

Flathead Reservation Water Management Board Meeting Minutes

April 14, 2022

2:00-4:00 PM

In-person & Virtual

Kwat'aq'nuk Resort and Casino
49708 US HWY 93 E
Polson, MT 59860

1. Meeting was called to Order by Chairman [C.M.] Matt at ~ 2:00 pm.
 - **Opening Prayer** was given by Board Member [B.M.] Smies.
 - **Safety procedures** and Covid-19 protocols were summarized by C.M. Matt.
 - **Attendance** role call was taken by Melissa Schlichting (CSKT Staff);
 - Clayton Matt (present)
 - Georgia Smies (present)
 - Roger Noble (present)
 - Kenneth Pitt (present)
 - Teresa Wall-McDonald (present virtually)
 - Shana Radford (not present)

2. Board Business (Board Chair)
 - **Adoption of agenda** – No minutes from the March 31, 2022 were provided to board members in advance of the meeting, so B.M. Noble moved that the agenda be approved with the one revision of removing the meeting approval item > seconded by B.M. Pitt > passed unanimously.
 - ~~Approve meeting minutes for March 31, 2022 meeting~~
 - Announcement of past meeting recording & minutes posting on DNRC & CSKT websites (bit.ly/FRWMB-Meetings-Page) done by C.M. Matt.
 - **Office Lease Discussion**
 - Melissa Schlichting gave an update (sharing screens to show the current lease draft of the old masonic building in Ronan – 400 Main St SW) on finalizing a lease for a place of business for the Office of the Water Engineer and staff. Negotiated with the owner for a 3-year term, rather than 5-year. Item 10 requires general liability insurance including the listing of the lessor as additional insured. We still haven't heard back from insurance companies with any offerings. Melissa recommended that the board hold off on signing the lease until insurance could be finally secured. Removed section 14 regarding indemnification—the rationale being that if we are going to have insurance at the outset, there is no need to indemnify or at least limit it to the amount of insurance. Also added that the lessee would be C.M. Clayton Matt. Melissa then recommended that the board give C.M. Matt authority to execute the lease once the insurance is in place.
 - B.M. Wall-McDonald made motion to allow C.M. Matt to execute the lease once adequate insurance has been secured > B.M. Noble seconded > passed unanimously.
 - **Engineer Job Description**

- Last week, B.M.'s Noble and Pitt sent around track change versions of the job description. Melissa cleaned it up by accepting changes and distributed to the Board members. B.M. Wall-McDonald voiced a concern she has brought up before—that the Engineer position includes, among many things, a role of being a hearings manager. She wanted to discuss the obligations, responsibilities, and potential liabilities of this function within the Engineer's scope of work. B.M. Pitt commented that in his experience as a hearings officer for the Tribes and the state, there were fairly extensive and involved legal requirements regarding how to conduct them. The Ordinance, however, describes the process in a single paragraph which leads him to believe they, in this case, would be rather flexible and informal and which don't necessarily have to meet the standards set out in tribal and state law. He is comfortable with this, but he wanted to simply point out that it doesn't match either the state or federal guidelines he has experience with. Melissa observed that the Board could certainly provide more sideboards related to the how of conducting these hearings in the future. It will be a work in progress. Melissa felt that it wouldn't hurt to have the hearings role in the job description as the board could still decide whether or not to have that duty be performed by the Engineer.
- C.M. Matt raised the fact that the salary and benefits side still remains to be inputted in the description and asked the group to discuss how to go about it. Melissa said that the state and CSKT staff have been discussing a salary in the range of 120 to 150 K and that the benefits part will need to be revised based on what they can get. The complication with health insurance is that insurers can't actually give us a quote prior to having an employee. We need employees before we can secure health plans which will necessitate a little creativity in the hiring process—hiring people, initially, as independent contractors, for example, and then bringing them on as full employees with benefits once that becomes possible. We could also agree to pay Cobra coverage (if the person is transferring from another job) during the interim period. These aren't ideal, but there are options that we could put out there and negotiate in the hiring process. B.M. Noble thought that we should also spell out some time off in the job description. Arne Wick (DNRC Staff) asked whether the salary range encompassed benefits or whether the benefits were in addition to. The group agreed in answering that benefits would be in addition to the salary. B.M. Pitt requested that we copy the first paragraph of the "Qualifications" section up to the very top of the job description so that it appears in both places. The change was agreed to by the board and revised by Melissa.
- Holidays and paid time off language were added to the draft.
- B.M. Noble moved that we accept the job description revised today to include salary range, standard holidays and leave language, and reference to to-be-negotiated health insurance > B.M. Pitt seconded > motion passed unanimously.
- **Logo Discussion Continued**
 - Rob McDonald shared his screen to show his draft word doc attempting to summarize the board's guidelines for soliciting a logo for use by the Office of the Engineer / Board. Language from within the UAMO is in the document along with encouragement to be simple, involve water in some way, emphasize unity, etc. C.M. Matt suggested we try to get interest throughout the reservation. B.M. Smies recommended sending out via social media and schools. She like the idea of incentivizing with a reward of some kind. C.M. Matt pointed out that if the reward required an expenditure, the board would

likely need to recommend that the state and tribes collaborate to provide that as the board does not yet have a bank account or money.

- B.M. Noble made a **motion** that we use Rob's summary to move forward with soliciting ideas / designs for a logo with the recommendation that the State/Tribes provide some kind of reward > seconded by B.M. Pitt > motion passed unanimously. C.M. Matt recommended a \$100 gift card as a reward and, in the absence of that, try to make some kind of splashy public recognition and congratulations to the winner.
- **Interim Process** for New Domestic Allowance pre-approval discussion (DNRC & CSKT)
 - Ethan Mace gave a presentation summarizing a memo he and CSKT Hydrologist Seth Makepeace developed which gave several options for an interim process that would review domestic allowance forms until the Water Engineer is officially hired.
 - Ethan began with background information and went on to describe the three different kinds of domestic allowances and their various limitations; these three categories are: Individual, Shared, and Development domestic allowances.
 - The memo presented three options for an interim process:
 1. RFP/RFWQ for private consultant to act as the interim engineer
 2. DNRC/CSKT joint staff processing assistance (approval of apps by board)
 3. Hybrid between options 1 and 2
 - Also up for consideration on the memo were which of the 3 kinds of domestic allowances should be included. Individual, certainly. Shared, probably. But is Development necessary? Is there enough interest and demand to warrant including?
 - Discussion of Water Use Standards was raised as well—i.e., the standard volumes assigned to a given purpose based on quantity. For instance, the state standard for a single home served by a well would be 1 acre-feet per year (AFY). For stock, the standard volume would be 0.017 acre-feet per animal unit. The numbers used for coming up with the 2.4 AFY associated with some of the domestic allowance types (individual and domestic) were less than that used by the state.
 - C.M. Matt thought that it was imperative to start soon and that the quickest way to do that is to engage the staff in the form of a workgroup. They could also start on many administrative items like the forms, volume standards, etc. Seth Makepeace and Melissa Schlichting observed that an MOU formalizing this relationship is needed for clarity and for allocating resources.
 - Melissa shared a powerpoint outlining key elements of what the interim process would look like – e.g., listing of items needing board approval (forms, standards, etc), a detailed deficient application process, a pre-application meeting option, timeframes and the possibility of asking applicants to waive the 30-day review timeline to provide more breathing room for the workgroup.
 - **Kenneth Pitt moved to adopt Option #3, a hybrid in time option, for interim processing. To expedite domestic allowance processing, DNRC and CSKT staff would initially process applications jointly for Board consideration. The Board would retain the option of hiring a private consultant later if the Board takes longer than expected to set up the Office of the Engineer and to reduce the burden on state and tribal staff.> B.M. Smies seconded > motion passed unanimously.**
 - The workgroup decided to schedule regular zoom meetings on Tuesday afternoons to work on interim process items.
 - **B.M. Smies made a motion to include both Individual and Shared Domestic Allowances in the Interim Process (Types of Domestic Allowances Option 2)) > seconded by B.M. Noble > motion passed unanimously.**

- B.M. Noble expressed that something to look at is how the place of use of municipal uses has expanded for every city on the reservation. There needs to be a process to accommodate this. Seth Makepeace thought it would be a change of use process.
 - **B.M. Pitt made a motion that of the two “Other Appropriations to consider for interim process,” the board should include both Redundant/substitute wells and Emergency Appropriations under this process > seconded by B.M. Noble > passed unanimously.**
 - Public information outreach
 - Communications received on behalf of the Board relating to Domestic Allowances
3. Next steps
- Choose next meeting date and topics
 - B.M. Smies suggested **April 28 at 2:00 pm at the Kwat’aq’nuk Resort and Casino** in Polson. The group informally agreed.
 - Practical Options for the Board to receive State-based Registrations (DNRC) – this agenda item was postponed to the April 28th meeting, but C.M. Matt did request that someone define exactly what was being discussed. Ethan Mace described the 2 categories of state-based registrations (those received during the 25-year regulatory void following Ciotti and those received during the 180-day registration period following the compact effective date on September 17, 2021) and clarified that some discussion was needed around when the board and Office of the Engineer will be ready to receive them.
4. Public Comment
- No public comment was made either in person or virtually.
5. C.M. Matt ended the meeting at ~4:45pm.