



Land for Maine's Future Program
Minutes of the Meeting
July 14, 2015
DACF Deering building room 319
90 Blossom Lane, Augusta ME

Board Members Present:

Jim Norris, Neil Piper, Chairman Bill Vail, Ben Emory

Board Members absent:

James Gorman, Commissioner Chandler Woodcock, Commissioner Patrick Keliher,
Commissioner Walter Whitcomb

Staff Members Present:

Sam Morris, Tom Miragliuolo, R. Collin Therrien, Sarah Demers

Others:

Kimbalie Lawrence, DACF
Kathy Eickenberg, DACF
Alan Stearns, Royal River Conservation Trust
Ed Meadows, Avocet Group
Theresa Kerchner, Kennebec Land Trust
Chris Cousins, Bangor Daily News
Bob Marvinney DACF
Brian Kent, Kennebec Land Trust
Diano Circo, Trust for Public Land
Sue Bell, Kennebec Land Trust
Katrina Van Dusen, Freeport Conservation Trust
Jeff Romano, MCHT
Anna Brogan, NRCM
Jonathan LaBonte OPM
Jason Libby OPM
Joe Phelan, Portland Press Herald
Bill Bayreuther, William A Bayreuther Grant Writing
Jerry Bley Creative Conservation LLC
Ben Bragdon, Kennebec Journal
Ryan Robicheau, MDIFW



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1. Welcome and Introductions

Chairman Vail called the meeting to order at 1:00pm and welcomed everyone, asked for attendees to sign in, gave directions to the bathrooms, and asked for introductions.

2. Minutes of the March 17, 2015 meeting

Ben Emory – page 2 incorrectly captures what Ben was trying to articulate at the May meeting. Sarah- asks Ben to send her his revisions in writing and she will add to them to the minutes for the vote in September.

Staff updates –Neil Piper is confused by item 8 in the minutes relating to bond authorization and expiration dates. Sarah clarifies.

MOTION: Quorum not met.

3. Update on Availability of Funds – LMF Director

Attachment A

Sarah provides the Board with an update on the remaining bond funds available, reviewing minor changes between May and June balances.

Ben Emory - Can legislation reauthorize the funds?

Neil Piper-Should we be reviewing projects without money?

Sarah – Clarifies that LMF accounts have \$2.2 million cash on hand. Legislature has two years from November 2015 to pass a bill that would extend the bond authorization date up to 5 years.

James Norris-What would it take to make these funds available? Sarah describes process of preparing a project for payment and the process for requesting a financial order.

Neil Piper – Clarifies that the paperwork is in the Commissioner's office and not moving forward.

4. Project Amendments

• **Roberts Farm parcel substitution** – Noyes Mountain

Bill Vail - Ben Emory will present report & recommendation of the Scoring Committee. At the May meeting the Board voted to score the Roberts farm substitution parcel known as Noyes Mountain.

Ben Emory – Neil Piper, Jim Gorman and I scored the proposal while Commissioner Keliher scored it as a zero because he felt it was a new project and not a parcel substitution. The Scoring Committee members all agreed that this was a new project not a parcel substitution as intended in the LMF workbook guidance. There was consensus among the group that this should not be accepted as a substitute parcel and that the LMF workbook should be clarified to better describe what is and is not a parcel substitution.

MOTION: Quorum not met.

- **DACF, BPL Land Transfer** – Bangor and Aroostook Rail Trail **Attachment B**
11 ± acre (total) land swap between the Bureau of Parks and Lands and Smith Farms Inc. Westfield ME to improve farm operations & off road recreational trail safety.

Sam Morris - Explained that LMF funds went into this project many years ago and BPL has come to provide information for the board on the proposed land swap. Purpose for the swap was to segregate recreational uses of the trail corridor from the active commercial uses on the adjacent property.

Kathy Eickenberg - BPL will need to have a Board vote on this because LMF funds were used. What is proposed is an even swap in value as determined by an appraiser. The appraiser determined that the two properties are equal in cost and quality. The trail has already been moved and the replacement trail is completed. BPL is very happy with the replacement trail that has been developed. The legislature has approved this land swap. Need LMF to approve so the deed to transfer the lands can be finalized.

MOTION: Quorum not met.

- **MDIFW - Tide Mill Farms Conservation Easement,** **Attachment C**
Edmunds, TWP DOT condemnation and taking of approx. 1.5 acres for bridge replacement, valuation of impacts and proposed payment to LMF

Bill Vail - Ryan Robicheau from MDIFW will present.

Ryan Robicheau - MDIFW was approached by MDOT about relocating a bridge on the state highway next to Tide Mill Farm. Tide Mill Farm is encumbered with a conservation easement that was funded by LMF. Ryan explains the DOT valuation and compensation process and explains that MDIFW is satisfied with the approach used by MDOT and the valuation that they determined. MDIFW proposes that all funds from the taking go to the owners of Tide Mill Farm.

Neil Piper - does the landowner agree with these figures? Ryan states that the landowners have agreed to the values.

Ryan Robicheau - DOT was also good about being flexible on the bridge design to minimize the amount of land taken and that MDOT has agreed to design a pull off area to allow for bank fishing in the stream.

Neil Piper - Who maintains the trails on the property?

Ryan Robicheau - The landowner and IF&W work together to maintain the trails.

Ben Emory – Why does the board have to vote to pay the landowner?

Sarah explains the involvement of LMF in paying for the easement and the provisions of the easement relating to condemnation and takings.

Ed Meadows, Avocet Group, recalls that last year he suggested the board carve out time to address policy issues related to condemnation and takings such as this situation. DOT is not familiar with how it needs to handle lands acquired with LMF funds or lands acquired for conservation purposes. Having a clear policy will enable both applicants and reviewers to know the process and the costs. This is especially important if the proposed project is under federal (FERC) jurisdiction, or if the land was protected with federal funds as match for the LMF funds.

Having a policy in place has multiple benefits:

- It provides clarity, and therefore efficient and cost effective government

- It ensures you are completing your fiduciary obligation as custodians of the public trust

Neil Piper – Who is responsible for easement maintenance, landowner or LMF? Ryan replies that MDIFW is the easement holder and responsible for easement monitoring. Sarah Demers – LMF easements have evolved significantly since the Tide Mill Farm project was completed and provisions for issues such as condemnation are handled with more specificity now than they were in the past.

Ed Meadows- Recommends LMF staff work with MDOT to establish a high-level Memorandum of Agreement on the procedure for roadway matters involving LMF-funded properties. This can reduce agency and legal costs of such transactions, and guard against loss of institutional memory due to staff changes and agency reorganizations.

MOTION: Quorum not met.

5. C&R Projects to be Acted On – LMF Staff

Clapboard Island, 15.2 acres in Falmouth, Maine

Attachment D

Sponsored by Department of Agriculture, Conservation & Forestry

- Project Summary and Appraisal Oversight Committee Recommendation
Tom presented the project summary; Jim Norris presented the AOC recommendation.

BILL: Ask board for motion to accept the recommendation of the AOC.

MOTION: Quorum not met.

- Announcement of Public Notice:
BILL: “The public notice for the Clapboard Island project was advertised in the Kennebec Journal and Falmouth Forecaster on July 3rd.”
- Accept Public Comment:
Keith Fletcher from MCHT informed the Board that the property has been pre-acquired by the land trust which is paying interest on funds borrowed for this acquisition while waiting for LMF funds to become available. Keith also reported that there is now a youth sailing program on Clapboard.
MOTION: Quorum not met.

Howard Hill, 165 Acres in Augusta, Maine

Attachment E

Sponsored by Department of Inland Fisheries and Wildlife

- Project Summary and Appraisal Oversight Committee Recommendation
Sam presented the project summary, highlighting the recreational resources of the property and their importance to the area.
Jim Norris reported the AOC’s findings, which are typical of the unique properties LMF is asked to review. During their review, the AOC identified several questions for the appraiser which were answered to their satisfaction.

BILL: Ask board for motion to accept the recommendation of the AOC.

MOTION: Quorum not met.

- Announcement of Public Notice:

BILL: “The public notice for the Howard Hill project was advertised in the Kennebec Journal on July 3rd.”

- Accept Public Comment:

Susan Bell, resident of Augusta and KLT board member, thanks the board for their consideration and also to the staff for the thoughtful help through the process. Howard Hill is a historic parcel in the state capital. The State of Maine has had an interest in this land for a long time and KLT has been working since 1989 to acquire this parcel. KLT fundraising efforts include LMF funding, public donations and a bargain sale from land owner.

Bill Bridgeo, Augusta City manager, reiterates the strong support of the mayor, citizens and city manager of Augusta. Everyone in Maine has a favorite view and one of his favorites is the state capital set to Howard Hill.

Theresa Kerchner, Director of KLT, thanks the Board for their work and hopes that the LMF board will be allowed to move ahead when the political issues are resolved.

Ben Emory - Is this project at risk without a date when funds will be available?

Theresa Kerchner – Yes, there is great risk. KLT is trying to find other funding to meet the contract date.

Ben Emory- did you trust LMF would deliver as they promised?

Theresa Kerchner- The KLT board has spent many hours deliberating on how to proceed with this project. Delays in LMF funding are threatening this project.

MOTION: Quorum not met.

Before moving to the next agenda item, Sarah provides an update on the status of all LMF projects: We are now a year out from the July 2014 Board meeting when project finalists were selected. Much has been accomplished in a year, which represents a lot of hard work on behalf of the Board and staff:

- LMF currently has 38 projects that staff are working on;
- 2 active projects from Round 7, 1 Round 7 project rescinded funds (Varnum)
- 4 Water Access projects have been selected and 3 of these are now active projects;
- 6 Working Waterfront projects have been selected;
- 14 of 24 C&R projects have moved to active with the Board’s vote to accept appraised values and confirmation of LMF allocation;
- 2 of 4 Farmland projects have moved to active status, with 2 appraisals approved and 1 allocation confirmed.

Neil Piper asks if it is fair to say that allocations for active projects are more than the funding that is currently available?

Sarah - Yes.

Neil Piper - So more bonds need to be sold or these projects will not be funded?

Sarah – Yes.

6. **Katahdin Lake Fund** – Aroostook County funds – Kathy Eickenberg
Monument Brook, East Grand Lake Proposal 6,066 acres in fee, Orient, Aroostook County
Sponsored by Department of Agriculture, Conservation, Forestry, BPL
- **Overview of fund:** Funds were obtained when BPL consolidated public lots and sold/traded state lands with legislature’s approval. Legislature directed that funds were to be held by LMF.
 - **Overview of Project:** Monument Brook project includes 5,992 acres to be acquired to replace 2,736 acres sold. Acres to be acquired include 4.8 miles of shoreline which replace 3.6 miles sold and 1,750 acres of Deer Wintering Area, replacing 500 acres sold. This project includes acquisition of fee lands and a conservation easement. LMF funds will only go toward fee acquisition.
 - **Overview of Board allocation:** In October, 2011, the LMF Board allocated \$2,094,727 from the Katahdin Lake fund toward the Monument Brook project. Kathy provides a copy of the application that was submitted to LMF Board at that time.

MOTION: Quorum not met.

Break – 10 minutes 2:40-2:50pm

Public is welcome to stay.

7. **C&R Scoring & Selection Process Work Group** **Attachment F**
This work group was created by the Board in September 2014 to look at ways to clarify and simplify the C&R scoring and selection process. The work group met in October, 2014 and March 2015.

Tom presents 9 issues the work group discussed and summarizes the issues addressed and their recommendations. Discussion ensued on the recommendations.

MOTION: Quorum not met.

BILL: The last slide on this topic asks you if you want to disband the C&R Scoring and Selection Process Workgroup. Staff recommends it be disbanded unless you prefer additional work be done.

MOTION: Quorum not met.

8. **LMF 2015 Government Evaluation Act Report** **Attachment G**
LMF and Office of Policy and Management Staff
Sarah presents 3 slides reviewing requirements of the GEA report and data OPM would like included in the report. Sarah explains the GEA report is required by statute and is a report of the Board to the legislature on how well the program is meeting its legislative mandates. Typically, LMF staff has developed the report for the Board’s review and approval. The report is due to the legislature November 1, 2015.

Board members are given an opportunity to ask questions of OPM Director and an opportunity to discuss the Emerging Issues component of the report.

Emerging issues:

Ben Emory questions conflict of interest for the Commissioners.

Sarah explains that it is her understanding that the definition for conflict of interest that applies to all Board members is limited to financial benefit.

Ben states that his perspective is that the definition is too narrow, and that Commissioners are in a position where if they comply with the Governor's wishes regarding LMF, there is a financial benefit to them in that they get to keep their jobs.

Bill Vail states he has been on the board for a long time and doesn't believe there is a conflict of interest for the Commissioners.

Discussion ensued on the role of the Commissioners on the LMF board and the difficulty of proceeding with the program.

Ben notes that while the LMF Director, staff and program have to be housed somewhere, the Director should be autonomous from the Commissioner of the department where LMF is housed. Is LMF Director censored in her communications to the Board? Sarah responds that she tries to be professional which may be perceived as cautious in her communications with the Board, but she is not censored.

Several members indicate they would like to hold a workshop for the board to discuss emerging issues and policy discussions. Chairman Vail agrees this would be helpful. Sarah indicates she will take the lead in coordinating this.

Neil Piper reviews several thoughts he has for emerging issues for the GEA report:

- Conservation easement registry is not a requirement of LMF legislative statute. How does it impact the board?
- What are the current and future priorities for LMF?
- Review of our stewardship responsibility for easements projects;
- Database for appraisals and data management – making LMF data accessible, useable and reliable.

Sarah then asks Mr. LaBonte to introduce himself and discuss the process for Board involvement in the development of the GEA report.

Mr. Jonathan LaBonte, Director of the Office of Policy and Management thanks the Chairman and Board for the opportunity to speak. Mr. LaBonte indicates that he is not opposed to meeting with the Board in August to go over the report and see if there are more emerging issues identified by the Board.

Jim Norris asks whether the Board will have an opportunity to add to the report.

Mr. LaBonte replies yes and when asked whether that would occur at the September Board meeting, he indicated that he would work with the LMF Director and Board Chair to determine how to move forward with Board participation. Jim Norris also asked whether the GEA and review of LMF appraisals constituted the Governor's investigation of the LMF Program.

Mr. LaBonte – Explains that the Office of Policy and Management is created in statute and is housed in the Executive Branch. The mission of the Governor's Office of Policy and Management is to improve the performance of state government.

Mr. LaBonte explains that OPM will be taking the lead in drafting the GEA report and will work with LMF staff and Board as co-authors of the report. It is his expectation that OPM and the LMF Board can come to agreement on the submission of a single report to the legislature.

Alan Stearns, Director of Royal River Conservation Trust, states that as an applicant, an emerging issue that he faces is that RRCT and others applicants have projects at risk due to the lack of available funds and potential loss of \$6.5million in bond funds. Alan encourages the board to reach out to land trust for their opinions on other emerging issues.

Chairman Vail asks Mr. LaBonte if the LMF Program is in suspension?

Mr. LaBonte - The Governor's concerns are being address through this report and encourages the Board not to interpret this review as the Governor wanting to stop the LMF program. The GEA report and OPM review will help to inform the Governor's long-term intention for the Program.

Mr. LaBonte encourages Board members to call him with any questions or comments.

Ed Meadows, Avocet Group and past LMF Director, states it is encouraging that Mr. LaBonte will provide a draft OPM report for the Board's review, possibly at the September 2015 meeting. The Board's comments on the report will be important.

Mr. Meadows went on to say that the questions attached to Mr. LaBonte's June 4, 2015 letter appear to indicate some misunderstanding of the mission and accomplishments of the LMF program. Mr. Meadows then gave specific examples of this and offered to share his experience with the OPM staff.

Mr. Meadows reminded the Board that they are a policy making body appointed by the Governor, as such they can:

- identify questions and issues you feel should be addressed in the reviews
- invite public comments on the program, unmet needs, mission and suggested enhancements
- demand critics provide documentation, not just allegations, of problems with the program
- be a strong voice for the investments you are making that support our natural resource agriculture and recreation industries
- articulate LMF's role as key cog in the mission of the departments represented on the board - DACF, IFW and DMR
- offer your own comments, findings and recommendations of the Board to the legislature

Mr. Meadows went on to encourage the Board to schedule meetings to address these critical matters, now while these reviews are going on. The Board sets the policy and priorities for the program. Board members are all appointed by the Governor. Your voice should be incorporated into the review.

Mr. Meadows also reminded the Board that in his November 2014 presentation to you, he outlined several needs for the future, including the need for adequate funding so staff and the Board can inspect properties, hold public meetings, publish materials and web- based apps about public access to the properties and invest in adequate technology for program records and public access to the information.

9. Staff Updates – LMF Director

- Update on increased LMF budget for Board per diem expenses
- Neil asks for info on enough money for other group meetings and appraisals
- Change LMF AOC date to 8/25

10. Adjourn: 4:25pm

Next AOC meeting:	August 25, 12:30 pm
Next Board meeting:	September 15, 1:00 pm