



**Land for Maine's Future Program**  
**May 21, 2013 Minutes of the Meeting**

Department of Agriculture, Conservation & Forestry  
Maine Forest Service Bolton Hill Facility, Augusta, Maine

**Board Members Present:**

|                     |                 |                   |              |
|---------------------|-----------------|-------------------|--------------|
| Bill Vail, Chairman | Norman Gosline  | James Gorman, Jr. | James Norris |
| Chandler Woodcock   | Walter Whitcomb | Ben Emory         |              |

**Board Members Absent:**

|             |                 |
|-------------|-----------------|
| Diane Doyle | Patrick Keliher |
|-------------|-----------------|

**Staff Members Present:**

|                    |                 |            |
|--------------------|-----------------|------------|
| R. Collin Therrien | Tom Miragliuolo | Sam Morris |
|--------------------|-----------------|------------|

**Others**

Ed Meadows, DACF Commissioner's Office  
Kathy Eickenberg, DACF Div. of Parks and Public Lands  
Sarah Demers, Inland Fisheries and Wildlife  
Diano Circo, Trust for Public Land  
John Marshall, Pleasant River Foundation  
Bill Bayreuther, Androscoggin Land Trust  
Jennifer Irving, Sebasticook Regional Land trust  
Dick Clime, Coastal Enterprises Inc.

**1. Welcome and Introductions**

Chairman Vail called the meeting to order, welcomed everyone and asked for introductions around the room.

Chairman Vail requested the agenda be revised to take up items requiring board action first, due to schedule requirements of Board members.

**2. Minutes of the Previous Meeting**

**Motion:** Mr. Norris, Commissioner Woodcock 2<sup>nd</sup>, to accept the March 25, 2013 meeting minutes as written. Passed unanimously.

**7. Projects for Board Action** (taken out of order)

**Round 7 Conservation and Recreation Project**

**Sousa Property** (205± acres), located in Burnham, Waldo County. Mr. Morris presented the details of the Sousa conservation and recreation project property. There were no comments or questions.

**Appraisal Review Committee Recommendation**

Report on behalf of the Appraisal Review Committee provided by Ben Emory. The ARC accepted the project appraisal on 4/23/2013 and recommends accepting the appraiser's value of the fee simple interest of \$195,000.

**Public Notice** On May 10, 2013 in both the Kennebec Journal and Morning Sentinel.

**Public Comment:** None.

**Motion:** Ben Emory, Jim Gorman, 2<sup>nd</sup>, to accept the recommendation of the Appraisal Review Committee and to authorize the allocation of \$65,538 in LMF funds for the Sousa project, subject to standard conditions. Passed unanimously.

## **Working Waterfront Project**

**Maine Fresh Lobster, Inc.** ( 3.11 ± acres, 250' shore frontage), located in Bremen, Lincoln County. Mr. Miragliuolo presented the details of the Maine Fresh Lobster, Inc. working waterfront project property. He informed the board that the Working Waterfront Access Protection Program's (WWAPP) original \$109,750 funding allocation was derived from the project's application. The value provided in the application is based on a realtor's opinion of value for the project property. Subsequently a complete real estate appraisal report for the project property has been completed and the appraiser's valuation identified a value greater than the previous estimate. The property owner submitted a written request to DMR Commissioner Keliher for an additional \$12,750. This increases the allocation to \$122,500, (letter dated 5/14/2013). Based on the ARC acceptance of the appraisal report, DMR Commissioner Keliher expressed to the board his support of increasing Maine Fresh Lobster WWAPP allocation, (letter dated 5/16/2013). The \$122,500 allocation represents the WWAPP 25% of fair market value (FMV) threshold for this WWAPP-funded working waterfront covenant.

### Appraisal Review Committee Recommendation

Report on behalf of the Appraisal Review Committee provided by Ben Emory. The ARC accepted the project appraisal on 4/23/2013 and recommends accepting the appraiser's value of the fee simple interest of \$490,000.

Public Notice On May 14, 2013 in Lincoln County News and on May 10, 2013 in Kennebec Journal.

Public Comment: Dick Clime, Working Waterfront Project Developer staff for Coastal Enterprises, Inc. commented in support of the project. He expressed to the board that CEI encourages applicants to the WWAPP to use real estate appraisals a part of completing and submitting an WWAPP application. The owners of Maine Fresh Lobster requested an increase in the allocation because the results of the fair market value appraisal identified a value greater than the estimated value provided in the project application. Occasionally, there can be a difference in the final appraisal FMV valuation that is accepted.

**Motion:** Norm Gosline, Jim Norris, 2<sup>nd</sup>, to accept the recommendation of the Appraisal Review Committee. Passed unanimously.

**Motion:** Comm. Woodcock, Jim Gorman 2<sup>nd</sup>, to authorize the allocation of \$122,500 in WWF funds for the Maine Fresh Lobster, Inc. project subject to standard conditions. Passed unanimously.

Upon completion of the Board action items, Comm. Whitcomb indicated he was requested to attend legislative discussion and therefore needed to depart the meeting.

## **New Business**

### **3. Status / Balance of funds remaining in LMF accounts**

Dep. Comm. Meadows presented a spreadsheet on the LMF fund account balances. The cash fund balance as of April 30, 2013 is \$3,657,094.

### **4. Status of Active Projects for Available Funds**

Dep. Comm. Meadows reported on the active projects and status of funds allocated for each project as per the Board's request at the March meeting. The active projects are those which staff anticipate to close during the remainder of 2013. These figures will only change upon action by the Board or progress on the unsold bonds; being withheld from sale pending resolution of state financial condition. The projects will continue to close subject to available funds.

He informed the board that he executed a Memorandum of Agreement between the LMF Program and the ME Natural Areas Program (MNAP) for post-acquisition ecological, natural resource surveys. This work undertaken by MNAP is for LMF projects completed during 2011-2012 as reported in the LMF Biennial report, dated January 2013.

During discussion about the status LMF funds, Mr. Norris asked about the anticipated timeframe for approval and issuance of remaining balances of funds. Dep. Comm. Meadows advised that remaining balance of bond funds may be approved for sale, when a solution to the state budget situation is adopted.

A member of the audience, John Marshall, asked about the status of pending LMF/ USDA -Forest Legacy funded projects for which LMF has earmarked funds of ~\$1.6 million and, to what extent there may be remaining cash balances from closed projects to become available for some of the LMF postponed projects.

In response Dep. Comm. Meadows indicated that LMF staff will go back to the agency partners to review with them the status of postponed projects. This review of delayed projects will include project readiness and the level of funding needed.

Ben Emory mentioned that appraisal reports for active LMF projects continue to be scheduled and reviewed by ARC. Mr. Marshall commented that it seems that with LMF's most recent Round of Finalist projects, ARC is changing the "rules". Another member of the audience (ME DIFW staff) shared a similar concern that they were unclear of the LMF's appraisal review process. Dep. Comm. Meadows provided a clarification that LMF is not changing appraisal review procedures, however, appraisal reports are reviewed to determine whether project appraisals meet LMF's existing appraisal standards.

#### **5. Status of Active Projects Completed Projects**

Dep. Comm. Meadows presented a status report on projects that have been completed since the March 25<sup>th</sup> board meeting. These are:

**a) Closed** since the Board's March 25, meeting: Bull Ridge Farm (a/k/a Bog Road Farm), Great Wass Lobster (working waterfront), Schoodic Bog Preserve (Bangor-Hydro Settlement).

**b) Pending** Closing scheduled in May: Winter Hill Farm, Penobscot River – Eddington and Orono (two separate water access sites) Crocker Mountain conservation and recreation project is scheduled for completion in early June 2013.

**c) Withdrawn** project: Hales Pond Water Access

Chairman Vail requested clarification about the nature of concern for the Town of Fayette and ME DIFW to withdraw the Hales Pond water access project. Sarah Demers, IFW staff responded that the property owner could not complete the requirements necessary to bring the project to closing. The Town of Fayette and the IFW continue to be interested in water access at Hales Pond and might reapply at a future time. This project is withdrawn as requested by the applicant (Town of Fayette and agency sponsor MDIFW) without prejudice.

#### **6. Public Comment Procedure.**

At the March 21, 2013 Board meeting Comm. Keliher asked if the Board takes public comment on a proposed project is the Board then able to take action on a decision at that meeting? Is there a deadline for public comments prior to an LMFB meeting? Dep. Comm. Meadows reported on staff follow-up with ME Attorney General's office to confirm that the Board's standard procedure for processing public comment is adequate. Typically, a public notice is published 10 days prior to an LMFB meeting in one newspaper of statewide circulation and one newspaper of local circulation prior to a project being presented to the board for a funding decision and approval to proceed with acquisition. The 10 day timeframe for public notice posting has been a Board practice/courtesy. LMF project public notices are also posted on the Dept. of Agriculture, Conservation and Forestry's LMF website for the full 10 days. The board function is a funding function and not a rule-making process. With no deadline for comment, the board may accept public comments up to the time of a board vote. In essence, the deadline for comment is before the Board takes a vote.

Brief discussion followed. Comm. Woodcock expressed the importance of fair consideration of public comments received prior to the day of the scheduled board vote to ensure they receive equal weight as public comments delivered on the day of a board vote. Ben Emory added it's possible that the best time to provide public comment may be at the time the board selects and allocate funds. Dep. Comm. Meadows added that the history of the LMF program has been one of success. The board's policy to be fair and to provide an open process for public comment has likely been an important contributor to LMF's achievements and success over the years. There are

opportunities to make it even better as the Board and staff review procedures in preparation for the next round of proposals.

## **STAFF UPDATES**

### **LMF appraisal review process**

Mr. Morris, LMF staff presented an overview and summary of LMF Appraisal Review Committee's discussions regarding appraisal process and standards during the (2011-2012) time period. Mr. Morris provided the board with a written one-page summary outlining the current LMF appraisal review process.

Dep. Comm. Meadows provided a brief summary about LMF staff participation at a Maine Land Trust Network Conference session, held in Brunswick on April 26<sup>th</sup>. Mr. Meadows' presentation generated some discussion and questions from attendees, directed to a) real estate appraisals, b) appraisal review requirements by various funders, including LMF's and, c) some indicated that they have a similar problem and voiced their shared concern with LMF board's about getting good appraisers; d) exploring protocol for commissioning real estate appraisers. A general discussion among the board on the subject of real estate appraisals and appraisal service providers ensued.

Mr. Norris, who also attended the Maine Land Trust Conference, mentioned that he is a member of the Small Woodlot Owners of Maine (SWOM), and that this organization also has heard from members having similar problem with getting good appraisers. SWOAM, through the organization's website, provides a simple directory of Maine real estate appraisers as an information resource for SWOAM members.

Dep. Comm. Meadows noted that the kind of work that LMF is engaged with is a somewhat specialized field of appraisals. He recalled that his experience on behalf of the State of Michigan, where agency staff met with the members of the Appraisal Institute to raise their awareness about emerging needs and new opportunities for specialized services from the real estate appraisal sector.

Mr. Gosline recounted an experience about professional development opportunities for real estate appraisers. In one instance, as an attendee at a 4-day real estate appraisal workshop structured specifically for "Conservation Easements", he was joined in attendance by a good number of other Maine licensed real estate appraisers. Subsequently he has observed that only a small number (3-4 appraisers), have been providing appraisal services for LMF projects.

Mr. Norris, based on his professional experience, added that there may need to be some incentive(s), or some form of catalyst to attract the interest by real estate appraisers to take on more work or expand their practice in this specialized sector of appraisal service.

Bill Bayreuther, a member of the audience, suggested for board consideration that LMF participate in a future Maine Land Trust Network workshop related to land conservation and real estate appraisals.

Ben Emory expressed that it may be useful for LMF to have a meeting with real estate appraisers. He reflects about a previous event where LMF staff participated and many real estate appraisers attended.

Dep. Comm. Meadows summarized that LMF's appraisal review process is not broken, however, during the aforementioned time period (2011-2012), LMF's Appraisal Review Committee has raised some questions on appraisal reports, some appraisals have been subject to more than one review or "redo" and some appraisal reports have been rejected. The board expressed interest in reviewing these issues and identifying possible modifications to the process. To facilitate discussion on this topic, Tim Glidden Pres. MCHT, expressed during the Maine Land Trust Conference session, interest in taking on a leadership role of a working group of land trust to work with LMF on this issue.

Chairman Vail expressed his support for the board to address this matter of appraisal review process to better prepare for the next round of project proposals. He requested Ben Emory, Chairman of LMF's ARC Committee, to

work in coordination with staff to review and identify issues and concerns regarding the LMF appraisal review process. Staff was requested to help the ARC with this review process and facilitate discussions with a stakeholder working group. The ARC was charged to report back to the board with recommendations to: a) an appraisal review process for use with LMF's next proposal round and, b) recommendations for enlarging pool of qualified real estate appraisers.

### **Legislative Update**

Dep. Comm. Meadows reported about:

- LD 524 An Act to Change the Quorum Requirements for Meetings of the Land for Maine's Future Board. This legislation was approved by the legislature and signed by the Governor. It reduces the number of board members required for establishing a meeting quorum from seven members to five members. The effective day for this change to LMF statute is 90 days following Legislative adjournment.
- LD 513. This bill proposes an \$85 million bond issue. It identifies \$10 million for tourism related job training in geographic areas of Maine which have greater than statewide average unemployment. LMFB was identified as administering these funds. The bill has been referred to the Appropriations Committee. The DACF provided comments to the Governor's Office that LMF is not set up as a labor training program.
- LD 837. An Act to Clarify the Laws Establishing the Department of Agriculture, Conservation and Forestry. The Legislature's Agriculture, Conservation and Forestry Committee ("ACF") has continued to deliberate changes to the current mission and structure of the Department. The recommendations include reinstating the Director position for LMF. Once the ACF Committee finalizes its proposals, it will report out a bill on the consolidation of the Department for consideration by the full Legislature.

Dep. Comm. Meadows remarked that it's rewarding and encouraging to observe the strong support expressed for the LMF program.

### **LMF Outreach: Maine Land Conservation Conference**

Dep. Comm. Meadows summarized to the board about a staff presentation to attendees at the annual, two-day Maine Land Trust Conference, on April 26<sup>th</sup>-27<sup>th</sup>. He noted this is the first trust conference since the consolidation of state agencies establishing ME Department of Agriculture, Conservation and Forestry ("DACF"). The consolidation provides many new ways the Dept. can work with agriculture and conservation organizations. Staff also attended the second day of the conference, maintaining a booth and participating in numerous workshops.

Jim Norris shared that he also attended the land conference with his land trust the Small Woodlot Owners of Maine. He characterized his initial impression of the group's discussion as one of voiced frustrations related to lack of available bond funds and project requirements.

Dep. Comm. Meadows added that overall those attending were positive about LMF. Some land trust representatives pointed out that the requirements for small-sized land conservation projects can be as rigorous as bigger land conservation projects.

### **Other: Per diem payment and travel reimbursement for public members of LMF Board**

Dep. Comm. Meadows reported on the status and history of per diem and travel expenses for public members of the Board. This was a follow up request from discussion at the previous Board meeting. The LMF statute authorizes board per diem and travel expense for the public members attending to official business of the board.

However, based on review of the matter, it appears board members have not submitted such a request for over a decade. Mr. Meadows said he had researched this issue and conferred with the former LMF Director who reported he had not seen a request for payment in the 10 years he was involved with the LMF program. For a period of time in the late 1990's when funds and activity were low, the board cancelled a number of regularly scheduled board meetings. At that time the board discontinued submitting reimbursement requests. In recent years, expense requests were not submitted. Over time this line item of the LMF budget was eliminated at some time in past

years prior to the program being transferred from the State Planning Office. However, based on statute, board members are eligible; it is a board member's option to request it. For the current FY 13, LMF is short of funds for program operations and does not have funds in the program specified for that purpose.

Chairman Vail noted that public members are pleased to be asked and to serve. It would encourage participation to have mileage reimbursed. Also it would be a benefit for board members to visit the projects and not just be dependent on staff. He stated that there are legitimate reasons for board members to get reimbursed.

Mr. Norris expressed support for site visits based on his professional experience in reviewing transactions similar to those done by LMF.

John Marshall, a member of the audience, commented that he would be thrilled to have board members visit project sites as this would provide them a firsthand perspective of the proposals.

Mr. Meadows advised that the biennial budget would be adopted by the next meeting and at that time we would be in better position to know if funds would be available for board per diem and travel expenses.

Dep. Comm. Meadows indicated that the next LMF Board meeting is scheduled for July 15, 2013 at 1:00 p.m. at the DACF Bolton Hill Facility.

**Adjournment:** Motion by Chairman Vail, and Jim Norris 2<sup>nd</sup>, to adjourn meeting. Meeting adjourned at 3:00 pm.

DRAFT