



## Land for Maine's Future Program

Minutes of the Meeting

**August 22, 2017**

32 Blossom Lane, Marquardt Building, Room 118

Augusta, Maine

### **Board Members Present:**

Don Kleiner, Robert Meyers, Lisa Turner, Fred Bucklin, Harry Ricker, Commissioner Patrick Keliher, and Commissioner Chandler Woodcock

### **Staff Members Present:**

Sarah Demers, Tom Miragliuolo and R. Collin Therrien

### **Others:**

Julie Lothrop, DACF  
Jeff Romano, Maine Coast Heritage Trust  
Keith Kanoti, University of Maine  
Richard Stratton, Mahoosuc Land Trust  
Bob Duplessie, Mahoosuc Land Trust  
Liz Petruska, DACF contractor  
Jerry Bley, Creative Conservation, LLC  
Susan Swan, Hallelujah Farm  
Ripley Swan, Hallelujah Farm  
Stephanie Gilbert, DACF  
Bucky Owen, Orono Land Trust

1. **Welcome and Introductions** - Commissioner Patrick Keliher, Chairman, called the meeting to order at 1:00 pm, welcomed everyone and asked for introductions from the Board and audience.
2. **Minutes** - Motion: A motion was made by Fred Bucklin and seconded by Robert Meyers to accept the minutes of the May 16, 2017 meeting, contingent on an amendment with appropriate edit of replacement language for an incomplete phrase on p.3 of the Minutes for the Ellis River to Whitecap item. Board vote was unanimous.

3. **Bond Balances**

<b>Status of Funds</b>		
ATTACHMENT A		
As of June 30, 2017		
<b>Authorized</b>	<b>Bonds to be Sold</b>	<b>Cash on Hand*</b>
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PL 2007, Ch. 39		
C&R and Farmland	\$0	\$0
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PL 2009, Ch. 645		
C&R	\$0	\$4,190,371
Farmland	\$0	\$ 386,434
Working Waterfront	\$0	\$ 277,032
<b>Funds Remaining</b>	<b>\$0</b>	<b>\$4,853,837</b>
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PL 2011, Ch. 696		
C&R, Farmland, WWF	\$0	<b>\$3,175,000</b>
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<b>Funds Remaining</b>	<b>\$0</b>	<b>\$8,028,837</b>
<ul style="list-style-type: none"> <li>• <i>Subject to end of month reconciliation</i></li> </ul>		

- 2007 Bond funds have been expended and will not be reported on after this point.
- All Bonds have been sold, and all funds are in LMF accounts as cash on hand.

4. **Project Allocations & Status**

<b>Project Allocation</b>		
Active Projects		Allocations
C&R	9	\$1,434,850
Water Access	1	\$ 50,000
Working Waterfront	2	<u>\$ 421,500</u>
<b>TOTAL</b>	<b>13</b>	<b>\$1,906,250</b>
Project Closed: High Island		

Current working waterfront projects are 1.) Gouldsboro 2.) Prospect Harbor 3.) Bremen Sarah explained that these projects have languished and we will likely have status updates on them the next time we do a working waterfront call for proposals.

## 5. **Board Notifications and Approvals**

### • **Whaleboat Island Easement Amendment**

Sarah provided an overview of the project: LMF funds were used to acquire the property in fee in 2002. The primary purpose of the LMF funding was to protect low impact recreational use, including overnight camping, the preservation for the ecological integrity natural scenic and undeveloped values and archeological and historic resources.

At the time of the acquisition, the property was encumbered with 2 separate conservation easements; one located in the north and the other located on the southern portion of the property. The entire island is now owned by Maine Coast Heritage Trust. The northern portion has an easement held by Harpswell Heritage Trust and the southern portion the easement is held by the Bureau of Parks and Lands.

The land owner, Maine Coast Heritage Trust, and the easement holder, Harpswell Heritage Trust, are requesting Board approval to amend and restate the conservation easement, and the LMF Project Agreement.

### **Proposed Changes to the Easement:**

- The easement currently allows for tents and will be amended to permit tent platforms totaling up to 500 sq. ft. to better accommodate public use.
- The existing right to subdivide the property into two residential lots will be removed.
- The right to clear the property extensively to support two residential structures with utilities, outbuildings, and animal shelters, totaling up to 7,600 sq. feet in total, and with Holder consent, to clear unlimited land for farming will be replaced with the right to construct a single caretaker's cabin and associated buildings totaling 1,000 sq. ft. (500 sq. ft. for the cabin and up to 500 sq. ft. of outbuildings), and to clear one acre of land to support the caretaker's residence. MCHT has no plans to construct this residence but wants to keep the option open to meet future needs. Consistent with LMF PA

**Proposed Changes to the LMF Project Agreement:** The LMF PA will be amended to

- allow tent platforms, specifying the number and location on the property as described by MCHT and
- enhance the existing description of the caretaker/ranger cabin and amount of cleared land as described in the easement amendment.

After further discussion and clarification on the location of allowed camping, development of a cabin limited for use by a ranger or property steward, and the amount of land available for clearing, the Chairman called for a vote.

**Motion:** LMF staff to revise the Project Agreement and consult with DACF and AG to review all due diligence items required by LMF. The LMF Chair shall sign an LMF Project Agreement for Whaleboat Island to be recorded in the Cumberland County Registry of Deeds.

Fred Bucklin makes the motion to approve, Don Kleiner seconds the motion. With no objections to the motion, the motion passed unanimously.

- **Hallelujah Farm Easement Amendment**

In 2008, the LMF Board contributed 50% of the purchase cost for the Agricultural Conservation Easement on Hallelujah Farm. The Easement protects approximately 170 acres of working farmland and 1,929.00 lineal feet of frontage on the Androscoggin River in Lisbon, Maine.

The Easement is held by the Androscoggin Land Trust (ALT), with the United States of America, Natural Resources Conservation Service (NRCS) as a Co-Grantee, and the State of Maine, Department of Agriculture, Conservation and Forestry (DACF) (formerly the Department of Agriculture, Food and Rural Resources) as a Third Party Holder.

The landowners would like to relocate the allowed residential area and associated right of way to another location on the property which will result in:

- protection of an additional 1.36 acres of productive farmland,
- leave a productive field intact and eliminate any disruption to commercial agricultural management.
- reducing the length of the new Access Way, which will be approximately one seventh the previous length.

DACF, the designated state agency, Androscoggin Land Trust and USDA- NRSC have all agreed to this amendment which will result in changes to the survey and legal description, but not to the terms of the easement.

A brief discussion ensued on the need to allow some level of flexibility for staff, DSA, landowners and easement holders to negotiate future changes on working lands easements while also maintaining the integrity of the intended purposes of the easement and the public investment.

**Motion:** LMF staff to revise the Project Agreement with the new survey and legal description and consult with DACF and AG to review all due diligence items required by LMF.

The LMF Chair shall sign an LMF Project Agreement for Hallelujah Farm to be recorded in the Androscoggin County Registry of Deeds

Motion made by Lisa Turner and seconded by Harry Ricker. With no further discussion or opposition, the motion passed unanimously.

## 6. **C&R Projects to be Acted On**

**A. Caribou Bog Conservation Area, Old Town, Penobscot County**

**Project Summary:**

- **Beyenberg parcel, (27.7± acres)**  
**Project Structure:** Acquisition of fee simple title to be held by MDIFW and incorporated in IFW's existing Caribou Bog Wildlife Management Area.
- **Lucien parcel: (90.14± acres)**  
**Project Structure:** Acquisition of fee simple title to be held by UMaine under an LMF Project Agreement with Designated State Agency- MDIFW.

**Appraisal Oversight Committee Recommendation:** Fred Bucklin, AOC Chair reported that the appraiser was able to demonstrate a good knowledge of the area. The AOC challenged the appraiser to see how he would deal with comparable sales and he came back and dealt with the questions we posed very well. A couple of little house keeping things we had to be taken care of, and the appraiser was very cooperative and very knowledgeable and did everything that we asked. The AOC approved the appraisal and asked the Board to approve the recommendation of the LMF Appraisal Oversight Committee to accept the appraiser's value of:

Beyenberg parcel:	\$21,500
Lucien parcel:	\$92,000

With no questions or comments regarding motion, and no opposition to the motion, the motion passed unanimously.

Chairman Keliher reported that public notice for Beyenberg and Lucien parcels was advertised in the Kennebec Journal and Bangor Daily News on August 11<sup>th</sup>, 2017, and staff have not received any written comments prior to this meeting. The Chairman offered the audience an opportunity to make a public comment on the project. Seeing none, the Chairman called for a motion to confirm the allocation that was presented.

**Motion:** To confirm the total allocation of \$79,537 in LMF Conservation and Recreation funding to support the fee acquisition of respective Beyenberg parcel & Lucien parcel of the Caribou Bog project, subject to standard conditions.

The motion was made by Robert Meyers and seconded by Fred Bucklin. With no additional discussion or questions on the motion, the motion carried.

Bucky Owen from Orono Land Trust was acknowledged by the Chair and offered his thanks to Collin Therrien from LMF, Bethany Atkins from MDIFW, and Keith Kanoti from the University of Maine for hanging in there and making it a relatively pleasant process over the last 2.5 years.

**B. Ellis River to White Cap Mountain, (227.7± acres)**

**Project Summary:** Fee simple acquisition of 227.7 acres to held by Mahoosuc Land Trust under an LMF Project Agreement with Designated State Agency- Department of Agriculture, Conservation and Forestry, also encumbered with this Project Agreement is 140.3 acres of abutting match lands owned in fee by MLT.

**Appraisal Oversight Committee Recommendation:** Fred Bucklin reported that he read the appraisal for the match lands and felt that the appraisal demonstrated great knowledge of the area, and that it is a very good appraisal. Fred asked the Board to approve the recommendation of the LMF Appraisal Oversight Committee to accept the appraiser's value of the fee lands as follows:

East parcel: \$156,160.00  
West parcel: \$127,760.00.

Sarah provided some history on the project, explaining that the appraisal on the land to be acquired with LMF funds came in early on in the process, and was reviewed and approved by the AOC, but was not voted on by the Board, as the land trust still needed to determine the source of their matching funds. The Board approved a change in project match lands at the April 11, 2017 Board meeting and that's why we have the span of time between when the appraisal was reviewed and the Board's acceptance and vote.

The Chairman asked for additional questions or comments on the motion to accept the AOC's recommendation to accept the appraiser's value of the fee lands. With no opposition or objections to the motion, the motion passed unanimously.

Chairman Keliher reported that public notice for Ellis River and Whitecap Mountain was advertised in the Kennebec Journal and The Sun Journal on August 11, 2017, and the staff has not received any public comments prior to this meeting. The Chairman offered the audience an opportunity to make a public comment on the project. Seeing none, the Chairman called for a motion to confirm the allocation as presented.

**Motion:** To confirm the allocation of \$153,763 in LMF Conservation and Recreation funding to support the fee acquisition of the Ellis River Whitecap project, subject to standard conditions.

The motion was made by Commissioner Woodcock and seconded by Don Kleiner. With no comments, questions or objections, the motion passed unanimously.

### **C. Biddeford RiverWalk, (0.7± acres), Biddeford, York County**

**Project Summary:** Acquisition of fee simple title to be held by City of Biddeford under an LMF Agreement with Designated State Agency- Department of Agriculture, Conservation and Forestry.

The LMF preliminary allocation for this project is \$35,000. The project is near the Saco River and legal access is by a 12' right of way which goes through a city park. It's part of a recreation corridor which includes trails up and down the river. There are reports from DEP of low level contamination on the sight, which should be investigated and documented.

**Appraisal Oversight Committee Report:** The Appraisal Oversight Committee met on June 15 and July 24, 2017 to discuss the Biddeford RiverWalk appraisal. The Committee voted in favor (3-0) of supporting the project but **rejecting** the appraisal report and its

value of \$130,000. The appraiser has not submitted a report or value that meets the AOC's satisfaction

Bob Meyers and Don Kleiner asked whether the applicant has taken any steps to try and rectify this? Sarah explained that she had gotten a phone call the morning of the meeting from the city of Biddeford. They were trying to determine what their options were for moving the project forward. At this point they have not made any decisions. Sarah gave them the contact names of a couple of organizations in their area who may be able to recommend appraisers familiar with their market. They can now do some homework and decide whether there's another appraiser that they want to hire to prepare a new appraisal for the Board's consideration.

Discussion then ensued among the Board on whether they wanted to give the applicant another opportunity to bring forward a new appraisal for the Board's consideration, whether to withdraw support and funding for the project and how to communicate to the applicant that they have already received 2 time extensions on the project and have yet to make significant progress on the project.

Discussion also covered the contaminated condition of the property and the need to understand whether or how the scope of the contamination affects the ability to develop the property for a residential highest and best use as proposed by the appraiser.

The Chairman noted that this is a committee motion to approve the recommendation of the Appraisal Oversight Committee to **reject** the Riverwalk appraisal report. Being a committee motion, it does not need a second. The Chairman asked for any questions or comments or objections regarding the motion. Seeing none the motion passed unanimously. The Chairman directed staff to send a letter to the applicant informing them of the Board's decision and requesting that a future appraisal address issues related to access and site contamination. The letter should also, include a deadline for the appraisal and to inform the applicant of the fact that the board will not be entertaining further delays.

Chairman Keliher took a moment to recognize the work of the Appraisal Oversight Committee: "Clearly they undertake a big chunk of the workload of this Board and Fred directing this piece, being an appraiser, has been a great benefit for this board. So, I want to thank you."

### **Round 9 Process Review:**

Chairman Keliher initiated the discussion with a reminder to the Board that staffing constraints are something real and we're going to have to recognize this, along with the number of proposals requesting sponsorship, the Board will have to take a look at how many projects it can realistically accomplish.

Sarah explained that the three projects on the agenda today are helpful reminders as the board reviews and evaluated the projects. We've had one project, Ellis River, that came in with a fee property with match lands that changed over time, and now they have different match lands.

The Caribou Bog Project is a multi-parcel project, if something happens with one parcel, you can get caught in a holding pattern for a while. With the project in Biddeford, you have a somewhat inexperienced applicant, and a downtown location that has contamination issues.

These are the projects that linger, and that's why we're here three years later, because these are not the most straightforward kind of projects This is something to keep in mind when you are reviewing proposals and selecting finalists.

Sarah went on to provide a summary of the status of state agency sponsorship requests: thirty-nine requests for sponsorship to date and now that the request period is now done, we cannot take in any more requests. Thirty-three of those requests are conservation and recreation projects, three are farmland projects and three are water access projects. Six of the total are conservation easements, two have a combination of fee and easements and thirty-one are proposed fee acquisitions. Twenty-nine came in with sponsorship from DACF and ten sponsorship requests came in for MDIFW. I do not expect all of those requests to mature into full applications, my guess is we'll have fewer than that.

Proposal are due to LMF by September 15<sup>th</sup>. Staff will review and score proposals between the 15<sup>th</sup> and October 6<sup>th</sup>. The Board will receive the proposals, staff scores and any additional and missing information we're able to collect by October 9<sup>th</sup>.

The board will hear presentations from applicants, and this is an opportunity for the board to take notes and adjust the scores that you've received from staff.

We will then have a second meeting for the staff and the board to reconvene, review the scores and develop a consensus score for each project. The Board will enter executive sessions to select finalists and make preliminary awards.

The board selected November 7 & November 9 for these meeting dates.

A motion to adjourn was made by Fred Bucklin and Harry Ricker seconded; the motion passed unanimously The meeting was adjourned at 2:25pm.