee/board handbook that covered some administrative and other types of policies combining board members and office staff. For organization purposes I am creating policies for office staff and separate the boards governance policies. Anything you want included in the board I would like to keep the board bylaws and the office employee handbook differently. That said there are a couple ways we can go about this, I can walk through and read through the items, or you can read through these and I can take notes. I don't want anyone to envision that you are approving these bylaws today. This is a draft and a work session. You will improve this draft, presumably with some feedback. With some direction on what you would like to see, and legal counsel and I will go back with this draft and enact your directions today and in February we will provide a near final.

C. Matt: Suggests Hailee issues any comments that she may have and would like the board to consider any changes that they would like to make initially right now. Then you can take this and review it in a littler more detail and send those questions or comments to Ethan. If Ethan and Haillee can update that draft and come up with some type of document with those comments.

H. Frandsen: My comments then to resonate with E. Mace. This is a working draft, there will be substantial revisions and comments to it, whether there is a work session or written comments. However, the board sees fit. Communicate through Ethan and then Ethan and myself will work together on getting a more comprehensive draft together.

C. Matt: The board is open to initial comments. One of the things I think and I don't have a lot of detail yet but there were a details you wouldn't need in here but I see what you have done. The other is as we're preparing this anything that is taken out of either the ordinance or compact you should make sure we site the embedded documents. I think it's good information.

E. Mace: That does address the first orange question. We should add direct references to the ordinance or compact.

K. Pitt: In 2.5, where did the language come from? Was that in the ordinance?

E. Mace: Section 2.5, the removal of board members was originated by legal counsel. They believe most boards do include provision for removal of a board member. Originally the language was a majority vote and then I have modified it to be a unanimous vote of all. Then there are specific notes in here about whether or not there should be a mandatory consultation with the 14 party. Maybe that is in relation to which board member is being ported. We don't anticipate this being used a lot but if there was an issue of

Key: Underline = Action item

Normal = Discussion, comment, and/or update

performance or misconduct you might want to have something in here. There is nothing in the ordinance about removing a board member.

H. Frandsen: Ethan is correct that there is nothing in the ordinance or compact that is specific to removal of a board member. However, under the authority of the board, the board does have authority to enact certain provisions that are necessary and proper to carry out its duties and responsibilities. So having something in the bylaws, would be efficient to have in case there is some situation where a board member is violating the compact or the ordinance or just improper conduct. That's where the genesis of this came from.

T. Wall-McDonald: I think the removal provision within the bylaws is appropriate. I immediately would be thinking that the parties that appointed the board members should be consulted. I certainly don't believe I have the authority to overturn a government appointee.

C. Matt: If we keep this section in and address issues of misconduct, we should include definitions of what misconduct and poor performance is.

E. Mace: We could include items and develop a list of items that are misconduct. We could look at other bylaws to see what they've included. I've seen things like missing a certain number of meetings consecutively or there's more obvious things like embezzlement.

K. Pitt: I am hesitant on this because as Teresa mentioned, you know the Governor or the Tribal Council appoints them to the board. Where do we get the authority to get rid of somebody? I would be more comfortable saying instead that we would make recommendation to remove someone from the board.

E. Mace: Just some things to think about, number 1 there are no provisions in the ordinance or compact on the appointing members to govern their appointees. Number 2 there are provisions that the board create their own bylaws that will govern their operations. You have the authority to create your own bylaws. They're not in direct opposition of anything in the ordinance or compact. That doesn't solve everything, I know.

C. Matt: The options that you're suggesting would be included in the bylaws. Who would make that recommendation to the tribe or the state?

K. Pitt: My concern is that there are 2 ways we are exceeding authority. I want to think about it.

C. Matt: Yes, let's think about it.

K. Frandsen: It's well within the boards authority to put a provision in the bylaws such as this, with the compact and ordinance being silent on that as well. The board does have that authority. As board member Wall-McDonald had said, this is something Ethan and I have discussed a little bit. Part of the detail was involving the party responsible for appointing that member and then also filling that vacancy should be potentially involved in those conversations. This is a provision that I don't see being used frequently. It's to

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protect the board's ability to conduct business in a proper manner and carry out the authority it has in the compact and ordinance.

T. Wall-McDonald: When we mention misconduct but might have a reference to compartments. Any behavior that reflects negatively on this board or on those agencies that are pointed out. For example, the tribe's ordinance, there is a general statement on compartment. It states that any employee doesn't only represents their immediate supervisor but the entire tribal government. I think that's probably what we are talking about more so. You know you want to avoid that situation so that it doesn't reflect on us.

Comments: None.

K. Pitt: These references to chairman, vice chairman, secretary are these in the ordinance?

E. Mace: These are not in the ordinance, and this is largely my draft. I looked at a lot of other board bylaws and thought about the position that they offered. I thought about the listed appointments for these board members and what they would take care of and part of it is that I don't feel like my office should address board compensation and approvals or submissions for payment. The board, secretary

K. Pitt: Feels the board members should be able to obtain compensation for any time they spend reviewing and prepping for meetings. We should discuss this.

E. Mace: We did out what type of meetings. I do think it's only fair if board members know if compensation is available for their time put in.

C. Matt: Feel we should keep things simple, and that Roger should weigh in when we get back. What would be included in a flat rate?

K. Pitt: I am just sharing the information given to me by Ken.

C. Matt: Any changes to compensation should be ran through our group.

K. Pitt: Do we use state rates or federal rates for mileage?

E. Mace: We do have plans for our board members to get an employee ID's. Do we need to add information to the bylaws section that includes Ethan's signature authority and the contract agreement ability.

T. Wall-McDonald: Signing of checks and contracts comes up several times.

H. Frandsen: If the board would like a provision to the bylaws that would help with a large amount of resolution added it can be.

C. Matt: Would like to s to include resolution into our bylaws.

E. Mace: The policy use is directed to the direction for next draft of Board bylaws.

T. Wall-McDonald: The Engineers authorization does not need to be included in bylaws.

K. Pitt: What is an equal vote?

H. Frandsen: The wordage isn't needed on this bylaws.

K. Pitt: Sentence 10 speaks about immunity, and I think it should be included.

H. Frandsen: If you are reviewing this keep in mind and provide comments.

3.1. Discussion of Water Use Standards

3.2. Public Comments

M. Schielting: Has concerns over part 2.5 removal of board member. She has some other concerns. Article 4 I 2H Board Compensation for Meetings, revisit on an annual basis. The state and the tribe decide what's compensated. There should be an anonymous vote.

K. Pitt: When you said the compensation was set by state and the tribe, was this jointly?

M. Schielting: It would be separated out by who chose the board member. They can make recommendations on what should be reimbursed or compensated.

3.3. Accepting public comment on Form 6DF(D) until February 9th Meeting

E. Mace: Check the water usage standards and the properties with thermal Well Notices (Ethan Mace) This is the third option. Part A get's your well in and part B tells us the decision made. There are also DEQ, number of homes cannot outnumber the number of businesses. Can't have split homes and business areas. This is different from a bread area. Can discuss the draft and water use standards.

3.4. Discuss draft.

T. Wall-McDonald: I hope the individuals that are waiting for the form can find it.

E. Mace: Field Verification, we are going to offer water use standards that people will have to comply with.

3.5. Public Comment

Mark Carstens: I am thankful that some of the forms are moving forward, I own land and some developments. I have been waiting on a form that allows developments.

E. Mace: We have that form and have been giving that form out to applicants. I can get you a copy printed after the meeting.

3.6. Board action on Form 646F(D)

Smies: On the record, would like a legal review to be completed before approving this form. I am not comfortable with this being approved at this time.

E. Mace: Do I have consensus to work with legal to get a review completed?

C. Matt: You have approval to move forward to work with the legal team to get this reviewed.

Motion by to accept form 646F (D)

Second by

Vote result:

4. New Legal Questions (Ethan Mace)

4.1. Jurisdiction for splitting a water right.

E. Mace: Some people have inquired about splitting their water right, even with those who have shared well agreements.

4.2. Jurisdiction for correcting or reducing a water right.

E. Mace: If there are errors on water use that's been authorized with a water right then are we able to correct the water right or reduce the amount of water issued to the water right.

4.3. Jurisdiction for describing/affirming an existing water right for DEQ Subdivisions or other need.

E. Mace: We need direction on this issue.

4.4. Public comment

No public comment

4.5. Board action on new legal questions

Motion by: T. Wall-McDonald

Second by: K. Pitt

Vote result: 3 of 3

5. Water Engineer Report (Ethan Mace)

E. Mace: We did have our 1st staff meeting, all in person. We were not able to have any type of office activities during the holidays. I do have a copy of the logo, I gave handouts to board members with the logo. I am looking for feed back and comment.

C. Matt: What other things are being worked on before we are considered fully open.

E. Mace: I was going to share all the things completed before sharing what I still need to work on. I still need to develop the flowchart. We have 3 perspective interviews coming up next week to hire another worker. We have been moving forward on getting our office staffed. Anna has been working on getting us an MOU to get into wirus and DNRC is giving us a contingent worker form for us to be able to access the database.

6. Board Member Updates

C. Matt: Since legislation is done, what would it look like for funding to build an actual building?

T. Wall-McDonald: Has the state come forward with their budget?

C. Matt: We do not have that at this time. I'm not sure if there's more information on that.

E. Mace: The state is still processing that.

P. Hoyt (DNRC): I can give an update for the state. The budget is working its way through legislature for approval.

7. Public Comment

No public comment.

8. Next Steps/Meetings: Thursday February 9th, 3:00 pm

Starting meetings at 3pm, Thursdays.

9. End meeting (Board Chair)

1/12/2023 at 5:47pm