



Land for Maine's Future Program

Minutes of the Meeting

September 13, 2016

32 Blossom Lane, Marquardt Building, Room 118
Augusta, Maine

Board Members Present:

Neil Piper, Fred Bucklin, Brad Moll, Robert Meyers, Commissioner Patrick Keliher (Chair),
Commissioner Walter Whitcomb, and Commissioner Chandler Woodcock

Board Members Absent:

Lisa Turner and Harry Ricker

Staff Members Present:

Sarah Demers, R. Collin Therrien, and Tom Miragliuolo

Others:

Aline Smith, ME Department of Agriculture, Conservation, & Forestry
Bob Marvinney, ME Department of Agriculture, Conservation, & Forestry
Stephanie Gilbert, ME Dept. of Agriculture, Conservation & Forestry
James P. Norris, citizen
Todd Souza, Town of Wiscasset
Diano Circo, Trust for Public Land
Jeff Romano, Maine Coast Heritage Trust
Jason Libby, Office of Policy & Management
Warren Whitney, Maine Coast Heritage Trust
Greg Tansley, City of Biddeford
Christine Bennett, Kittery Land Trust
Theresa Kerchner, Kennebec Land Trust
Keith Fletcher, Great Work Regional Land Trust
Rob Wood, The Nature Conservancy
Jerry Bley, Creative Conservation, LLC

1. Welcome and Introductions

Chairman, Commissioner Patrick Keliher called the meeting to order at 1:05 p.m. and welcomed everyone. He asked for attendees to sign in, gave directions to the bathrooms, and asked for introductions.

2) **Minutes**

Motion. A motion was made by Neil Piper and seconded by Robert Meyers to accept without objections the June 21, 2016 Minutes of the Meeting. Board vote was unanimous.

3) **Bond Balances** - Overview

Status of Funds		
ATTACHMENT A		
As of July 31, 2016		
Authorized	Bonds to be Sold	Cash on Hand*
PL 2007, Ch. 39 C&R and Farmland	\$0	\$39,510
<hr/>		
PL 2009, CH. 645		
C&R	\$3,250,000	\$2,848,163
Farmland	\$0	\$ 389,883
Working Waterfront	\$0	\$ 278,035
Funds Remaining	\$3,250,000	\$3,516,081
<hr/>		
PL 2011, Ch. 696		
C&R, Farmland, WWF	\$3,000,000	\$500,000
<hr/>		
Funds Remaining	\$6,250,000	\$4,055,591
*Subject to end of month reconciliation		

Sarah noted that bonds were sold in June 2016

4) **Project Allocations & Status**

(Note: these are funds that have been allocated to active projects.)

Project Allocations & Status		
Active Projects		Allocations
C&R	19	\$4,407,213
Farmland	1	\$ 75,000
Water Access	3	\$ 235,000
Working Waterfront	3	<u>\$ 621,500</u>
TOTAL		\$5,338,713

Neil Piper asked Sarah if those projects that have been formally withdrawn are included in the total (\$5.3M). Sarah indicated only active projects are included in these totals.

5 a) One Year Extension Requests

- Roberts Farm Preserve

The applicant provided communication that they are not able to move forward with the seller on this project. Instead, the applicant again requested that the Board consider reallocating their LMF funds to their Noyes Mountain acquisition. Board members felt that reconsidering this request would be inappropriate and would constitute a 'new' proposal.

Motion: A motion was made by Commissioner Whitcomb and seconded by Commissioner Woodcock to not allow swapping the Robert's Farm Preserve project for the Noyes Mountain project. Vote was unanimous.

- Weston Homestead

Project has been withdrawn; unable to reach an agreement with seller.

- Gardiner Pond

After a brief report on the status of the project from Wiscasset representative, the board granted the project a 1 year extension.

- Seboomook

Project has been withdrawn by the Designated State Agency

- Biddeford River Walk Park Project

After a brief report on the status of the project from Biddeford representative, the board granted the project a 1 year extension.

Motion: When asked if a motion was need on these extensions, Commissioner Keliher stated no.

5 b) Project Amendment Request – Parker Farm

- Increase from 27 acres to 58 acres
- Change from 3 easements to 2 easements
- Request decreased from \$100,000 (*the original funding request*) to \$75,000
- Easement pre-acquired with federal funding from USDA, NRCA, and private funds.

Overview:

This project was selected in 2014 as a ‘finalist’ for funding. In May of 2015 the Appraisal Oversight Committee voted to accept an appraisal for 36 acres. With LMF funds not available and pressure to close due to the landowner’s health, Great Works Regional Land Trust (GWRLT) moved forward and acquired two easements. In June 2016, GWRLT asked the board for approval to amend their original proposal to 58 acres, covering the entirety of the farmland easement and a small portion of the forestland easement as well as seeking reimbursement of \$75,000 for the purchase of the easement.

Note: Sarah stated that the *LMF Proposal Workbook Adopted Policy & Guidelines* (LMF Workbook) allows for reimbursement for fee acquisition but LMF has not provided reimbursement for pre-acquired easements.

The Board directed LMF staff to research what legal mechanism might be used to record the LMF investment and whether LMF funds would be adequately protected by such a mechanism before considering GWRLT amendment and request for reimbursement.

Staff met with Hope Hilton, Esq. and Assistant Attorney General Lauren Parker to discuss potential solutions. Two options were presented and reviewed by NRCS staff representing the federal funds contributed to the project, who indicated to LMF staff that both options could be possible, but documents would have to be reviewed and approved by their attorneys.

Option 1: Amend recorded easement to reference funding from LMF and record LMF Project Agreement documenting LMF financial contribution.

Consideration: Recorded easement terms are not fully consistent with standard LMF easement and Project Agreement terms. NRCS easement will control over LMF Project Agreement.

Option 2: Record a secondary lien using the LMF Project Agreement, which would document the LMF contribution but would be subservient to NRCS easement. NRCS would need to sign a waiver of any objection to the lien.

Consideration: LMF contribution and requirements will only be in the Project Agreement – not part of the deed/easement to the property.

Commissioner Keliher noted that both options are outside of LMF Workbook guidelines and Sarah stated that the Project Agreement(s) would need to be modified for these circumstances.

Also at issue was whether or not the Board would be establishing a new precedent where any applicant could come back to renegotiate their project. Is there unfair advantage, intentional or not? The LMF Workbook does not address pre-acquisition and reimbursement for the purchase of easement(s). Neil Piper and others suggested looking into address this issue in a future update of the LMF Workbook.

Keith Fletcher from Great Works Regional Land Trust indicated that he would prefer **Option 2**. Option 1 would create a tax deduction problem with the IRS. Also if the Board goes with the property boundaries used for the federal funder, it would cost GWRLT \$4-5,000 more for a new appraisal.

Mr. Fletcher noted that the Purchase & Sales Agreement was signed. The trust felt comfortable in moving ahead due to receiving a “finalist” letter. Sarah stated that the finalist letter sent to applicants implies only that an application was approved to move forward to the next step and is subject to meeting all conditions and due diligence items listed in the LMF Workbook.

Fred Bucklin likes Option 1.

Commissioner Whitcomb and Commissioner Woodcock did not feel comfortable with moving ahead with GWRLT amendment request.

Motion: A motion was made by Robert Meyers and seconded by Fred Bucklin to not move forward with reimbursement of the \$75,000 for pre-acquisition.

Vote: 5 in favor of the motion, 1 opposed (Neil Piper) and Chairman Keliher abstained.

Presumpscot Regional Land Trust & Windham Land Trust Merger

Project Agreement(s) – in the event of any sale or transfer, the Cooperating Entity shall provide at least 60 days prior written notice to Designated State Agency (DSA) and LMFB and shall obtain written consent to transfer.

Motion: A motion was made by Neil Piper and seconded by Commissioner Woodcock to consent to the transfer with the following conditions:

- LMF Director to work with the lead official(s) of both land trusts and the DSA to develop an Assignment of Project Agreement prior to Board Chairman’s signature.
- Assignment of Project Agreement must be recorded at the same time as the recording of the transfer of title.
- LMF Director and Board to receive written confirmation that all tasks associated with the conveyance of the assignment are completed including the recording of the respective Assignment documents in the Registry of Deeds.
- All recoded documents will be provided to LMF Director within 30 days of closing.

Vote was unanimous.

Office of Policy & Management – Requested Reviews

- Brave Boat Headwaters
 - ✓ The appraisal was accepted by the Appraisal Oversight Committee.

- Howard Hill
 - ✓ On September 9, 2016 the AOC reviewed comments from the appraiser
 - ✓ Waiting for additional information on highest and best use determination
 - ✓ The committee at present doesn't have a recommendation; still evaluating.
 - ✓ Will come back to the Board with recommendations at the next Board meeting.

- Clapboard Island
 - ✓ There was a site visit last Friday (9/9/16)
 - ✓ Amount originally requested from LMF in 2014 was \$75,000 – now \$68,600
 - ✓ The Board did approve the \$68,600
 - ✓ Fred Bucklin stated that they did everything right- great stewardship program and he support this project 100%

Note: No vote required on these 3 projects. Consensus expressed by the Board that these are viable projects. A memo will be submitted to the Office of Policy and Management once the Appraisal Oversight Committee has finalized its review and reported to the Board its recommendation for the Howard Hill project.

6) **Committee Assignment – Appraisal Oversight Committee**

One additional member was needed on the Appraisal Oversight Committee. Brad Moll volunteered. Commissioner Keliher reported we now have 4 members on this committee.

7) **Staff Updates**

- Board Site Visits

At the Board's request, Sarah reported on several options for site visits by the Board

Reimbursements for Board travel and attendance for 6 meetings/year costs ~ \$1,300 or 10% of the LMF general fund budget. Sarah is willing to allocate an additional \$1,300 toward site visits in this fiscal year. A van from central fleet would transport members at a cost of 0.76 cents/mile.

Appraisal Oversight Committee Site Visits: Sarah suggested that the AOC could conduct a site visit to **Gardiner Pond** (*Dresden/Wiscasset*) and **Caribou Bog** (*Old Town*) in 1 day and the **Biddeford Riverwalk** (*Biddeford*) on a separate day.

Site visits to Gulf Hagas or Redington is cost prohibitive. In addition, these projects require US Forest Service appraisals and appraisal review prior to being reviewed by LMF.

Board Site Visits: This Fall, the Board could travel from Augusta to Thomaston and south to visit Weskeag, A&R and High Island.

Sarah also suggested visiting Access Improvement sites in spring (2017). Board members could see how the properties are being used and maintained and the types of Access Improvements being undertaken.

It was suggested using an IF&W plane to visit certain remote sites and possibly take aerial photos. Commissioner Woodcock was not in favor but recommended considering using a 'drone' to capture video and pictures.

- Public Outreach & Data

Sarah referenced 2 web sites:

<http://ecophotography.photoshelter.com/gallery-collection/Land-for-Maines-Future/COOOOTs3cNqxc3Y8>

and

<https://uploads.knightlab.com/storymapjs/69515626e72f5a1115cd9cec01f633d5/knf/index.html>
(*this link will maintained by State Treasurer's Office*)

We will only be highlighting closed projects, with maps pictures and information for each project.

- Closed project Update:

Winterwood Farm has closed, with Knight's Pond and Merritt Cove projects scheduled to be closing next.

- Communication from Norm Gosline

A copy of Norm Gosline letter and article from the Appraisal Institute concerning inflated conservation donations being used as tax shelters was distributed to the Board. It noted that there is potential for abuse, not only for IRS donations but also in hyper-inflated conservation donations being used as tool for wealthy investors.

LMF should be on the lookout for overvalued appraisals when requesting LMF funding.

8) **2015 Maine land trust census data & MLTN land trust standards and practices and national accreditation**

Maine Land Trust Network

- MLTN brings organizations together to share best practices and build capacity for land conservation and stewardship
- Provides resource information for landowners and land trusts
- LMF participates yearly in MLTN conference, attended by 500+ individuals annually;
- They provide newsletters with information regarding best practices, new laws, and funding opportunities

Maine Land Trust Census Data

- Distributed survey to 90 land trust in Maine; 72 responded, 67 completed the survey in its entirety. Census is completed approx. every 5 years
- Maine land trusts own or hold easements on 2,503,060 acres, made up of 1,614 owned parcels and 1,726 held in easement (2015).
- Census includes data on how land trusts handle property taxes:
- Census details what resources are of highest conservation priority to land trusts

Land Trust Alliance

- LTA is a national organization providing Standards & Practices, Accreditation, Insurance
- 31% of Maine land trusts are nationally accredited, 36% expected to become accredited and 33% do not plan to pursue accreditation. Accreditation is done thru the Land Trust Alliance.
- Accreditation demonstrates that a land trust has successfully implemented ***Land Trust Standards and Practices.***

Motion: a motion was made by Commissioner Keliher and seconded by Neil Piper to adjourn. Vote was unanimous.

ADJOURN: 3.00 P.M.