

**MINUTES**  
**SOUTH CAROLINA CONSERVATION BANK**  
**1000 ASSEMBLY STREET, ROOM 325**  
**COLUMBIA, SC 29201**  
**Tuesday, November 29, 2011**

The regular meeting of the Board of the South Carolina Conservation Bank (SCCB) was held at 10:00 am on Tuesday, November 29, 2011 in Room 335 of the Rembert C. Dennis Building, Columbia, South Carolina. Notice of the date, time and place of the meeting was posted and mailed to the news media. Chairman Weston Adams, III presided at the meeting. Board members present included William L. Snow, Sr., Vice Chairman; Andrea Clark; Elliott Close; Ben Keys; Thomas W. Miller; and Ex-Officio Members Frank A. McLeod, III; Caroline C. Rhodes and Duane N. Parrish.

**I. Call to Order:**

Chairman Adams called the meeting to order and welcomed everyone to the meeting and noted that the Freedom of Information Act guidelines had been met.

**II. Introduction of Guests:**

Chairman Adams introduced the two new Ex-Officio Board members, Caroline C. Rhodes, SCDNR Board Chairman and Duane N. Parrish, SCPRT Executive Director. Each was presented special Conservation Bank Board member caps.

**III. Adoption of Minutes:**

Chairman Adams called for a motion to adopt the minutes from the July 1, 2010 meeting. Mr. Miller made the motion to approve the minutes of the July 1, 2010. Mr. Close seconded the motion and the motion was unanimously approved.

**IV. Old Business:**

**A. Outstanding Commitments/Funding:**

Chairman Adams asked to Marvin Davant to update outstanding commitments and funding. Mr. Davant referred to the Approved Outstanding Grants Not Paid list noting the total of the Outstanding Grants was \$3,251,563. Mr. Davant stated the Bank has on hand \$611,000 in the Trust Account which includes the \$500,000 approved for the Middleton Grant and \$111,000 of interest and Tax Check-off Funds carried forward for the last 5-6 years. Mr. Davant stated in the FY 2011-12 Budget, Proviso No 90.22 states the Bank would receive the first \$2,000,000 of excess funds at close of FY 2011-12. This may be received before July but if and when it is received it would give the Bank \$2,611,000.

There are two previous approved grants that some or part of the property has been condemned for highway & bridge projects. These are Bacon's Bridge in Dorchester County and Sand Creek Farms in Charleston County. Mr. Davant and

George Bailey (the Bank's attorney) have been working on these grants and determined a tentative amount of \$290,000 is to be returned to the Bank. Mr. Davant also explained of a possible reduction in the Middleton Phase III Grant approval of \$500,000 approved at the July 1, 2010 meeting as there may be some changes in the easement terms and the \$500,000 may be reduced by approximately \$180,000. This is not official as yet, but if these occur, this would give the Bank \$3,096,000 which could be expended on grants. Additionally, there has been some unofficial correspondence with several qualified entities on projects already approved. Due to time lapses and other circumstances there may be some changes in these. With these potential changes the outstanding grant amount would be roughly \$2,800,000 and the possibility of funding the Bank will have is slightly over \$3,000,000. If all occurs, the Bank could pay off all existing commitments and as of July 1, 2012 the Bank should be able to go forth under its normal funding. That amount currently is running \$7,000,000 to \$8,000,000, which is what the Bank should get if receiving its normal funding for fiscal year (2012-13).

Mr. Snow asked about the extra funding in the budget for administrative costs or was that rolled into one? Mr. Davant stated administrative funding was in another proviso which came from the Dept. of Labor License. Those funds went directly into the operating account in the amount of \$207,050. Ms. Clark asked if all the operating expenses were covered aside from the grant funds. Mr. Davant stated they were. Ms. Clark asked if the \$7 – 8 million was for just the next fiscal year or distributed over several years. Mr. Davant clarified the \$7-8 million would be for one 12-month period. Mr. Parrish asked if we had the \$3.2 million in the Bank today would you go ahead and pay all these approved grants out in the next few months. Mr. Davant stated everything we could pay we would. A letter has been sent out to the qualified entities for these approved grants asking if anything has changed with the application and if they want to move forward to let the Bank know which ones will be able to close by June 30, 2012. Mr. Davant said there are about 42 pending applications that haven't been reviewed by the Board and would probably have more if we had been receiving funding. Mr. Davant clarified for the new members these applications had been submitted since July 2008. Dana Leavitt with Upstate Forever stated they have submitted some projects and the landowners want to go ahead and close on these for tax reasons without waiting for Bank funds. These will be withdrawn from the pending list once completed.

Chairman Adams addressed the \$500,000 check to be submitted to The Conservation Fund for the Middleton/Edmonston-Alston (Phase II) Tract. The Chairman stated it was unclear in the original application who would hold the easement on the last 1,273 acres approved for a grant. The Conservation Fund made the application and the City of Charleston will hold the easement. The Chairman called for a motion to clarify that the City of Charleston can hold the easement. Chairman Adams asked Jason Johnson with The Conservation Fund to explain the issues involved. Mr. Johnson stated when the application was submitted in 2007 The Conservation Fund had an understanding with the City of

Charleston that the City would hold the easement; however, the matter had to go before City Council for approval. The matter has now gone before City Council, been approved, and noted in the Council minutes for the City to hold the easement on Middleton. Mr. Johnson stated the landowners did not want to close for less than the \$1,000,000 agreed to. However, The Conservation Fund is prepared to close on the deal using funds from the Bank and other institutions supporting The Conservation Fund. The Bank will disburse the remaining amount to The Conservation Fund once funds are available. Mr. Davant affirmed this had already been approved by the Board. Mr. Snow stated it was his understanding that other commitments and business dealings would take place based on the Bank's commitment to releasing this funding and providing the additional funding once the Bank receives it. Ms. Rhodes asked what the backup is in the event that the next \$500,000 isn't there. Chairman Adams stated that The Conservation Fund is the one taking the risk. Mr. Davant stated at the last Board meeting the Board agreed to give The Conservation Fund the \$500,000 it had, and The Conservation Fund was going to borrow the other \$500,000. Mr. Davant stated with the funds expected from the condemnation suits and reductions of other approved grants, the Bank should have enough funds (roughly \$320,000) before July to pay the next phase of Middleton as it is the next grant in line. With the numbers presented earlier, the Bank would be able to complete Phase III of Middleton as set out in the last Board meeting. Phase III would be paid out of the first funding the Bank received, not including the \$500,000 already in the Bank's funds presently. The Bank was only holding the money until finalization of the City Council's approval of holding the easement and can now release the funds.

Mr. Snow stated that there was a question asked by Senate Finance if the Bank had committed the State to a legal commitment or legal contract of these funds. We may or may not have a legal commitment but we have put the good faith credit of the State on the line through this Board, which has made a moral commitment at the very least. This does still mean something in the State legislature. Mr. Snow stated that's the reason we got the money was to fulfill that moral commitment and it's imperative that the Bank follow through with it. That was the case made to both the Senate and House to get the funding and they took that to heart and gave us this funding.

Chairman Adams stated that the \$500,000 will be awarded for the Middleton tract and The Conservation Fund will take the risk on the remaining \$500,000 and let the Bank know if they are willing to take less than \$500,000. Chairman Adams stated the motion today has nothing to do with the money, but only has to do with the easement holder since that was not clear in the original application. Chairman Adams called for a motion to clarify that the City of Charleston will hold the easement on the last 1,273 acres of the Middleton grant. Mr. Snow made the motion to approve the release of the funds based on the fact that the City of Charleston will hold the easement. Mr. Miller seconded the motion and it unanimously passed.

## **B. Grant Criteria**

Mr. Davant explained how a criterion is reviewed for grants and that it is statutorily based. The Ad Hoc Committee was to review the criteria, but any changes to the current criteria would have to be changed statutorily. Grants are distributed equally 1/3 in the lowcountry, midlands and upstate areas. Mr. Davant asked Board members to provide legislators with the following statistics when they had contact:

- a) 64% of all grants given have general public access
- b) 52,000 acres currently in WMA projects with DNR
- c) 78% of all grants go to the private sector (private Land Trusts)

Mr. McLeod asked if new applications go to the back of the line for consideration. Mr. Davant explained how the process works and that the first group of applications previously filed will be the first group to be considered when funding becomes available. Chairman Adams stated the Board had statutory authority to change process. Ms. Clark stated the criteria would determine the grant feasibility.

## **C. Online Application Process**

Mr. Davant stated some Board members had questions about filing applications online. They can be filed online and have been able to do so since 2008. It can be filed and signed electronically. Most applicants file online and submit a hardcopy due to the attachments being so voluminous.

## **V. NEW BUSINESS**

### **A. Condemnation Grants**

Chairman Adams asked George Bailey to explain condemnations of law under a Conservation Bank Grant to the Board. Mr. Bailey stated the statute states once a property is condemned, the Bank should receive a pro-rata portion of the condemnation proceeds in proportion to funding provided by the Bank to the purchase of the easement or fee ownership. The first is the Bacon's Bridge tract. The purchase price was \$320,000 and the Bank provided \$285,000. Dorchester Open Land Trust stated they incurred the purchase price and high legal fees and didn't think the Bank's share should be that amount. Mr. Davant suggested the Bank get back the original \$285,000.

Mr. Bailey stated next was the Sand Creek Tract. This was a part donation/part purchase. The question raised was what proportion of the acquisition did the Bank provide. The Bank's proposal was to consider only the cash money provided. Mr. Bailey stated the Bank provided \$100,000. Proposed changes in the application should eliminate any questions concerning condemnations in the future.

Chairman Adams called for a motion to give Mr. Davant and Mr. Bailey the authority to negotiate on behalf of the Bank in these two condemnation situations. Mr. Snow made a motion that Mr. Davant and Mr. Bailey be allowed to negotiate on behalf of the Bank. Mr. Close seconded and unanimously passed.

**B. Other Funds Oversight Committee**

Mr. Davant explained the Other Funds Oversight Committee established by the legislature (Budget Proviso 70.27 & Act 28) and its requirements. Due to all the Bank's funds being classified as "other funds" we are required to go before this Committee to request authority to spend any "other funds" received but not budgeted for including interest earned, Tax Check-off funds or returned funds such as the condemnation cases.

**C. Legislative Status**

Mr. Davant stated that H3083 extending the life of the Bank for 10 years had passed the House and is currently in the Senate Finance Committee. One proposed amendment was passed, which adds three new Board members to be elected "at large" by the General Assembly. The bill must pass to keep the Bank alive and many supporters and lobbyists are helping with this effort. Chairman Adams stated surrounding states had made significant strides in preserving & conserving areas.

**D. Proposed Application Changes**

Chairman Adams requested Mr. Bailey to discuss the proposed application changes. Mr. Bailey informed the Board he had reviewed the application and statues to make sure they correspond clearly with one another. A copy of the proposed application changes were provided to all members with changes marked in red. Mr. Bailey stated he attempted to eliminate any issues such as occurred in the current condemnation cases and other potential problems with the application. Mr. Bailey noted the condemnation language was in Section Three: paragraph 20. The Board requested the new language in Section Three read "understand and agree" in the first line of each paragraph. Mr. Bailey asked about addressing the sequence of review of a new application. Mr. Close stated that from the beginning the Bank Board established that grants would be taken in sequence as received with the caveat that if something phenomenal came along it could be changed; however, changing the process could cause unnecessary issues. Ms. Clark agreed stating applications are judged on their merits. Mr. Keys asked if there is a formalized process for deleting names that have been approved but not funded due to being withdrawn. Chairman Adams affirmed that a letter is sent to the applicant confirming the withdrawal of the application and the name removed.

**VI. Time and Place of Next Meeting**

The April Board meeting will be held Tuesday, April 17, 2012 in Charleston with specific location to be announced.

**VII. Motion for Adjournment**

Chairman Adams called for a motion to adjourn. Mr. Snow made the motion to adjourn. Mr. Miller seconded and the motion unanimously passed.

**November 29, 2011 - SCCB Board Meeting**

**No Grants Reviewed or Approved**

## APPROVED OUTSTANDING GRANTS NOT PAID

DATE APPROVED	GRANTS	COUNTY	ACRES	O/S AMOUNT
10/20/06	DuPre House	Spartanburg	1.910	\$250,000
10/20/06	Langley Pond Park	Aiken	96.000	\$648,800
10/20/07	Todd Farms	Oconee	271.620	\$154,763
06/18/08	Chau-Ram Tract	Oconee	122.000	\$250,000
06/18/08	Chick Springs Natural Preserv.	Greenville	16.500	\$250,000
06/18/08	The Jeremiah Project	Greenville	37.190	\$50,000
06/18/08	Lakemont Colony Tr.	Greenville	75.000	\$75,000
06/18/08	Middleton Place/Edmondston	Dorchester	1,274.000	\$1,000,000
07/18/08	Sutherland Property	Pickens	130.000	\$225,000
06/18/08	Tumbling Shoals Tr	Laurens	650.000	\$300,000
	<b>TOTAL OUTSTANDING</b>		<b>2,681.993</b>	<b>\$3,251,563</b>



By this provision these funds are deemed to have been received and are available for appropriation.

Unexpended funds appropriated pursuant to this provision may be carried forward to succeeding fiscal years and expended for the same purpose.

**90.22. (SR: Excess FY 11-12 Revenue - SC Conservation Bank)** *Prior to the close of the books for Fiscal Year 2011-2012, to the extent that unobligated Fiscal Year 2011-2012 surplus revenues above the amount certified by the Board of Economic Advisors are available, the State Treasurer is directed to transfer the first \$2,000,000 to the South Carolina Conservation Bank. The South Carolina Conservation Bank may retain and carry forward unexpended funds to succeeding fiscal years and expend these funds for the same purpose.*

**90.23. (SR: Admissions Tax)** For Fiscal Year 2011-2012, up to one hundred fourteen thousand dollars in admissions tax revenue collected annually from all events held at a motorsports entertainment complex facility with at least sixty thousand permanent seats must be rebated to the motorsports entertainment complex facility in the current fiscal year to keep a NASCAR race at the motorsports entertainment complex facility.

**90.24. DELETED**

**90.25. (SR: Contingency Reserve Fund Transfers)** Any excess Fiscal Year 2010-11 general fund revenue above the amounts appropriated in Proviso 90.18 shall be transferred to the Contingency Reserve Fund.

**90.26. (SR: Agency Deficit Notice)** The Comptroller General or the Office of State Budget shall (1) provide written notice to each member of the General Assembly when it makes a report to the Budget and Control Board concerning an agency, department, or institution that is expending authorized appropriations at a rate which predicts or projects a general fund deficit for the agency, department, or institution, and (2) make monthly progress reports concerning an agency's, department's, or institution's plan to reduce or eliminate the deficit.

**90.27. DELETED**

**END OF PART IB**

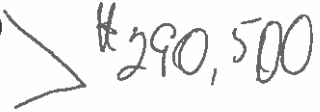
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\*\* See note at end of Act.

## FUNDING ISSUES

Funds On Hand: \$611,000 CONSISTS OF THE Phase II Middleton Grant and the carry forward interest and income tax check offs.

Budget Proviso: \$2,000,000 if available and unexpended.

POSSIBLE CONDEMNATION AMOUNTS: Bacon's Bridge \$285,000.00  
Sand Creek \$ 5,500.00 

Possible Reduction in the Middleton Phase III amount \$180,000.00 - was

Total Possible funds available for grants. \$3,096,000.00

Current Approved Grants Outstanding: \$3,251,563.00

Possible deletions: Todd Farms (\$154,763.00)

Tumbling Shoals (\$300,000.00)

Possible Current grants Outstanding \$2,796,800.00

Possible surplus \$454,963.00