



AMENDED MINUTES
CONSERVATION BANK BOARD
February 25, 2020
Oconee County Administrative Offices, Council Chambers
415 S. Pine Street, Walhalla, SC 29691

MEMBERS

Mr. Andrew Smith, Chair, District II
Ms. Frances Rundlett, Vice Chairman, At Large
Ms. Emily Hitchcock, Secretary, At Large
Mr. Frank Ables, Treasurer, District V

Mr. Ryan Keese, District III
Mr. Marvin Prater, District IV
Ms. Laura Havran, District I
Ms. Katie D. Smith, Staff Liaison

The Oconee County Conservation Bank Board [OCCB] met at 9:00 a.m. in Council Chambers, 415 South Pine Street, Walhalla, SC with all members present [except Mr. Prater & Mr. Ables] and Katie D. Smith, Clerk to Council acting as staff liaison.

Press: Pursuant to the Freedom of Information Act, notice of the meeting, date, time, place of meeting and agenda were posted on the bulletin board at the County Administrative Offices, 415 South Pine Street, Walhalla, SC, and the County Council website [www.oconeesc.com/council]. In addition, it was made available [*upon request*] to the newspapers, radio stations, television stations and concerned citizens.

No members of the media were present.

Call to Order

Mr. Smith called the meeting to order at 9:04 a.m.

Approval of Minutes

Mr. Keese made a motion, seconded by Ms. Havran, approved 5 – 0, to approve the minutes from December 10, 2019 meeting as presented.

Treasurer's Report

Due to Mr. Ables absence, Ms. Rundlett read the Treasurer's Reports for Community First Bank and the Local Government Investment Pool [State Pool] and noted they are accurate as presented. She further noted the balances on the reports are as follows:

Community First Bank for December 2019 & January 2020 is \$15,660.00;

Local Government Investment Pool [State Pool] for December 2019 is \$539,050.59 and for January 2020 is \$539,878.57.

Ms. Hitchcock made a motion, seconded by Ms. Havran, approved 5 – 0, to accept as presented the Treasurer's Report for both Community First Bank and the Local Government Investment Pool [State Pool] for December 2019 and January 2020.

Election of Officers

Ms. Hitchcock nominated Mr. Andrew Smith as Chairperson, seconded by Ms. Rundlett, approved 5 – 0.

Ms. Rundlett nominated Ms. Emily Hitchcock as Vice-Chair, seconded by Mr. Smith, approved 5 – 0.

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Ms. Hitchcock nominated Mr. Ryan Keese as Secretary, seconded by Ms. Rundlett, approved 5 – 0.

Ms. Rundlett nominated Ms. Laura Havran as Treasurer, seconded by Ms. Hitchcock, approved 5 – 0.

2020 Meeting Schedule Establishment

The meeting dates schedule presented is as follows: April 21st, May 19th, August 18th, September 15th, November 17th, & December 15, 2020 and February 9, 2021. Mr. Smith noted the application cycle is April 1st, August 1st, and November 1st and this meeting schedule makes it where the OCCB will have a meeting soon after the application schedule closes and then a second meeting to make decisions on the applications within the 60-day ordinance window.

Ms. Havran made a motion, seconded by Mr. Keese, approved 5 – 0, to approve the 2020 OCCB meeting schedule as presented above.

Discussion Items

Lengthy discussion followed regarding the topics indicated below, with various opinions expressed, to include but not limited to:

Continued Discussion regarding Alternate Funding Sources

The Board noted there was no significant update regarding alternate funding sources but did note that donations to the Keowee Cares Committee must come from a Keowee Key resident.

Report from Ordinance Committee & Discussion and/or action on Proposed Amendments to the Ordinance

Mr. Smith noted the Ordinance committee members were himself, Ms. Hitchcock, and Ms. Rundlett. He noted they reviewed the Ordinance and made recommendations for changes and took these recommendations to Mr. Root, County Attorney, and gave his perspective on the recommendations.

The following motions reference the County Conservation Bank Ordinance [copy filed with backup materials] with the highlighted portions being discussed.

Sec. 2-400 Board

(f) Addition of “The board shall report to council any member who, without adequate excuse such as documented illness, misses three consecutive meetings or a majority of meetings for any year.”

Mr. Smith made a motion, seconded by Ms. Hitchcock, approved 5 – 0, to approve the addition of language to Sec. 2-400 (f) as indicated above.

Sec. 2-402 OCCB Fund

Addition of “The OCCB fund shall be used only the purposes set forth herein. Funds donated to the OCCB by third parties shall not be re-directed by council. **Funds donated to the OCCB by third parties shall not be re-directed by council.**” at the end of the paragraph.

Ms. Hitchcock made a motion, seconded by Ms. Havran, approved 5 – 0, to approve the addition of language at the end of the paragraph to Sec. 2-404 as indicated above.

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Sec. 2-403 Criteria

(5) Addition of “and extent proposed to be kept as wooded land or farmland” at the end of the sentence.

Ms. Rundlett made a motion, seconded by Ms. Havran, approved 5 – 0, to approve the addition of language at the end of the sentence to Sec. 2-403 (5) as indicated above.

Sec. 2-403 Criteria

(7) Addition of “or preservation of general scenic nature of that part of county” at the end of the sentence.

Ms. Hitchcock made a motion, seconded by Ms. Havran, approved 5 – 0, to approve the addition of language at the end of the sentence to Sec. 2-403 (7) as indicated above.

Sec. 2-403 Criteria

(12) Addition of “Potential impact on water quality in wetlands or water bodies not on the property.”

Mr. Smith made a motion, seconded by Ms. Havran, approved 5 – 0, to approve the addition of language to Sec. 2-403 (12) as indicated above.

Sec. 2-404 Program and procedures

(a) Application

(2) Addition of “Within thirty (30) days of receipt of said notice” at the beginning of the sentence.

Mr. Smith made a motion, seconded by Mr. Keese, to approve the addition of language at the beginning of the sentence to Sec. 2-404 (a)(2) as indicated above.

Discussion continued to include giving neighboring landowners sufficient time to present their views in support or in opposition of the application. Per Mr. Smith, Mr. Eddie Martin noted 30 days was too long and that 14 days would be sufficient.

Regarding the previous motion made by Mr. Smith, seconded by Mr. Keese, it was approved 4 – 1 [Ms. Havran opposed] to approve the addition of language at the beginning of the sentence to Sec. 2-404 (a)(2) as indicated above.

Sec. 2-404 Program and procedures

(6) Addition of “The board shall require an eligible OCCB recipient acquiring fee title to land to place a conservation easement on such property or include language in the deed to ensure that the property is permanently protected” at the end of the paragraph.

Ms. Rundlett made a motion, seconded by Mr. Keese, approved 5 – 0, to approve the addition of language at the end of the paragraph to Sec. 2-404 (6) as indicated above.

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Sec. 2-404 Program and procedures

(8) Addition of “The board shall establish reasonable procedures and requirements to ensure that the personal information of eligible OCCB recipients and property owners is protected as permitted by the South Carolina Freedom of Information Act”.

Ms. Havran made a motion, seconded by Mr. Keese, approved 5 – 0, to approve the addition of language to Sec. 2-404 (8) as indicated above.

Ms. Hitchcock noted under Sec. 2-404 Program and procedures, section (b) Application review, subsection 1, proposed to have two dates to accept applications per calendar year instead of the three that is included in the Ordinance.

Ms. Hitchcock made a motion, seconded by Ms. Rundlett, to have two dates, March 15th & August 15th, to accept applications per calendar year instead of three dates.

Discussion continued to include:

- At the present time, the majority of the meetings involve the review process and does not leave a lot of time for other business
- Establish a policy manual
- State board only has two dates to accept applications
- Have fewer meetings?
- Review periods

Mr. Eddie Martin, Oconee Soil & Water Conservation District, addressed the Board highlighting the following:

- Potential issue with timelines for matching funds if changed
- Three application cycles would be better than two cycles
- Would be able to line up the applications better with the State Conservation Bank Board and the OCCB; State Conservation Bank Board only has two application cycles

Regarding the previous motion made by Ms. Hitchcock, seconded by Ms. Rundlett, the motion **failed** 1 – 4 [Mr. Smith, Ms. Havran, Ms. Rundlett, & Mr. Keese opposed] to have two dates, March 15th & August 15th, to accept applications per calendar year instead of three dates.

Sec. 2-404 Program and procedures

(b) Application review

(3) Update the language to reflect the following: “The board shall evaluate each application and submit recommendations to county council within 90 days of each application deadline referred to in subsection (b)(1).”

Ms. Havran made a motion, seconded by Ms. Hitchcock, to approve the updated language to Sec. 2-404 (b)(3) as indicated above.

Discussion continued to include:

- Failure to meet the current timeline is small and will possibly not need the additional 30 days

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- Due to the difficulty of obtaining quorums, the additional 30 days may be needed
- Extends the time frame and gives more flexibility

Regarding the previous motion made by Ms. Havran, seconded by Hitchcock, it was approved 5 – 0, to approve the updated language to Sec. 2-404 (b)(3) as indicated above.

Sec. 2-404 Program and procedures

(b) Application review

(4) Addition of “In recommending the awarding of a grant from the OCCB fund, the board shall set forth findings that indicate the items below. The board may delegate to one of its members this duty to write a report summarizing the board’s findings.”

Ms. Havran made a motion, seconded by Ms. Hitchcock, approved 5 – 0, to approve the addition of the language in Sec. 2-404 (b)(4) as indicated above.

Sec. 2-404 Program and procedures

(b) Application review

(6) Addition of “The board may only authorize the grants to purchase interests in lands at or below fair market value pursuant to a current (within twelve months of grant approval by county council), independent certified appraisal. The board may accept a market analysis update covering the time period from the date of the original appraisal to the present in the form of a letter prepared and signed by the original appraiser. Said market analysis update letter must be submitted to the board no later than thirty (30) days prior to the next scheduled board meeting.”

Ms. Havran made a motion, seconded by Ms. Rundlett, approved 5 – 0, to approve the addition of language to Sec. 2-404 (b)(6) as indicated above.

Sec. 2-404 Program and procedures

(c) Grant award

(2) Removal of “and close the transaction.” at the end of the first sentence. Addition of “Within fourteen (14) days of acceptance of the grant award the eligible OCCB recipient shall execute and record a grant agreement or memorandum thereof, which shall be in a form approved by the board. Said agreement shall include provisions for the indemnification and reimbursement of the OCCB for improperly used OCCB funds, perpetual monitoring and enforcement, and other actions pursuant to Section 2-405.”

Ms. Havran made a motion, seconded by Ms. Rundlett, to approve the removal of language and addition of language in Sec. 2-404 (c)(2) as indicated above.

Discussion continued to include:

- Removed “and close the transaction” because it sounds like a closing, which does not happen within a four-month period
- Grant Agreement [copy filed with backup materials]; this is what the SC Conservation Bank Board uses
- Create a subcommittee to examine the Grant Agreement and form to OCCB standards

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- Amend the second sentence in Sec. 2-404 (c)(2) to add “or title issues or defects” after improperly used OCCB funds

Mr. Smith made a motion, seconded by Ms. Hitchcock, approved 5 – 0, to amend the motion to add the language as indicated above and the second sentence in Sec. 2-404 (c)(2) is to read “Said agreement shall include provisions for the indemnification and reimbursement of the OCCB for improperly used OCCB funds, or title issues or defects, perpetual monitoring and enforcement, and other actions pursuant to Section 2-405.”

Mr. Smith called for the vote on the amended motion. The motion passed 5 – 0.

Sec. 2-404 Program and procedures

(c) Grant Award

(3) Addition of “The eligible OCCB recipient shall submit the following documents to the board prior to closing the transaction and the board and the county attorney or an attorney designated by the County Administrator on recommendation of the board shall review and approve the documents before OCCB funds can be disbursed:

- a. A certified appraisal satisfying the requirements of subsection (b)(6);
- b. A final draft of the conservation easement and/or deed, a final draft of the settlement statement, a final draft of the title insurance commitment and exceptions, and the grant agreement required pursuant to subsection 2-404 (c)(2).”

Ms. Havran made a motion, seconded by Mr. Keese, approved 5 – 0, to approve the addition of language in Sec. 2-404 (c)(3) as indicated above.

Sec. 2-404 Program and procedures

(c) Grant Award

(6) Addition of “No later than sixty (60) days after the day of closing, the OCCB grant recipient shall submit a report to the board describing how the OCCB grant funds were distributed or used and the status of the project. The report shall include supporting documentation, such as the closing settlement statement, disbursement statement, and the recorded conservation easement or deed.”

Ms. Havran made a motion, seconded by Mr. Keese, approved 5 – 0, to approve the addition of language in Sec. 2-404 (c)(6) as indicated above.

Sec. 2-405 Use of Funds

(c) Addition of ““Closing costs” shall include recording fees, deed transfer or documentary stamp fees, the costs of performing the work and providing the documentation required under subsection 2-404(c)(3), attorney’s fees, and the cost of obtaining surveys or an updated market analysis pursuant to subsection 2-404(b)(6). The board shall have the discretion to **allow** the OCCB funds to be used solely for closing costs after considering the amount of the award, the value of the project, the amount of the closing costs, or other factors. In the event that OCCB determines that OCCB funds were spent for purposes other than those listed in this subsection or the grant agreement, the eligible OCCB recipient or property owner shall reimburse the OCCB in the amount of the improperly used funds.”

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Ms. Havran made a motion, seconded by Mr. Keese to approve the addition of language in Sec. 2-405(c) as indicated above.

Ms. Hitchcock made a motion, seconded by Mr. Smith, approved 5 – 0, to amend the previous motion to add the language “plus interest” at the end of the sentence.

Mr. Smith called for the vote on the amended motion as stated above. The motion passed 5 – 0.

Sec. 2-405 Use of funds

(d) Addition of “In the event that there is a mortgage on any property interest protected through the use of OCCB funds, the eligible OCCB recipient and property owner, if any, shall notify, and inform the mortgagee or debt-holder that the mortgage will be subordinate to the conservation easement or conservation provisions in the deed. The eligible OCCB recipient shall copy the OCCB on the notice and information to the mortgagee.”

Ms. Havran made a motion, seconded by Ms. Hitchcock, approved 5 – 0, to approve the addition of language in Sec. 2-405 (d) as indicated above.

Sec. 2-405 Use of funds

(e) Addition of language to (v) “making payment in **cash** to the OCCB fund of whichever is higher of the original fair market value or the current fair market value of the conservation easement, as determined by a certified appraisal paid for by the owner of fee simple title to the property.”

Ms. Havran made a motion, seconded by Ms. Hitchcock, approved 5 – 0, to approve the addition of language in Sec. 2-405(e) as indicated above.

Sec. 2-405 Use of funds

(f) Addition of language to (v) “making payment in cash to the OCCB fund of whichever is higher of the original fair market value or the current fair market value of the protected land, as determined by a certified appraisal paid for by the eligible OCCB recipient.”

Ms. Havran made a motion, seconded by Ms. Hitchcock, approved 5 – 0, to approve the addition of language in Sec. 2-405 (f) as indicated above.

Sec. 2-405 Use of funds

(h) Addition of “The eligible OCCB recipient or property owner shall notify the board in the event that a claim against the title to the property has been made.”

Ms. Hitchcock made a motion, seconded by Ms. Havran, approved 5 – 0, to approve the addition of language in Sec. 2-405 (h) as indicated above.

Sec. 2-405 Use of funds

(i) Addition of “In the event that the title to the protected property interest is invalidated or otherwise found to be deficient, the board shall be reimbursed by the eligible OCCB recipient and/or owner in an amount up to the amount of the award approved by county council and disbursed to the eligible OCCB recipient.”

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Ms. Havran made a motion, seconded by Ms. Hitchcock, approved 5 – 0, to approve the addition of language in Sec. 2-405 (i) as indicated above.

Sec. 2-405 Use of funds

(j) Addition of “The eligible OCCB recipient or its successors and assigns, shall submit, annual reports to the board, which describe how the property interest acquired with OCCB funds is continuing to satisfy or meet the criteria for protection provided in the ordinance or how the property interest does not satisfy or meet said criteria and the plans to bring the project into compliance with the ordinance.”

Ms. Havran made a motion, seconded by Mr. Keese, to approve the addition of language in Sec. 2-405 (j) as indicated above.

Mr. Martin addressed the Board highlighting the following:

- Completes an annual inspection to make sure everything is in compliance
- Have not had any negative aspects with the conservation easements that they own

Regarding the previous motion made by Ms. Havran, seconded by Mr. Keese, the motion **failed**, 0 – 5 [all OCCB members present opposed] to approve the addition of Sec. 2-405 (j).

Sec. 2-405 Use of funds

(j) Addition of “In the event that there is no conservation easement on a property funded by the OCCB, the County Administrator shall be responsible for ensuring that the owner or the property complies with the ordinance and for enforcing the provisions of the ordinance. The grant agreement shall specify that the County shall be able to access the property for monitoring and/or enforcement purposes.”

Ms. Havran made a motion, seconded by Ms. Hitchcock, approved 5 – 0, to approve the addition of language in Sec. 2-405 (j) as indicated above.

Old Business:

Ms. Rundlett asked Mr. Smith if he had sent the letter to Duke Energy asking for funds. Mr. Smith noted there are cycles when letters are mailed out and the OCCB is not ready to request funds at this time.

New Business:

A Statement of Interest form came in from Mr. Oly Ernie Lombard [copy filed with backup materials] and Upstate Forever would be submitting a full application on this approaching grant cycle.

Mr. Smith made a motion, seconded by Ms. Hitchcock, approved 5 – 0, for a full application to be submitted by Upstate Forever on behalf of Mr. Lombard.

Mr. Martin addressed the Board noting he would like to submit a full application for the Gary Lyle property but was not aware that a Statement of Interest was required to be submitted as well. Mr. Smith noted in the past the OCCB has allowed the Statement of Interest form and full application to be submitted at the same time but would prefer to have the Statement of Interest first.

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Ms. Hitchcock noted at the September 2019 meeting, there was discussion about the Peggy Moore property being abandoned. Mr. Martin noted that was incorrect and they are in a slowdown. He noted he was approached by the NRCS easement representation and told to not allow anyone that we have any applications to not spend any more funds right now until they get the funding supplied by the farm bill.

Ms. Hitchcock stated the next discussion should have fallen under Old Business. She asked if the Elaine Morris check that was awarded on December 18, 2017 had been processed. The Clerk to Council noted a check had been sent for the award but was asked to void the check due to the closing not being completed and would reissue a new check when everything was completed. To date, the Clerk noted she had not received the closing documents. Mr. Smith noted they would need to communicate with Upstate Forever, who is the eligible partner, because they are outside the parameters of the ordinance. Discussion continued.

Ms. Hitchcock made a motion, seconded by Ms. Havran, approved 4 – 0, for Mr. Smith to speak with Upstate Forever regarding the Elaine Morris property.

Mr. Keese left early during this discussion.

Next Meeting:

The next meeting will be held at 9:00 a.m., Tuesday, May 19, 2020 at the Oconee County Council Chambers, 415 South Pine Street, Walhalla, SC 29691.

Adjourn:

Ms. Havran made a motion, approved unanimously, to adjourn the meeting at 10:42 a.m.

Respectfully Submitted:

Katie D. Smith
Clerk to Council & Staff Liaison

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