

Flathead Reservation Water Management Board

DRAFT Meeting Minutes

November 17, 2022, from 1:00-5:00 PM

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

Virtual at Zoom Link: <https://zoom.us/j/91912373252>

Board Members Present: Roger Noble, Kenneth Pitt, Georgia Smies, Teresa Wall-McDonald, Craig Adams

1. Call to Order (Board Chair)

- 1.1. Opening Prayer
- 1.2. Attendance
- 1.3. Introducing James Frakes with the Office of the Engineer (Ethan Mace)
- 1.4. Introducing Eric Hull and Amanda Spencer with CSKT (Melissa Schlichting)
- 1.5. Announce meeting minutes on DNRC & CSKT websites
- 1.6. Adopt agenda

Motion by R. Noble to adopt agenda

Second by K. Pitt

Vote result: Approved (4 to 0)

2. ***Work Session: 1:05pm to 3:05pm - Training for Open-Meetings (Ashley Kent)

Montana State University – Extension Local Government Center

<http://www.msulocalgov.org/>

- A. Kent provided a training on Montana Open Meeting requirements. (See attached handouts for more information.)

3. 10 min Break

4. Board Business (Board Chair)

4.1. Approve minutes for November 10, 2022

Motion by G. Smies

Second by T. Wall-McDonald

Vote result: Approved (4 to 0)

Key: Underline = Action item
Normal = Discussion, comment, and/or update

4.2. Domestic allowance applications

4.2.1. Applications recommended for authorization (Cristy Brooks)

4.2.2. Board action on domestic allowance authorizations

Motion by R. Noble for 2 applications

Second by T. Wall-McDonald

Vote result: Approved (4 to 0)

4.3. Banking (Clayton Matt)

4.3.1. Glacier Bank Tri-party agreement

Consensus to hold off on bank discussion until Chairman C. Matt is available.

4.3.2. Public comment

No public comment

4.3.3. Board action on Glacier Bank Tri-party agreement

Motion by

Second by

Vote result:

5. Legal updates (Hallee Frandsen)

5.1. Govt. Instrumentality memo discussion

H. Frandsen: The government instrumentality memo will have to be published to the website if approved.

R. Noble: A decision on the memo should be postponed until the next meeting.

H. Frandsen: I would like to clarify that no changes have been made to the memo since last week.

R. Noble: I would like to motion to approve the memo and publish it.

T. Wall-McDonald: I would 2nd that motion to approve and publish the memo.

P. Hoyt: I would like the memo to have some clarification on page 2. It states that the board has authority over water right ownership updates. DNRC retains this responsibility, and it is clear in the ordinance. The ordinance is silent on who has tribal trust ownership update authority.

R. Noble: Agrees with Pelah and withdraws previous motion to approve and publish the memo and requests that the memo is revised.

T. Wall-McDonald: Also, I would like to withdraw 2nd motion to approve and publish the memo.

H. Frandsen: Can you please give me more clarification on the issue that needs revised on the memo.

P. Hoyt: (Repeated) I would like the memo to have some clarification on page 2. It states that the board has authority over WR ownership updates. DNRC retains this responsibility, and it is clear in the ordinance. The ordinance is silent on who has tribal trust ownership update authority.

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R. Noble: Would it be advisable to add language that the board would do the ownership updates on tribal land?

M. Schlichting: That is up for discussion. The ordinance is not clear, but we should wait until we have a discussion on this.

H. Frandsen: I agree that this is something we must have a discussion on.

R. Noble: We should wait until we have this discussion before we have legal make this change when another might need to be done.

P. Hoyt: Melissa and Christina Courville mentioned a specific trust landowner and noted that he would like an ownership update and DNRC is in the early phases of understanding this situation. It's going to take a while to work through the nuances with trust land.

M. Schlichting: The paragraph on page 2, the board has jurisdiction over appropriation rights. She suggests we should strike the ownership updates from the memo. Article 4 is called Jurisdiction of the Board. She couldn't review the memo. Goes through A, B, C (D = Board shall not have jurisdiction over ownership updates on water rights associated with Fee Lands) Not an enumerated authority of the board.

H. Frandsen: The memo can be revised, and the memo can be addressed at the next meeting.

E. Mace: We have pieces to move forward on this memo. Could we approve the memo and publish it. The board could approve the memo dependent on if the revisions are completed so it could be approved and published.

Smies: Quasi gov't feature is important to move forward with health insurance. Since it is currently undefined, it is difficult to navigate health insurance, which is part of the urgency here.

K. Pitt: Am requesting for a motion on this memo.

R. Noble: Clarification If we approve this, that will clarify government status and domain name. It is in the best interest to move this memo along. I am motioning to approve this memo with the deletion of water right ownership updates from paragraph 2 on page 2 and then we can publish it.

5.1.1. Public comment

No public comment.

5.1.2. Board action on Government Instrumentality memo

Motion by R. Noble to approve the memo with changes to the language and removal of ownership updates.

Second by G. Smies

Vote result: Approved (4 to 0)

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5.2. Board Funding memo discussion

H. Frandsen: This memo was provided in draft form. It doesn't require board action, but I have been waiting for information from Ethan regarding the state budget line items.

K. Pitt: The memo doesn't require action and it doesn't require public comment or board action.

T. Wall-McDonald: Will this memo come back to the board for approval before it is published?

H. Frandsen: Yes, it will come back to the board for approval.

~~5.2.1. Public comment~~

~~5.2.2. Board action on Board Funding memo~~

~~Motion by~~

~~Second by~~

~~Vote result:~~

5.3. Open-Meeting memo discussion

H. Frandsen: The open meeting memo does need board approval and publication. The memo is in the same capacity as last weeks memo, there has been a slight change to the third and fourth paragraph on the fourth page. The only changes were reorganization and clarification of executive meetings. The quick guide will also need approval by the board.

G. Smies: What is the quick guide?

H. Frandsen: In a nutshell, the quick guide is information on open meeting laws and how they affect the board. We will need to approve the memorandum before we approve the quick guide.

K. Pitt: Has the board had the time to review the memo and quick guide?

R. Noble: Not with the changes.

G. Smies: I reviewed the memo last night. It reiterates the information received in the training. There were no issues with the way the memo is written but I understand if more time is needed.

K. Pitt: Do you mean if the board needs more time to review?

5.3.1. Public comment

No public comment.

5.3.2. Board action on Open-meeting memo

Motion by T. Wall-McDonald

Second by G. Smies

Vote result: Approved (4 to 0)

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5.4. Logo Contract & Artist Release discussion

K. Pitt: Was this redone after our last meeting?

H. Frandsen: It's been retitled to FRWMB intellectual property and design acquisition agreement. This is in draft form to encourage the board to review it before it's approval.

R. Noble: Under page 2, item 2, item F- Transferee may reproduce the work, transferor/transferee is confusing.

H. Frandsen: Yes, there is a typo. It also should say transferred by and not sold by.

G. Smies: It is important that we get this finalized and approved. This is holding up the website development. This needs to be done.

R. Noble: I would like to motion to accept the document title above with the language and revisions pertinent to what was discussed in deliberations.

5.4.1. Public comment

No public comment.

5.4.2. Board action on logo contract & artist release approval

Motion by R. Noble to approve the agreement with the updated document title with the language and revisions pertinent to what was discussed in deliberation,

Second by G. Smies

Vote result: Approved (4 to 0)

6. Water Engineer Report (Ethan Mace)

6.1. Operational Updates

E. Mace: We got a new water cooler today; James got it ordered. We are still working on office improvements. The office has been busy and we have had some building issues. We are currently working on a geothermal form. I would like to thank DNRC for helping move the water right registrations forward. I am open if anyone has questions about office operations.

H. Frandsen: Have we had any discussions on the FAQ?

R. Noble: I want to get the FAQ finalized as soon as possible as this is something we want to put on the website. We also discussed putting it in a newspaper. It's important to get it finalized. I will send my comments to Ethan.

E. Mace: I would like to request funding not to exceed \$2,500 for awnings. We tried to find someone local but James was able to find a company called Fabricon that will come directly to the office to take down the awning. We decided on blue.

K. Pitt: Do we need this on the agenda?

E. Mace: I do not think we need public comment on this.

G. Smies: That is a very reasonable price. We paid more for awnings back in the day.

E. Mace: These will allow for a sign and lights later on. We added public comment to the agenda.

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6.1.1. Board action to approve the purchase of awnings.

Motion by T. Wall-McDonald

Second by G. Smies

Vote result: Approved (4 to 0)

7. Board Member or Other Updates

E. Mace: On the FAQ we need to make sure to include information that the public meetings that have been held recently are not official public board meetings. We also need 2 separate formats. One with top 3 FAQ's and a link to the remaining 7 FAQ's. I encourage comments to come directly to me.

G. Smies: Do we plan to meet on the 1st or 15th of December? I will be out of town the second week of December.

H. Frandsen: I think we need to make some type of movement on the bank tri-party agreement. Is there a deadline and is it to respond? I would advise the board to enter a resolution to accept an agreement with Glacier Bank. I did overhear the open meeting training and entering a resolution would allow transparency by the board. I am unsure of the deadline.

E. Mace: Chairman Matt was prepared to move forward with that agreement. The Chairman believed the agreement was an administrative banking activity.

H. Frandsen: Legal wanted to look at the agreement and have no problem with the board moving forward. The only problem that was identified has been addressed.

R. Noble: Was aware that Chairman Matt was ready to move forward with the agreement as long as legal reviewed it. I recommend we activate item 5.3 on the agenda and take action on it.

H. Frandsen: Agrees that the securities are okay for the board to be entering but we would feel more comfortable if it was entered into a resolution by the board. The resolution needs to be drafted.

K. Pitt: We need a motion to allow the attorneys to draft a resolution.

R. Noble: Can you clarify that? We just wanted it reviewed and we were going to move forward if legal didn't see any issues with it or any liabilities.

H. Frandsen: The review is that the agreement is fine to enter, we were advising to enter a resolution to allow the board to have transparency of what they were doing with the funding.

T. Wall-McDonald: Do we need transparency? I thought that's why we had minutes.

H. Frandsen: It would be encompassed in the minutes, but other public entities have published them on websites as well. They wouldn't be reviewing the document but able to access the resolution. This would allow board transparency to the public.

R. Noble: Wasn't the basis for the agreement so the bank could offer a higher level of insurance.

E. Mace: The balance of the account is higher than the amount FDIC can insure. The bank suggested an alternative arrangement.

R. Noble: I think we need to move forward and I motion to approve the tri-party agreement with Glacier bank.

H. Frandsen: I wanted to just get the deadline information to see if it was a time sensitive requirement to provide an answer to the bank. She thinks that this may need more discussion, but she has provided the board with suggestions for a resolution.

T. Wall-McDonald: I would like to second the motion.

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C. Adams: – Sat on board for private corp. Funds were frozen because there was no resolution and there was a dispute about who had access to funds. When he became chairman that reassured the bank of who had signing authority and to provide info about who the Board is handling.

R. Noble: We already established who could sign at the bank.

7.1.1. Board action to enter into the tri-party agreement with Glacier Bank without a resolution.

Motion by R. Noble

Second by T. Wall-McDonald

Vote result: Approved (4 to 0)

8. Public Comment

- No public comment

9. Next Steps/Meetings:

9.1. Set next meetings: December 01, 2022 (in-person)

E. Mace: I would like to have an earlier meeting time.

K. Pitt: I also would like to have an earlier meeting time.

G. Smies: I may have a conflict in the future for meeting times. I am unsure currently.

9.2. Other items

A. Butterfield: I would like to schedule a time for pictures for the card.

T. Wall-McDonald: I feel that it should just be staff from the Office of the Engineer.

10. End meeting (Board Chair)

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