



Land for Maine's Future Program
Minutes of the Meeting
July 10, 2007

Cram Alumni Barn, Bowdoin College
Brunswick, Maine

Board Members Present:

Commissioner George Lapointe
Commissioner Pat McGowan
Commissioner Seth Bradstreet

Carole Dyer
Diane Doyle
Ben Emory

Leon Gorman
Jeanne Mattson
Jeff Thaler

Board Members Absent:

Commissioner Danny Martin

Martha Freeman, Director, SPO

LMF Staff Members Present:

Tim Glidden
Jim Connors

Steve Brooke
R. Collin Therrien

Aline Lachance

Others

Evan Rickert, Town Planner, Town of Orono
Vasco "Buster" Carter, Dept. Inland Fisheries & Wildlife
Kelsy Rioux, State Planning Office
Don Leuchs, Mount Agamenticus to the Sea
Heather Bruce, Coastal Mountains Land Trust
Hugh Cowperthwaite, Coastal Enterprises Inc.
Cheri Domina, Great Pond Mountain Conservation Trust
Chris Anderson, Port Clyde
Gerry and Michael Cushman, Port Clyde
Bruce Kidman, The Nature Conservancy
Alan Lewis, Boothbay Region Land Trust
Julie Lamy, Boothbay Region Land Trust
Nathaniel Wing and Joe Gelarden, Boothbay Region Land Trust
Nancy Perlson, Rangeley Lakes Heritage Trust
Jeff Romano, Maine Coast Heritage Trust
Diane Whitney, Upper Cold Stream Pond
Nancy Kinkade, Upper Cold Stream Pond
Eliza Townsend, Dept. of Conservation

Keith Fletcher, Wells Conservation Commission
Kate Dempsey, The Nature Conservancy
Jackie Li, Intern, The Nature Conservancy
Alan Stearns, Dept. of Conservation, Bureau of Public Lands
Deidre Gilbert, Dept. Marine Resources
Willow Rheault, Coastal Enterprises, Inc. WWAPP
John Picher, Dept. of Conservation
Stephanie Gilbert, Dept. of Agriculture, Food & Rural Resources

- **Morning Field Trip**

Board members were given a tour of two Land for Maine's Future Program sites: Crystal Spring Farm and Mere Point water access site. Theo Holtwijk, Brunswick Town Planner, joined the Board, at lunch, for a presentation on the Town of Brunswick's land conservation efforts to encourage smart growth patterns.

- **Minutes of the Meeting**

A motion was made by Carole Dyer and seconded by Jeff Thaler to approve the May 8, 2007 Minutes of the Meeting. Vote was unanimous.

Note: Correction ~~William~~ Willow Rheault.

Conservation & Recreation Projects

- **Hancock Lands – Phases I & II – TABLED 9/19/2006 & 5/8/2007**

A motion was made by Commissioner Bradstreet and seconded by Carole Dyer to move from the Table. Vote was unanimous.

Brief Background:

In 2001, the Forest Society of Maine in partnership with the Maine Department of Conservation submitted an application to purchase a conservation easement over five parcels of land owned by Hancock Land Company. Negotiations over easement terms were prolonged and before the easement agreement could be signed, the company was sold. The new owners have requested that only a portion of the easement; the Rattlesnake Mountain Project, be considered at this time. Both the Department of Conservation and Forest Society of Maine consider the project extremely worthy and are requesting LMF approval to move ahead with the Rattlesnake Mountain Project. After the appraisal work is completed and approved by the Appraisal Review Committee, DOC and FSM will seek approval for a specific funding amount, hopefully, at the next Board meeting in September.

- Vote

A motion was made by Ben Emory and seconded by Commissioner Bradstreet to amend the proposal in order to move ahead with the Rattlesnake Mountain Project. Vote was unanimous, except for Jeff Thaler who abstained.

- **Camden Hills State Park Additions, Lincolnville, Waldo County** (248± acres in three parcels in fee to the Maine Dept. of Conservation)

- Public Notice

On June 23rd published in the Kennebec Journal and on June 28th published in the Camden Herald.

- Appraisal Review Committee Recommendation

The ARC recommended accepting an appraisal value of \$2,895,000 for these three parcels and further recommends LMF funding of \$1,028,000 (not including all other costs).

- Public Comments

Tom Rumpf (The Nature Conservancy) mentioned that it has been a long process protecting lands adjacent to the park and that this proposal is crucial in protecting three properties adjacent to Camden Hill State Park that will enhance significantly the size of the Park. He thanked the Board for their consideration of the project.

Commissioner McGowan highlighted the fact that Camden Hill State Park is Maine's most visited state park and second most heavily used campground area. Visitors have come to expect scenic views, hiking, quiet spaces and wildlife viewing. These parcels will help buffer the Park in a rapidly developing area of coastal Maine.

- Vote

A motion was made by Jeff Thaler and seconded by Carole Dyer to support funding for this project. Vote was unanimous.

- **Bald & Ragged Mountains, Wright parcel, Hope, Knox County** (68± acres in fee to Coastal Mountains Land Trust under a PA with the Maine Dept. of Conservation)

- Public Notice

On June 23rd published in the Kennebec Journal and on June 28th published in the Camden Herald.

- Appraisal Review Committee Recommendation

The ARC recommended accepting an appraisal value of \$176,900 for this parcel and further recommends LMF funding of \$67,500 (not including all other costs).

- Public Comments

Heather Bruce (Coastal Mountains Land Trust) thanked the Board for their consideration of this parcel which contains a network of existing trails on Bald Mountain and will consolidate conservation around an adjacent wetland protected by an easement held by the CML Trust.

- Vote

A motion was made by Carole Dyer and seconded by Jeff Thaler to support funding for this parcel. Vote was unanimous.

- **Height of Land, Township D, Franklin County** (488 ± acres in fee to the Rangeley Lakes Heritage Trust under a PA with the Maine Dept. of Conservation)

- Public Notice

On June 23rd published in the Kennebec Journal and on June 22nd published in the Lewiston Sun Journal.

- Appraisal Review Committee Recommendation

The ARC recommended accepting an appraisal value of \$ 962,750 for this acquisition and further recommends LMF funding of \$ 379,000 (not including all other costs).

Note: \$279,000 from the Conservation & Recreation account and \$100,000 from the Water Access account.

- Public Comments

Nancy Perlson (Rangeley Lakes Heritage Trust) stated that the Rangeley region has been a mecca for nature-based tourism for many years. The Height of Lands offers beautiful westerly views of hundreds of miles of lakes, mountains and forests and is included as one of the Rangeley Lakes National Scenic Byway ‘must see’ sites. Nancy thanked Steve Brooke and the Appraisal Review Committee for their assistance.

- Vote

A motion was made by Jeff Thaler and seconded by Carole Dyer to support funding for this project. Vote was unanimous.

- **Great Pond Mountain Wildlands, Orland, Hancock County** (4,295± acres in two parcels in fee to Great Pond MCT under a PA with Maine Dept. of Conservation)

- Public Notice

On June 23rd published in the Kennebec Journal and on June 28th published in the Ellsworth American.

- Appraisal Review Committee Recommendation

The ARC recommended accepting an appraisal value of \$2,400,000 for these two parcels and further recommends LMF funding of \$346,000 (not including all other costs).

Note: LMF's contribution will be match by over \$1,700,000 of locally raised funds and used to retire the remaining debt.

- Public Comments

Cheri Domina (Great Pond Mountain Conservation Trust) stated that she was thrilled to see the project under consideration by the Board and extended an invitation to members of the Board to visit the site as well as hold a future Board meeting in the area.

Vasco 'Buster' Carter (IF&W) stated that the project is "in his backyard" and is well worth consideration by the Board.

- Vote

A motion was made by Ben Emory and seconded by Jeff Thaler to support funding for these two parcels. Vote was unanimous.

Farmland Projects

- **Fields & Forests Forever, Smith-Dutton parcel, Unity, Waldo County** (215± acres of agricultural conservation easement to Friends of Unity Wetlands under a PA with Maine Dept. of Agriculture)

- Public Notice

On June 23rd published in the Kennebec Journal and the Waterville Morning Sentinel.

- Appraisal Review Committee Recommendation

The ARC recommended accepting an appraisal value of \$226,000 for this parcel and further recommends LMF funding of \$113,000 (not including all other costs).

Note: Funding from the federal USDA Farm & Ranchlands Protection Program will be a source of cash match for the purchase and development rights of this project property.

- Public Comments

None.

- Vote

A motion was made by Carole Dyer and seconded by Commissioner Bradstreet to support funding for the Smith-Dutton parcel. Vote was unanimous.

- **Fields & Forests Forever, Spencer parcel, Freedom, Waldo County (276.6 ± acres of agricultural conservation easement to Friends of Unity Wetlands under a PA with Maine Dept. of Agriculture)**

- Public Notice

On June 23rd published in the Kennebec Journal and the Waterville Morning Sentinel.

- Appraisal Review Committee Recommendation

The ARC recommended accepting an appraisal value of \$181,000 for this parcel and further recommends LMF funding of \$90,500 (not including all other costs).

Note: Funding from the federal USDA Farm & Ranchlands Protection Program will be a source of cash match for the purchase and development rights of this project property.

- Public Comments

None.

- Vote

A motion was made by Commissioner Bradstreet and seconded by Jeff Thaler to support funding for the Spencer parcel. Vote was unanimous.

Water Access Projects

- **Upper Cold Stream Pond, Lincoln, Penobscot County** (1.6± acres in fee to Maine Dept. of Inland Fisheries & Wildlife)

- Public Notice

On June 23rd published in the Kennebec Journal and on June 25th published in the Bangor Daily News.

- Appraisal Review Committee Recommendation

The ARC recommended accepting an appraisal value of \$84,000 for this parcel and further recommends LMF funding of \$57,725.80 (not including all other costs).

- Public Comments

Vasco Cater (DIF&W) stated that currently no adequate public access to the western basin of Upper Cold Stream Pond exists. This acquisition, if approved, will provide such access and serve the needs of boaters with small to medium watercraft. IF&W has been trying for years to acquire such a site and now has a willing seller.

In regard to access improvement, the Department of Inland Fisheries & Wildlife plans to develop the acquired parcel with an access road, boat-launching ramp and parking area for Angler access.

Nancy A. Kinkade (Lincoln, Maine) stated that the local people are in favor of this project and she submitted letters of support to the Board.

- Vote for Acquisition and an Access Improvement Grant

A motion was made by Commissioner Bradstreet and seconded by Carole Dyer to approve acquisition as well as allocating \$4,200 for access improvement. Vote was unanimous.

- **Stillwater River, Orono, Penobscot County** (0.46± acres in fee to the Town of Orono under a PA with the Maine Dept. of Conservation)

- Public Notice

On June 23rd published in the Kennebec Journal and on June 25th published in the Bangor Daily News.

- Appraisal Review Committee Recommendation (*above appraised value*)

The ARC recommended accepting an appraisal value of \$62,000 for this parcel and further recommend LMF funding of \$45,244 (not including all other costs).

Note: The appraisal only addressed the land and not the abandoned single family residence on the property.

Board policy regarding projects at above appraised value

The Board recognized that in rare instances, it could consider exceptions only when all of the following conditions are met:

- a) The public values present on the subject property are exceptional, there is imminent threat that the public values will be severely compromised if the property is not purchase immediately, and the risk of losing the opportunity is outweighed by the difference between appraised value and the asking price; and
- b) Two thirds of the board members present and voting agree that the project meets these conditions.

In such instances, the LMF Board will not authorize funding which exceeds two thirds of the appraised value.

- Public Comments

Evan Richert, representing the Town of Orono, requested a wavier regarding fair market value. He stated that this parcel is significant for public water access to the lower Stillwater River in the Orono-Old Town region in that:

- It provides nearly a city block's worth of safe, accessible river frontage for hand-carry boating and bank fishing, adjacent to the most built-up part of Orono;
- It is the safest available downriver take-out point above the Orono Dam, used as a readily identifiable refuge during strong spring flows;
- It provides the most logical terminus for the Stillwater leg of a developing, region-wide canoe trail that connects Pushaw Lake, Pushaw Stream, the Stillwater River, and the Penobscot River;
- During summer and fall, when the water between the Stillwater and Orono dams is flat, it serves as either a natural beginning or ending point for dam-to-dam trips;
- It provides access to small mouth bass fishing rated by the regional biologist for IF&W as "very good to outstanding."
- While adjacent to downtown Orono and in the midst of built-up neighborhoods, the site's topography and vegetation provide exceptional beauty, quiet, and seclusion.

It is rare in an urban setting such as downtown Orono that nearly 400 feet of river frontage become available. Given ownership patterns and physical conditions along the lower Stillwater, such an opportunity is unlikely to arise again for generations.

Further, there was imminent threat that the public values would be severely compromised if the property was not purchased immediately as the property fell into foreclosure during 2006. Wells Fargo Bank listed the property on July 21, 2006. Town staff made a site inspection on Saturday, July 22, at which other potential buyers also were present. On Monday, July 24, the broker notified interested parties to submit their “best offers” by the next day, Tuesday, July 25. On Tuesday, July 25, the Town Manager offered \$75,000, which was accepted later that week.

Thus, the Town found itself in a *de facto* bidding situation in which there would be no opportunity for either appraisal or negotiation. A rare opportunity to secure access and the other values of the site for the public would have been permanently lost. No comparable opportunity exists in this stretch of the Stillwater.

Evan further stated that the risk of losing the opportunity is outweighed by the difference between appraised value and the asking price. The difference between the land-only appraised value and the purchase price is \$10,000 (\$13,000 including the cost of removing the building). For all of these reasons, the Town of Orono respectfully asks for a waiver pursuant to LMF’s policy regarding purchase at a price that exceeds fair market value.

- Vote

After extended discussion of the appraisal’s scope and the applicability of the Board’s waiver policy, a motion was made by Jeff Thaler and seconded by Carole Dyer requesting that the project be TABLED until the next Board meeting and that the Town of Orono consider submitting a second appraisal. Vote was 8 to 1 (Commissioner McGowan opposing) to TABLE the vote on the project.

Note: LMF staff will communicate directly with the applicant.

- **Colonial Pemaquid Inholding, Bristol, Lincoln County** (0.3+ acres in fee to the Maine Dept. of Conservation)

- Public Comments

John Picher stated that this parcel is an in-holding within the Colonial Pemaquid State Historic Site. State ownership and subsequent waterfront protection of this parcel would allow better access by the public to both walk along the shore and the top of the embankment from the restaurant as well as guarantee long-term stability of the existing pier. The site’s historic and education value has visitors exceeding 75,000 annually. The pressure to develop the site is intense, and although the parcel is undersized, it is grandfathered and the possibility exists that permits could be granted to develop a residence or private pier.

Commissioner McGowan suggested that the applicant come back to the Board for consideration at a later date once other funding options have been explored.

- Vote

While the Board did not vote on the proposal, Commissioner Lapointe recommended that the Department of Conservation continue looking for other funding sources.

Note: LMF staff will communicate directly with the applicant.

Working Waterfront Projects – Round 1

- **Sprucehead Fishermen’s Coop., South Thomaston, Knox County** (0.25± acres with a working waterfront covenant) TABLED May 8, 2007 (moved by Carole Dyer and seconded by Commissioner Bradstreet)

- Public Notice

On April 27, 2007 published in the Kennebec Journal and on April 28, 2007 in the Courier Gazette.

- Public Comments

Jim Connors stated that staff is working with the surveyor of the Waldron property to verify the location and condition of boundary markers along the contested line. This work is expected to be completed in time for consideration at the September Board meeting. Final step is for lawyer (Hope Hilton) to review. He also stated that since the last Board meeting, the Sprucehead Fishermen’s Coop has voted to proceed with acquisition subject to terms and conditions of a Working Waterfront Covenant.

- Vote

A motion was made by Ben Emory and seconded by Carole Dyer to TABLE the project until the next Board meeting in September. Vote was unanimous.

- **Robert’s Wharf, Barter’s Island, Boothbay Harbor, Lincoln County** (1.09± acres with a working waterfront covenant) TABLED May 8, 2007 (moved by Carole Dyer and seconded by Commissioner Bradstreet)

- Public Notice

On April 27, 2007 published in the Kennebec Journal and on April 26, 2007 in the Lincoln County News.

- Appraisal Review Committee Recommendation

The ARC recommended accepting an appraisal value of \$ 450,000 for this parcel and further recommends LMF funding of \$34,600 (not including all other costs).

- Public Comments

Julie Lamy, Alan Lewis, and Nathaniel Wing spoke in favor of granting a waiver regarding fair market value. They addressed the exceptional values of the property and threat to those values emphasizing the significance of this parcel for local fishermen in that this is the only access point along the western shore of Barters Island and near the Sheepscot River lobstering area. The property complements the needs of local fisherman by providing water access and gear storage in an easily accessible protected, deep water cove along the Sheepscot River. The cove is adjacent to the lobstering grounds, whereas fishermen currently must travel several miles to reach their traps. The site saves time and money as well as sustains the livelihood of the fishermen. Most importantly provides the assurance that access along the Sheepscot will be available for years to come.

Facilities located in Boothbay Harbor are poor alternatives since they are far in both distance and time from the fishing grounds.

- Vote

A motion was made by Diane Doyle and seconded by Commissioner Bradstreet to approve the applicant's request for a waiver and support of the acquisition. Vote was unanimous.

• **Perio Point, Beals, Washington County** (1.8± acres with a working waterfront covenant)

- Public Notice

On June 23rd published in the Kennebec Journal and on June 26th published in the Downeast Coastal Press.

- Appraisal Review Committee Recommendation

The ARC recommended accepting an appraisal value of \$1,045,000 for this working waterfront covenant and further recommends LMF funding of \$261,250 (not including all other costs).

- Public Comments

None.

- Vote

A motion was made by Ben Emory and seconded by Carol Dyer to support acquisition of a working waterfront covenant. Vote was unanimous.

Working Waterfront Projects – Round 2

In the spring of 2006 the Maine Department of Marine Resources announced \$2 million in available funding for the new Working Waterfront Access Pilot Program (WWAPP). On March 1, 2007 the WWAPP reopened for a second round of funding; application deadline was May 31, 2007.

- **Port Clyde Fishermen's Co-op, St George, Knox County** (0.75± acres with a working waterfront covenant)

- Public Comments

Gerry Cushman stated the Port Clyde Co-op is a vital commercial fisheries property in mid-coast Maine which supports over 60 families and related jobs. The project proposal would include plans to upgrade and expand their working waterfront facility by constructing a 30' x 250' long wharf expansion at the west end of the existing wharf. This extension would allow more boats, both lobster and ground fishing boats, to have access to the dock at all tides. Also, the project upgrade will enable fishermen and lobstermen to expand their facility where they keep their lobster boats, load and unload fishing gear, and wholesale their catch. It is extremely important to preserve working waterfront access for generations to come.

Vote

A motion was made by Carole Dyer and seconded by Ben Emory to allocate \$250,000 for this project and to accept the project as a finalist subject to the Board's standard appraisal review process. The Board added an additional condition that the Co-op continue to work to include local ground fishermen as described in the proposal and to keep program staff informed of progress with the ground fishermen. Any significant changes in the project proposal should be reported to the Board. Vote was unanimous.

Project Updates & Reconfigurations

- **Wells Conservation Lands, Wells, York County**

The Wells Conservation Commission is requesting that the Board reallocate the \$65,000 in funds currently allocated for the Yuill tract to acquire the nearby Mather tract instead. The Commission has been unable to reach agreement to purchase the Yuill tract at the appraised price and, in the meantime, an opportunity has arisen to purchase the Mather tract at or below appraised value. Both tracts are very similar in terms of location, wildlife habitat values, and public access.

- Vote to amend project proposal

A motion was made by Carole Dyer and seconded by Leon Gorman to approve reallocation of funds to acquire the Mather parcel. Vote was unanimous.

- **Tatnic Turtle Corridor, Wells, York County**

The original project submitted in 2006 included three parcels – Allen, Smith, and Bartz. While performing due diligence on these parcels several issues were uncovered requiring the original project to be reconfigured. During the due diligence process title issues emerged on both Smith and Bartz parcels. As a result, the Smith parcel will be reduced by 10± acres and the Bartz parcel has been withdrawn. The applicant requests that the allocation remain the same.

- Vote to amend project proposal

A motion was made by Ben Emory and seconded by Commissioner Bradstreet to approve the reconfiguration request. Vote was unanimous.

Other Business

- **Legislative Session Wrap-up**

The Legislature did approve a bill directing the State Planning Office to develop and maintain a database containing information on public and private lands on which, for conservation or recreation purposes, development is prohibited or restricted. The State Planning Office will work with the Maine Library of Geographic Information to produce and make available to the public a map on which these lands are located. When ready, a copy will be sent to Board members.

Also approved is a bill dealing with conservation easements. This bill enacts changes to the laws governing the creation, alteration and termination of conservation easements. Under the bill, a court must find that a change of circumstances makes the conservation easement no longer in the public interest before the conservation easement may be terminated or amended in a manner that diminishes its conservation purposes. The bill also requires that future conservation easements must clearly recite the conservation purposes and public benefits of the easement. The bill further requires that future conservation easements include a statement of the power of the holder to amend the easement and be accompanied by documentation of the condition of the property. As necessary to future enforcement of conservation easements, holders are required to periodically monitor the condition of the property subject to the easement.

This bill also allows the Attorney General to be a party in any action affecting a conservation easement, as the Attorney General may with any charitable trust. The bill

also provides that conservation easements will not be destroyed by reason of merger of the fee and easement holder's interests nor by tax foreclosure.

Finally, this bill establishes a conservation easement registration system administered by the State Planning Office with a modest annual filing fee.

Finally, the Legislature amended LMF's acquisition criteria to include archeological sites, as well as, drinking water supply sites for consideration by the Board.

- Bond on the November ballot

The bond proposals on the November ballot are part of a borrowing package totaling \$295 million that the Legislature has decided to send to voters in three parts.

Voter will be voting on a \$35.5 million bond in which \$17 million will be used to replenish the Land for Maine's Future Program.

- Retreat

Tim and Commissioner Lapointe discussed the possibility of holding a board workshop on appraisals and on the Board's appraisal policy. A tentatively meeting is scheduled for the morning of the next Board meeting date, Tuesday September 11, at 10AM. An experienced appraiser will be at the workshop to give a very brief overview of the appraisal methods and more importantly to answer Board questions.

- Next Board Meeting

September 11, 2007 at the Pine Tree State Arboretum, Augusta