

**Land for Maine’s Future Workgroup Meeting
Friday, September 11, 2020; 9:00 a.m. - 12:00 p.m.**

Join Zoom Meeting

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Desired Outcomes - By the end of this meeting, we will have:

- Reviewed the Workgroup’s purpose, guiding principles, meeting operating agreements, timeline, and decision making process
- Agreed upon the goal and objectives of the Workgroup
- Reviewed materials relevant to the Workgroup’s scope
- Identified further information needs
- Discussed how best to bring diverse perspectives to this process

Agenda

What	When
Introductions and Agenda Review	9:00 - 9:15
Workgroup Purpose, Guiding Principles, Meeting Operating Agreements, Timeline, and Decision Making Process	9:15 - 10:00
Goal/Objectives	10:00 - 10:15
Materials Discussion, Missing Ideas, and Further Information Needs	10:15 - 11:15
Ensuring Diverse Input	11:15 - 11:45
Public Comment, Next Steps, +/-	11:45 - 12:00

Land for Maine's Future Workgroup

LMF Board Members

Amanda Beal, Commissioner, Department of Agriculture, Conservation and Forestry

Roger Berle, public member

Judy Camuso, Commissioner, Department of Inland Fisheries and Wildlife

Don Kleiner, public member

Barbara Trafton, public member

Public Members

Adam Bishop, Maine Farmland Trust

Kate Dempsey, Maine Chapter of The Nature Conservancy

Tom Duffus, The Conservation Fund

Tim Glidden, Maine Coast Heritage Trust

Karin Tilberg, Forest Society of Maine

Nat Tupper, Town of Yarmouth

Angela Twitchell, Brunswick-Topsham Land Trust, Maine Land Trust Network

State Agency Staff Members

Sarah Demers, Land for Maine's Future Program

Deirdre Gilbert, Department of Marine Resources

Facilitator

Jo D. Saffair

Statement of Purpose: The purpose of this Workgroup is to both hear feedback from and discuss with cooperating entities how to collaborate most effectively in meeting shared goals to conserve natural, recreational, and working lands. The LMF Board supports discussing the foundational aspects of the relationship between LMF and its valuable partners, and developing recommendations for consideration by the full LMF Board that help ensure the Program is accessible and impactful, while also maintaining the qualities that have engendered strong public support since the Program's establishment in 1987.

Guiding Principles: As a Program primarily funded through voter-approved bonds, maintaining public support and trust are critical to the success of the LMF Program. Recommendations from the Workgroup will recognize that the LMF Program and its Board have a responsibility to support projects consistent with priorities set by statute and bond specifications, and in a manner that maintains the public's trust. Recommendations of the Workgroup will be consistent with state laws, policies and practices. The Workgroup may also recommend changes in state law, policies and practices that would benefit the LMF Program. Workgroup members will actively support the creation of an inclusive process that encourages and facilitates diverse public involvement.

Timeline: The Workgroup has committed to holding three meetings, to be held in September, October, and November, 2020. The LMF Board may, with input from the Workgroup, decide additional meetings will be held beyond November, 2020.

Meeting Operating Agreements:

- Meetings will start and end on time.
- Meetings are open and materials are available to the public, and comments are on the record.
- Come prepared, having read all meeting materials in advance.
- Be present and engaged.
- Listen with curiosity and an openness to learning and understanding.
- Strive for equal air time, thereby supporting fellow members' participation.
- Respect all contributions and ideas, directing critiques at ideas rather than individuals.
- Clearly identify personal conflicts of interests.
- Adopt a creative problem-solving mind set.
- Humor is welcome, even when addressing a serious topic.

Decision-making: Decisions by the Workgroup are advisory and represent recommendations to the LMF Board. The Workgroup will strive to make decisions by consensus. Where not possible, recommendations supported by the majority will be advanced, with the alternative perspective noted, if desired by the minority.

Land for Maine's Future Workgroup September 11, 2020 Meeting Materials

A. Maine Revised Statutes Title 5 Chapter 353 - Land for Maine's Future

§6200. Findings

The Legislature finds that Maine is blessed with an abundance of natural resources unique to the northeastern United States; that these natural resources provide Maine residents and visitors to the State with an unparalleled diversity of outdoor recreation opportunities during all seasons of the year and a quality of life unmatched in this nation; that the continued availability of public access to these recreation opportunities and the protection of the scenic and natural environment are essential for preserving the State's high quality of life; that public acquisition programs have not kept pace with the State's expanding population and changing land use patterns so that Maine ranks low among the states in publicly owned land as a percentage of total state area; that rising land values are putting the State's real estate in shoreland and resort areas out of reach to most Maine citizens and that sensitive lands and resources of statewide significance are currently not well protected and are threatened by the rapid pace of development; and that public interest in the future quality and availability for all Maine people of lands for recreation and conservation is best served by significant additions of lands to the public domain. [PL 1993, c. 728, §2 (AMD).]

The Legislature further finds that Maine's private, nonprofit organizations, local conservation commissions, local governments and federal agencies have made significant contributions to the protection of the State's natural areas and that these agencies should be encouraged to further expand and coordinate their efforts by working with state agencies as "cooperating entities" in order to help acquire, pay for and manage new state acquisitions of high priority natural lands. [PL 1987, c. 506, §§ 1, 4 (NEW).]

The Legislature declares that the future social and economic well-being of the citizens of this State depends upon maintaining the quality and availability of natural areas for recreation, hunting and fishing, conservation, wildlife habitat, vital ecologic functions and scenic beauty and that the State, as the public's trustee, has a responsibility and a duty to pursue an aggressive and coordinated policy to assure that this Maine heritage is passed on to future generations. [PL 1987, c. 506, §§ 1, 4 (NEW).]

SECTION HISTORY

PL 1987, c. 506, §§1,4 (NEW). PL 1993, c. 728, §2 (AMD)

B. Important LMF pillars

- **Statewide bi-partisan support**
- **Public access (statutory language):** When acquiring land or interest in land, the board shall examine public vehicular access rights to the land and, whenever possible and appropriate, acquire guaranteed public vehicular access as part of the acquisition. **(bond language provides exemption for farmland and working waterfront)**
- **Purchase Price Determined by Appraised Value (statutory language):** Payment is based on appraised value. Board policy requires that the fair market value of a property or a conservation easement is determined through a qualified independent appraisal and that the acquisition price reflects the appraised value.

- **Reserved Rights and Title Issues:** Clear title is required. If clear title is not available at the time of application, the applicant is required to obtain clear title prior to closing.
- **Survey:** Complete an acceptable boundary survey and provide GIS-compatible electronic version of survey (**for inclusion in state GIS conserved lands data layer**)
- **Environmental Concerns:** Properties that receive LMF funds must be free from all environmental concerns at the time of closing. Prior to closing, all projects must submit a Phase I Environmental Site Assessment (ESA) report to LMF dated within 1 year of closing.
- **Stewardship & Management (statutory language):**
Applicants shall provide:
 - A. A description of the management envisioned for the property for the first 10 years following acquisition. When the application proposes acquiring an interest in property, the application must provide a description of the anticipated management responsibilities retained by the landowner and those to be assumed by the State or a cooperating entity; [PL 2001, c. 564, §1 (NEW).]
 - B. Preliminary estimates of the costs to the State or a cooperating entity of managing the land for the uses proposed in the application; and [PL 2001, c. 564, §1 (NEW).]
 - C. Preliminary estimates of the costs associated with monitoring compliance with an easement when an interest in land is acquired.

C. Bond and Legislative Directives

Bonds

1. Hunting, fishing, trapping and public access may not be prohibited on land acquired with bond proceeds, except to the extent of applicable state, local or federal laws, rules and regulations and except for working waterfront projects and farmland protection projects. **(2009, 2011)**
2. Payment from bond proceeds for acquisitions of local or regional significance, as determined by the Land for Maine's Future Board, may be made directly to cooperating entities as defined in Title 5, section 6201, subsection 2 for acquisition of land and interest in land by cooperating entities, (statute requires title to be held by State) subject to terms and conditions enforceable by the State to ensure its use for the purposes of this Part. (LMF Project Agreement fulfills this requirement) (2009, 2011)
3. In addition to the considerations required under Title 5, chapter 353, the board shall give a preference to acquisitions under this subsection that achieve benefits for multiple towns and that address regional conservation needs including public recreational access, wildlife, open space and farmland. **(2009, 2011)**
4. The bond funds expended for conservation, recreation, farmland and water access must be matched with at least \$6,500,000 in public and private contributions. Seventy percent of that amount must be in the form of cash or other tangible assets, including the value of land and real property interest acquired by or contributed to cooperating entities, as defined in Title 5, section 6201, subsection 2, when property interests have a direct relationship to the property

proposed for protection, as determined by the Land for Maine's Future Board. The remaining 30% may be matching contributions and may include the value of project-related, in-kind contributions of goods and services to and by cooperating entities. (this is where current budget language originates from) (2009, 2011)

5. Because portions of the State have deer populations that are struggling and deer wintering habitat protection is vital to the survival and enhancement of these populations, projects that conserve and protect deer wintering areas are considered to have special value and must receive preferential consideration during scoring of new applications for support under Title 5, section 6200 et seq. (2011)
6. The Department of Conservation and the Department of Inland Fisheries and Wildlife shall take a proactive approach to pursuing land conservation projects that include significant wildlife habitat conservation, including conservation of priority deer wintering areas. The Department of Inland Fisheries and Wildlife shall include in conservation negotiations under this section provisions for the appropriate management of priority deer wintering areas.

Land and interest in land purchased by the State that contains wildlife or fish habitat must be managed by the Department of Conservation using protocol provided by the Department of Inland Fisheries and Wildlife, and land and interest in land that is subject to a conservation easement and that contains wildlife or fish habitat must be managed using protocol provided by the Department of Inland Fisheries and Wildlife. (AGs office interpretation is that this applies to ALL lands acquired by the state and easements using these funds) (paraphrased 2001)

Statutes

§6207. Acquisition criteria

2. Determination of state significance. In determining whether a proposed acquisition must be funded, in full or in part, by the Land for Maine's Future Fund or the Public Access to Maine Waters Fund, the board shall consider whether the site is of state significance and:

A. Contains recreation lands, prime physical features of the Maine landscape, areas of special scenic beauty, farmland or open space, undeveloped shorelines, significant undeveloped archeological sites, wetlands, fragile mountain areas or lands with other conservation, wilderness or recreation values; [PL 2007, c. 64, §1 (AMD).]

B. Is habitat for plant or animal species or natural communities considered rare, threatened or endangered in the State; [PL 2007, c. 353, §1 (AMD).]

C. Provides nonmotorized or motorized public access to recreation opportunities or those natural resources identified in this section; or [PL 2007, c. 353, §2 (AMD).]

D. Provides public water supply protection when that purpose is consistent and does not conflict with the natural resource conservation and recreation purposes of this chapter.

3. Priorities. Whenever possible, the Land for Maine's Future Fund and the Public Access to Maine Waters Fund must be used for land acquisition projects when matching funds are available from cooperating entities, as long as the proposed acquisition meets all other criteria set forth in this chapter.

For acquisitions funded by the Land for Maine's Future Fund, the board shall give priority to projects that conserve lands with multiple outstanding resource or recreation values or a single exceptional value, conserve and protect deer wintering areas, provide geographic representation and build upon or connect existing holdings.

When acquiring land or interest in land, the board shall examine public vehicular access rights to the land and, whenever possible and appropriate, acquire guaranteed public vehicular access as part of the acquisition.

4. Nonqualifying expenditures. The board may not fund:

A. Facilities for organized recreational activities, including, but not limited to, ballparks, tennis courts or playgrounds; [PL 1987, c. 506, §§1,4 (NEW).]

B. Except as provided in section 6203, subsection 3, paragraph B and section 6203-A, subsection 3, paragraph B, capital improvements on any publicly owned facilities; and [PL 1993, c. 728, §10 (AMD).]

C. The acquisition of land of which the primary use value has been and will be as commercially harvested or harvestable forest land.

D. Compiled Partner Comments

The comments below were compiled as a result of two meetings with staff from LMF, Department of Inland Fisheries and Wildlife, DACF Bureau of Parks and Lands and Bureau of Agriculture and Maine Coast Heritage Trust, Maine Farmland Trust, Brunswick-Topsham Land Trust, Blue Hill Heritage Land Trust, Trust for Public Land, Moosehead Region Economic Development Corp., and Jerry Bley from Creative Conservation, LLC. These entities were selected for both their recent experience with LMF and for many, their long history with the LMF program, among other unique and valuable perspectives they could offer.

Additional comments were provided by Board members following conversations with conservation partners.

Process

- Describe how projects are prioritized post-award and provide an estimated time frame for each of the steps of the process.
- The legal review of easements is complex and time-consuming. Clarify roles and responsibilities of all parties (landowner and their attorney(s), applicant and their attorney(s), DSA, LMF staff and state attorney). There is a perception that LMF attorneys play a larger role than necessary;
- LMF process has become more regulatory than supportive. Some applicants feel the process sets them up to fail and to give less money to their projects.
- Monies aren't being allocated in a timely manner (consider process vs. capacity issue).
- Consider a simplified process for applicants requesting smaller amounts of LMF funds. (simplified [LMF appraisal standards](#) already exist for projects < 50 ac. and valued at < \$100K)

Pre-proposal and application

- Re-vamp the budget format. General consensus that simplifying the budget requirements would be a big improvement to the LMF application process. The match is complicated and difficult for applicants to figure out.
- The role of stewardship needs a stronger value in the match and should be eligible for more support from LMF funds.
- Create more predictable application schedule to regulate work flow and set public expectations.
- Lengthen the application time frame giving DSAs more time to vet requests for sponsorship and front loading some of the process in the application to ensure all parties are clear on how the property will be used and managed. **(State agencies specifically requested this)**
- The workbook has grown in length over the years to an unwieldy document. Identify opportunities to streamline.

Appraisal Process

- Maintain transparency and clarity around the appraisal process, describe roles and responsibilities of each party.
- LMF should provide flexibility on appraisal review order (last rather than first) on projects with federal Forest Legacy or ALE/ACEP. LMF recent practice has been to review federally partnered appraisals AFTER they have been approved by the federal funder. Alternatively, give the Director the authority to exempt an applicant from the typical due diligence sequencing.
- LMF Project Managers should review due diligence simultaneously with the appraisal review, and flag potential problem areas to the applicant. Final due diligence review and approval would still occur after appraisal is approved. **(this is currently happening)**
- More attention needs to be given to selecting qualified appraisers and allowing them to use their professional skills to complete appraisals. The Appraisal Oversight Committee needs a defined job description that doesn't create an adversarial situation.
- Do away with the AOC and replace it with a professional appraisal review paid for by the applicant.

Project Agreement

- The project agreement needs to be simplified.
- Clarify roles and expectations for all parties (applicants and their designees, LMF project managers, DSA staff, state attorneys and Board). There is a perception that LMF attorneys play a larger role than necessary.
- Annual reporting requirements and standard approval processes in the PA are overly burdensome and need to be slimmed down.

Management Plans

- Management plan expectations should be more explicit in the workbook.
- DSA's management plan expectations are unworkable – comment directed at the need to have a draft of interim management plan in place at the time of closing.

- There is varied organizational capacity of partners to predict how a property will be managed and the sites' possibilities and limitations. Need to "live" with a property for some time to understand its potential and not limit future uses based upon an inadequate understanding at the time of application.
- Providing sample management plans, or templates could be useful.
- Developing the management plan before closing was helpful for one partner as it clarified the intended uses and expectations with the municipality.

E. Maine Land Conservation Task Force - relevant recommendations

Action Item 1.D: The Land for Maine's Future Program should dedicate the maximum amount allowed under statute (5% of appraised value) to Access Improvement Grants to facilitate public access to acquired lands.

Action Item 2.A: Amend the LMF statute or create bond language providing guidance to the Land for Maine's Future Board to fund, in addition to its current programs, "Community Projects" that meet local and regional objectives.

Action Item 3.A: Put forward a bold new \$75 million Land for Maine's Future Bond Issue that will provide stable funding for the program over the next five years.

Action Item 3.C: Increase LMF Program staffing and legal assistance (at least to previous levels) and provide related state agency support (from DACF, IF&W and DMR) in order to eliminate the backlog of acquisition projects now in the pipeline and adequately handle those to be created through new bond funding.

Action Item 3.D: Have the next LMF Board work with stakeholders to identify opportunities to streamline, clarify, and provide consistency to the LMF process so that applicants can navigate projects forward in a timely manner and effectively coordinate LMF acquisitions with federal acquisition programs that can leverage state dollars.

Action Item 5.A: As part of a broader development of state climate policy, amend the LMF statute and/or create bond language to support projects that promote resiliency and connectivity and will help Maine's natural ecosystems, wildlife and natural resource- based economies adapt to a changing climate.

Action Item 6.A: LMF should continue to place a high priority on lands that support Maine's vibrant forestry, farming, fishing and tourism industries. The State should be aggressive in seeking funds from the Forest Legacy Program, the NRCS Agricultural Conservation Easement Program and other non-state dollars that support working lands and waterfront conservation.