



PIERCE COUNTY

Conservation Futures & Open Space Citizens' Advisory Board

July 21, 2022
CAB Meeting Minutes

The meeting was called to order by Marcello Mancini, Chair, at 6:02 p.m. virtually via Zoom webinar. A quorum was present.

ROLL CALL:

CAB Members Present: Marcello Mancini, Thomas Ginsburg, Kadie Anderson, Sarah Chun, Ryan Hebert, Carol Pashcal, Sue Potter, Jerome O'Leary, Tony Paulson, Terry Reid, Heather Shadko, Patricia Villa

Staff Present: Kimberly Freeman, Katherine Brooks, Cheryl Saltzman

Maul Foster Alongi: ZZ Lundburg, Claire Moerder

CAB Members Absent: Lyndsay Gordon (excused), Ethan Newton (excused), Susan Paganelli (excused)

MEETING MINUTES:

Motion: To adopt the July 7, 2022, meeting notes as written. The motion was moved (Ginsburg), seconded (Shadko) and passed unanimously.

PUBLIC COMMENTS: No public comments.

DISCUSSIONS:

A. Code Update

ZZ Lundburg (MFA) led discussion through sections of the code follow-up from previous meeting.

Chapter 2.97 – Changing title from “Conservation Futures Fun Allocation and Selection Criteria” to “Conservation Futures Fund Allocation Selection Criteria and Acquisition Requirements.”

2.97.020 – Definitions

Reviewed new definitions for public access, administrative guidelines, good standing, floodplain, impervious surface, grant contract, long term obligations, match funding, options agreement or options contract (also known as a purchase option agreement), right of first opportunity, right of first refusal, terms sheet, willing seller/owner's statement; as well as updated definitions for active recreation areas, leverage statement, and passive recreation uses.

Board Questions and Comments:

Regarding definition of Impervious Surface – Kimberly clarified we don't currently have this defined, so we are using the Pierce County Development code, but applicants can also use the code from the jurisdiction they are in.

Regarding definition of Right of First Opportunity and Right of First Refusal

Jerome – 1. We may want to have flexibility with requiring or including a specific price. 2. A Right of First Refusal does not have to be “higher,” usually it is the first offer, and the holder of the Right of First Refusal has the right to match it. I suggest deleting it.

Kat – The definitions will be run by our Deputy Prosecuting Attorney, and we anticipate edits, and will forward the comments with the definitions.

Regarding definition of Match Funding

Kimberly – Add the word “local” to match funding definition after “Washington State.”

Kat noted that match funding could be acquired by a property owner who was willing to bargain sale or gift a portion of the property.

Question regarding addition for Resident

Tony – Reminder to add a definition of “resident.”

Kimberly – We will make that note.

Regarding definition for Willing Seller/Owner’s Statement

Kat noted that this is all included in the current application form the applicants sign.

Regarding definition change for Active Recreation Areas

Carol – Recommends being more general so that we aren’t limiting activities that aren’t mentioned, and Kimberly suggested adding “includes but not limited to?”

Regarding definition for Leverage Statement

All applicants have to bring a 10% match, and get additional points if it is secured, so there is no reason to have “guaranteed” in the definition.

Chapter 2.97.030 – Conservation of Open Space Lands – Reviewed addition of “floodplains” to Lake, River and Stream Conservation, and Kimberly stated that this was included by sponsor and CAB recommendation.

Chapter 2.97.050 Nomination, Application and Acquisition Requirements – Update to include:

- Addition of the word “application” to forms
- Addition under Section C – “detailing all matching funds for project” after Leverage Statement
- Editing Section E - Change “a letter of opinion” to “a leverage statement”
- Addition of Sections G and H for legal review that relate to development, conservation values and support of local jurisdiction goals.

Board Questions and Comments:

Kat – Letter of Opinion was originally intended to be used in-lieu-of an appraisal, but we are using appraisal, and the leverage statement is about the match funding so is not the appropriate term in this section.

Kimberly – Regarding G, this is already a question on the application, so this is to make sure the code is clear that the application is stating that applicants need to align with adopted goals of the local jurisdiction.

There was general discussion around the need for the term “adopted map” and was decided that Parks will do some background data gathering, speak with smaller jurisdictions, and report back to CAB on this topic to ensure that all jurisdictions have adopted maps representing open space, parks, trails or conservation areas of some type.

Chapter 2.97.050 Nomination, Application and Acquisition Requirements (continued) – Section B

- Addition of subsection 1 regarding county and applicant signing a grant contract within 90 days
- Editing subsection 2 regarding signing purchase and sale agreement and obtaining appraisal
 - Kat - Outdated language updated to reflect current practice
- Addition subsection 3 regarding clearance of title encumbrances
 - Kat - Added due to title issues currently not being adequately addressed
- Editing subsection 4 to add language about reviewing administrative guidelines

- Kat – Applicants to review admin guidelines to see chronological process
- Editing subsection 5 to add language regarding allotted time periods in administrative guidelines
 - Kat – Allotted time refers to the adopted Council Resolution timeframe and falls within 2-year budget cycle.
 - Kimberly added that sponsors often wait until the second year to start the process, and then we are tasked with trying to close many projects at once. The grant contract will set up a schedule so all of the steps are listed, and the applicant will know what they have to do to get the project closed.
- Editing subsection 7 to clarify CF grant documents placed into an escrow company located in Pierce County
 - Kat – Language edited to reflect current practices, and to mandate escrow in Pierce County as staff is often running wet signed documents to escrow

Chapter 2.97.060 – Selection Criteria

- Addition of subsection 1a regarding lesser property interest and boundary line adjustments
 - Kimberly said that boundary line issues have delayed projects, so this is added to be clear that any adjustments need to be completed within grant cycle
- Editing subsection 2 regarding legal access as shown on public right-of-way or proof of existing permanent legal access
- Editing subsection 3 regarding public access and conservation futures priorities
- Editing subsection 7 to remove unnecessary language regarding consistency with conservation purpose (Kat says to flag for legal review)
 - Kimberly – previous definition was convoluted so we cleaned it up to make clear that any structures would have to be consistent with the purpose of the easement or purchase.
- No change in subsection 8 – One acre is the minimum per the RCW, unless it is adjacent to other open space properties that create more than one acre, i.e., Wards Lake Messler property, which was only .25 acres, was adjacent to the Wards Lake Parkland because it was contiguous it met this requirement
- Addition of subsection 12 to include a project sponsor shall be in good standing
 - ZZ added that a definition of “good standing” has been added and the CAB already reviewed that definition
 - Kimberly explained that in order to participate in the grant funding, sponsors must turn in all required reports and documentation in timely manner and keep them current

Board Questions/Comments

There was general discussion with the Board regarding subsection 1a, in the case of a lesser property interest, all steps to complete any subdivisions or lot line adjustments must be completed within the grant cycle; Ryan asked how we determine if applicant is able to complete the subdivision within the grant cycle and if that is feasible, and Patty asked if applicants are unable to complete it within the time frame, is there any recourse.

Kat – We’ve run into some 2019 cycle projects with cases where their proposals to split property boundaries with conservation easements and then they are sort of carrying over this idea that they can subdivide the property using lot line adjustments later, so we are trying to be up front to say that we will expect that that will be taken care of in advance or has to be completed within the grant cycle because it will hang the property up if it isn’t done in a timely way.

Ryan – How would we determine if they would be able to complete a subdivision of a lot within a grant cycle? What’s the feasibility of that?

Kimberly – This is part of the grant contract, and making it clear to them the work that is on them. If they don't complete it in the grant cycle, their option is to come in in the next cycle and work through the next cycle. There isn't any way we can guarantee that they will be able to do it in the grant cycle, but that's part of what we're dealing with now.

Patty: In the past we have had people that had what were fairly quality projects that were unable to complete for any number of reasons, I am concerned about a potential negative impact for people that are unable due to circumstances out of their control to lose out on a project after they've gotten started on it. There is no mitigation for that if they've already invested and gotten started but they can't complete or get to a certain point within that time frame, is there any recourse or are we just saying you've got to do it within that period of time and if not, you've lost your grant? I'm not sure what we're doing exactly.

Kat – I will tell you and this isn't just with the case of a lesser property, it can be or it can be a fee simple purchase, we have several of the 2019 projects that are hung up, like in Wards Lake Theater, they didn't get title issues cleared, they didn't get property subdivided, and they can't sell a property without it actually being created a legal lot of record to be able to sell, they didn't have a sellable lot. If they can't get that done, and they're working on a binding site plan and working on trying to clear some issues of title that take a number of steps for them to be able to do within this time frame, let's pretend that Council hadn't given that extension, like normally they wouldn't it was only because of Covid. What we would have asked the City of Lakewood to do is come back and resubmit in the next grant round so that they could pick that project back up and carry it forward hopefully to fruition. Franz Farm is an example of one that we just closed at the end of June. It had been in previous cycles and for whatever reasons they just couldn't get everything together to make it happen, but they did bring it back into the next grant round and we were able to close it this time with the extension. We have an issue with Sound View Camp where it came up again as part of title that they had a conditional use permit on the property and that conditional use permit is going to require an amendment so it's incumbent upon them to go to the Planning Department and get the amendment they need to the conditional use permit. We at the Parks Department can't control that, that's between the property owner and the regulating agency. That would be unfortunate that they've spent time on that, and that's just the way the program is structured right now to run in these two-year cycles, and if it's not done by the November 30 deadline, and it runs with the two year budget cycle, that may be a topic of discussion, but we ask people to come back for the next round.

Patty – Right, I was there for a number of those. They would have to come back and compete again for funding for that project?

Kat and Kimberly – Correct.

Kimberly explained that this is part of the grant contract, and if they can't complete it within the cycle, they have the option of coming back in the next cycle.

Kat added that without the Covid extension, several of the 2019 projects wouldn't have closed due to boundary line issues because if the property is not a separate tax parcel, there isn't a legal lot that can be sold.

For subsection 7, Carol asked about life estates, and Kimberly said we haven't entered into any in ten years.

Carol suggested adding a warning system spelled out in the administrative guidelines if they are new to the program, and Kimberly suggested including a warning letter in the administrative guidelines if the sponsor is falling behind. Kat added that having them sign the grant contract will also help because now the terms are on record. Additionally, she has a table that is sent to the sponsors that includes everything they need

to do up to and after closing, and the time allotments.

Sponsors new to the program will be considered in good standing

Kimberly asked ZZ to make a note to put a caveat to start this with the 2025 cycle so everyone could get up to speed and start in good standing.

Chapter 2.97.070 – Property Acquisition Costs

- Insertion of section E regarding project modifications, and subsections 1-4 stipulating what are acceptable modifications

Board Questions/Comments

Kat – This language comes out of the administrative guidelines for the program, and we decided to move it out of the admin guidelines and into this code update is because it ties to the budget, and what the grant award amounts are. If we get Council approval for x number of dollars and we are saying that we can pay you an extra 10%, we want to make sure that Council has fully bought off on all of this because it is impacting the award dollars and it will tie to the funding biennium. At a high level, what we allow is a Sponsor to come in and reduce a project size but know that the project award is going to get reduced proportionally to the reduction in project acreage. The same with the increase in size, it can be increased as long as we have the funding available. The Ellis property was a good example of that. The Great Peninsula Conservancy came in under their allotted budget amount, but they had enough residual funding available to increase their project size. We wouldn't have to go back for a brand-new resolution at Council again like with Ellis if it was codified. This language also allows a project funding award to be increased by 10% based on a higher appraisal than what was originally estimated in the application. The fourth subsection reaffirming that if the resolution says if there is a 50% match, or a 10% match, whatever is happening in terms of modification, that match amount will remain consistent.

Chapter 2.97.080 – Conservation Futures Covenants

- Editing section C to remove “interlocal” from agreements
 - Kimberly said that we don't enter into that type of agreement as an interlocal agreement goes before Council for approval

2.97.100 – Long-Term Financial Commitments

- Editing section C to add “pursuant to the conservation futures grant application and adopted Council Resolution.”

OTHER BUSINESS:

Sarah Chun, Marcello Mancini, and Heather Shadko will not be available August 4.

MEETING CONTINUED:

Chair closed meeting at 7:17 p.m. to be continued on August 4th at 6 p.m.