MINUTES OF THE MAY 16, 2013 MEETING OF THE MEMBERS
OF THE FINANCE AUTHORITY OF MAINE

Chair Snowden called the May 16, 2013 meeting of the members of the Finance Authority of Maine to order at 9:04 a.m. at the Finance Authority of Maine, 5 Community Drive, Augusta, Maine.

Chair Snowden noted for the record that the members had received an Agenda and Notice of Meeting *(see Certificate of Mailing attached as Appendix 1)*, and that notices of the meeting had been published in certain newspapers throughout the state *(see Affidavits of Publication attached as Appendix 2*).

A. CALL TO ORDER

A1: Ascertainment of Quorum

Chair Snowden called the roll of the members and noted that there were sufficient members present for the purpose of beginning the meeting.

Those members present were as follows:

Susan Snowden, Chair
Patrick Murphy, Treasurer
Anthony Armstrong
George Gervais
Reis Hagerman
Patrick Keliher
Glenn Lamarr
Larry Mitchell
Raymond Nowak
Rosaire Pelletier
Christopher Pierce
Evelyn Silver

Those members absent:

Neria Douglass
Michael Mahoney
Cheri Walker, Vice Chair

Staff present:

Elizabeth Bordowitz, Chief Executive Officer
Christopher Roney, General Counsel
William Norbert, Governmental Affairs and Communications Manager
Robert Corey, Senior Credit Officer
Charles Emmons, Senior Commercial Loan Officer
Elizabeth Vanderweide, Director of Business Development & Customer Relations
Carlos Mello, Director of Finance and Lending

Angela Dostie, Program and Policy Manager
Ron Farris, Financial Analyst
Adele Bickford, Executive/Legal Assistant

Guests Present:

Chris Howard, Pierce Atwood
Kris Eimicke, Pierce Atwood
Jonathan Goldstein, Advantage Capital

A2: Approval of April 18, 2013 Board Meeting Minutes

A motion was made by Mr. Nowak and seconded by Dr. Silver to approve the minutes of the April 18, 2013 board meeting. The motion was approved by a vote of 12 in favor, 0 opposed and 0 abstentions.

R-05-16-13-01

Chair Snowden asked if a speaker has been selected for Showcase Maine in November. Ms. Bordowitz indicated that a speaker has not been confirmed and requested that members continue to make suggestions.

B. CHAIR'S REPORT

B2: Board Evaluation Survey

Chair Snowden emphasized the importance of the survey and asked members for their support for 100% participation by May 30th.

B1: Report of the Finance and Audit Committee for April 30, 2013

Chair Snowden reviewed the report of the Finance and Audit Committee in the absence of its chair, Cheri Walker. The first topic, the FAME audit, included a call with Baker Newman and Noyes (BNN) in which the timing of the audit was stressed. BNN's audit is dependent on PricewaterhouseCoopers' (PwC) completion of the NextGen audit. Other topics discussed were investment activity, the NextGen audit and the proposed FY 2014 budget, which is an action item later in the agenda. The committee is unanimously recommending approval of the FY 2014 budget. Merit increases and the issue with the Maine Financial Institutions Trust insurance will be discussed under the action item related to the budget.

A motion was made by Dr. Silver and seconded by Mr. Lamarr to approve the report of the April 30, 2013 meeting of the Finance and Audit Committee. The motion was approved by a vote of 12 in favor, 0 opposed and 0 abstentions.

R-05-16-13-02

Chair Snowden notified board members via e-mail Monday that the Governor's office is not re-appointing Ms. Bordowitz to the CEO position at FAME and is opening a search for a new CEO.

Ms. Bordowitz thanked members for their support and has agreed to stay through the transition period.

Chair Snowden expressed that the board is fortunate to have Beth remain through the transition, and she called for an Executive Session to discuss transition plans and the board's involvement.

Dr. Silver moved to enter into Executive Session for discussion or consideration of the employment or appointment of employees of the agency. The motion was seconded by Mr. Hagerman and approved by a vote of 12 in favor, 0 opposed and 0 abstentions.

Members entered Executive Session #1 at 9:11 a.m.

Staff exited the meeting at 9:11 a.m.

Members exited Executive Session #1 at 10:10 a.m.

Staff re-entered the meeting at 10:10 a.m.

Mr. Hagerman exited the meeting at 10:10 a.m.

C: CEO'S AND STAFF REPORT

C1: CEO's Report

Ms. Bordowitz informed members that the September site visits and board meeting will be in Millinocket this year. Tours will include the Great Northern Paper facility and Northern Outdoor Center. She hopes to engage participants from the local area with ties to the logging and forestry industries, forestry land management, recreational and snowmobile related businesses. The meeting will be held at the Katahdin Region Higher Education Center, which provides programs to students from Eastern Maine Community College and the University of Maine System. Ms. Bordowitz invited members to make suggestions for other things in the area that are of interest to them.

A waiver will be necessary for FAME to apply for the $1.5 million College Challenge Access Grant (CCAG) that it has received each of the last three years. CCAG is a federal grant, which significantly supports FAME's outreach and college access counseling. The state does not meet the Maintenance of Effort requirement based on a calculation, which compares the state's FY 2012 commitment to fund public and private higher education to the average of the prior five years. The state FY 2012 figure fails to meet the requirement for private sector higher education. Ms. Bordowitz added that FAME has sufficient carry-forward to provide resources for next year.

As an organization, FAME applied to the Maine Employers Initiative, a program of the Maine Development Foundation offering scholarships to adults seeking higher education. The employer applies for one or more of its adult employees attending school, and to be eligible the employer must also contribute toward the employee's education, which FAME does. FAME applied on behalf of Tammy Holman, and she was one of 17 awardees of a $1000 scholarship chosen from the 180 applicants.

Ms. Vanderweide explained that the Whoopie Pies given to members is a “thank you” from the Harold Alfond Foundation. Whoopie Pies are given to FAME’s champion partners such as hospitals that help parents to aspire for a college education for their babies.

C2: College Going Rates

Ms. Bordowitz provided charts in the board packet that demonstrate the rise in the unmet need for college and the correlating rise in the amount of loans since 2008 in response to a discussion at last month’s board meeting. Ms. Bordowitz offered that the increased loan amounts could be the result of a rise in public institution rates and a decrease in income during the period from 2007 to 2013.

C3: Legislative Update

Mr. Norbert reported that the State FY 2014 budget is receiving a lot of attention as both sides appear to be quite far apart on such items as revenue sharing and tax reform. The Legislature has one month left in this session by statute. Committees are due to end their work by May 24th, and both chambers of the Legislature are meeting each day in an effort to meet the adjournment date. All FAME bills have been passed and now staff is reacting to other proposals, namely in energy, taxation, banking, education and workforce development. Responding to a question from Mr. Armstrong, Mr. Norbert stated that the New Markets Tax Credit amendment has been signed into law and that allocations are made per project rather than per entity as in the original legislation.

C4: Student Loan Insurance Update

Ms. Dostie reported that staff is pulling together the last details of the Student Loan Insurance Program and expects that loan insurance will be available to students for the fall. Although no banks have signed up to date, FAME is sharing information with the University Credit Union, Maine State Credit Union, Kennebunk Savings Bank, Seaboard Credit Union and Camden National Bank with the expectation that they will be aboard shortly.

C5: Strategic Plan Update

Dr. Silver exited the meeting at 10:27 a.m.

Dr. Silver re-entered the meeting at 10:29 a.m.

Commissioner Keliher exited the meeting at 10:35 a.m.

Ms. Dostie referred members to their board packets for the status of FAME’s 2012 – 2016 Strategic Plan goals and measurements. She reviewed each objective, indicating that goals A, B, C, E, F, and G would be met or exceeded. The attainment of Goals for customer and employee satisfaction and Financial Literacy of student loan insurance borrowers have not been determined as the results of the surveys are not yet available and the Student Loan Insurance Program does not take effect until July. Measurement of results (Objective J) for the Omnibus Poll remains to be determined since the poll differs historically from previous polls with its focus on customers rather than the general public. Mr. Pierce questioned the goals set for the customer and employee satisfaction surveys, noting that the goal is lower than actual for last year. Ms. Bordowitz responded that the goals were set after much discussion by the board last year. Mr. Nowak affirmed with Mr. Mello that although revenues increase, there can still be a decline in the fund balance, and he shared his concern for whether the revenues projected are enough to maintain a fund balance. Mr. Mello indicated that he shares that concern, and that he will be working with the Finance and Audit Committee to establish a five year plan to address it. Additionally, Mr. Nowak asked why Objective B would be dropped as Ms. Dostie had suggested previously. She clarified that it would be dropped from the list but would continue to be monitored. Mr. Nowak took exception to that as the measurement of risk in a portfolio is one of the more significant areas of the Strategic Plan that the board has weighed in on. Ms. Dostie stated that at a certain point the risk profile is no longer strategic but becomes the course of doing business. Mr. Nowak challenged that, stating that the risk profile range as established is very strategic. Ms. Snowden suggested that at some point in the future, a discussion should be held as to whether this objective is better placed in the Strategic Plan or on the Scorecard. Ms. Bordowitz added that there has been a recent telephonic meeting of the Strategic Planning Committee and further advised members that Chris Pierce has been added to that committee.

C6: Monthly Update for Board on Lumber, Wood and Paper Industry

Mr. Corey reported that the numbers for the lumber, wood, forestry and paper industry are about the same as last month, and staff will continue to oversee those numbers and update the board.

C7: FTC Identity Theft Prevention Program – Annual Report

Mr. Roney reported on Identity Theft Prevention, which is required annually. FAME has received a couple of letters to which it has responded but nothing has occurred to require board attention.

C8: Policy Discussion – Eligibility of Non-Profit Lenders for Loan Insurance

Commissioner Keliher re-entered the meeting at 10:45 a.m.

This policy discussion came about as a result of a request from one of the regional economic development agencies to have FAME provide loan insurance for their direct loans. Ms. Bordowitz advised the board that the FAME Act would allow FAME to provide loan insurance to a non-profit, although staff is hesitant to do so. Mr. Roney asked the board if they thought that this is a gap that FAME should be filling. Responding to Mr. Mitchell, Mr. Mello stated that FAME does insure credit union loans, and Ms. Bordowitz added that FAME has offered loan insurance to some non-banking entities after a long vetting effort. She anticipates that a fair number of non-bankable loans would be turned down, even at an insurance level, which could lead to bad relationships with the agencies. Also, she has a concern from a portfolio and relationship perspective and is not at all sure that it would open up more lending. Mr. Corey added that he has a concern for the level of knowledge, underwriting and workout skills that are required of lenders. Mr. Nowak stated that for all those reasons and others, he would discourage making loan insurance available to the non-profit agencies. To provide clarity, Mr. Roney responded to Dr. Silver that at a minimum, a rule change would need to be made. Mr. Nowak added that it is important not to go too far so as to discourage partnering with government agencies. After hearing the board's comments, Ms. Bordowitz told members that staff would bring back a more formal proposal on the subject.

C9: NextGen Audit Control Update

Dr. Silver moved to enter into Executive Session for matters for which confidentiality have been requested and for which premature results could have adverse consequences. The

motion was seconded by Mr. Pelletier and approved by a vote of 11 in favor, 0 opposed and 0 abstentions.

Members entered Executive Session #2 at 10:49 a.m.

Members exited Executive Session #2 at 10:56 a.m.

C10: Quarterly Financial Report for March 31

Mr. Mello reviewed FAME's financial performance as of March 31, 2013 as provided in the board packet. He reported that excess revenue was $1.7 million favorable to budget, with higher than expected revenue from fees in Business due to higher loan balances and in Education from FFELP and NextGen (due to the market and increased contributions). Other line items favorable to budget are Line 6, Other, affected by the College Access Challenge Grant and Operating Expenses resulting from the turnover in personnel and the reduction in professional fees in the Student Loan Insurance Program and electronic data management system. Those charges are being spread over a longer period of time. Also, Other Expense/Revenue is favorable to budget by $600,000, driven by the $1 million state transfer, which is offset by the provision for loan losses reflected in the commercial loan portfolio growth. NextGen benefits were slightly lower. Mr. Mello expects that FAME will be $1 million favorable to budget at the end of FY 2013. Mr. Pierce questioned what occurred in the last quarter of the fiscal year to go from $1.7 in excess revenue from the prior year to an anticipated $3 million deficit at fiscal year-end. Mr. Mello explained that there are two components: Business, which is in a break even situation prior to loan losses and Education in which the variable component is NextGen benefits. Ms. Bordowitz added that there was an accumulation of cash in the NextGen fund because FAME had not delivered benefits at a level that had been anticipated in the past and that the board had agreed to offer a higher level going forward. She noted that funds were not being spent that FAME did not have. Mr. Mello referred members to the Balance Sheet, pointing out that Investments Held for Others (NextGen) had previously been on the state's balance sheet and now appears on FAME's. This relates to the timing issue for the NextGen audit, which is tied to FAME's audit. The cash balances will be reduced by $2 million as FAME pays that last installment of the $5 million payment to the state as part of the state's budget adjustments. Mr. Mello added that Business Notes Receivable now reflects those of Maine Rural Development Authority (MRDA) and the Balance Sheet is consistent with last quarter's figures. Mr. Mello reviewed the Statistics and Ratios information contained in the board packet.

C11: Scorecard

Mr. Mello indicated that the following measurements are expected to meet or exceed their goals: Revenue Target, NextGen additional account contributions, Alfond enrollment, and Commercial Loan Insurance closed loans. The numbers for FAFSA completions and results of the Customer Survey are not yet available. Productivity Measure continues to be ahead of goal because of favorable overhead experience and better revenue than expected. Presently, the Scorecard measures are tracking favorably to the goals that have been set.

D: ACTION ITEMS

D1: Approval of FY 2014 Budget

Chair Snowden exited the meeting at 11:18 a.m.

Chair Snowden re-entered the meeting at 11:23 a.m.

Mr. Mello offered some opening comments to the FY 2014 budget provided in separate cover to the board packet. What is being offered is a flat budget forecast, a $3 million loss was forecasted for this year and the same is being forecasted for the next fiscal year. There are two components to this: $2.5 from Business for the provision for loan losses and the $500,000 from NextGen benefits paid out greater than revenue coming in. Mr. Mello asked members for any questions related to the budget. Chair Snowden asked at what point does FAME stop depleting the excess cash in NextGen. Ms. Bordowitz responded that in the past the board had recommended using excess money in the cash balance to fund need-based scholarships and now has shifted that use of the money to providing more incentives to make NextGen contributions, both of which have reduced the available cash balance. Ms. Bordowitz would rather use the money for the purpose for which it was received than retain it on the balance sheet, as long as an appropriate reserve is maintained.

Mr. Mello highlighted several points from the budget. He referred members to the history for the allowance of loan losses and the level of the insurance portfolio today. In 2010, the beginning balance was $55 million, at end of 2012 it was $84 million and as of today it is $96 million. Although normally the demand for commercial loan insurance would decrease as the economy recovers, government regulations have made the value of FAME's insurance just as important. The risk in next year's budget is that the portfolio may be larger than anticipated, with its resulting need to maintain sufficient reserves. The budget allows for an increase from a $14.5 million reserve in FY 2013 to a $15.5 in the 2014 budget, with the expectation of a $26.3 cash reserve. Further discussion ensued regarding risk assessment and the effect of loss reserves on the budget in the long term.

Ms. Bordowitz informed the board that a 17% increase in health benefits was built into the budget based on a higher anticipated premium cost through the Financial Institutions Trust, a subsidiary of the Maine Bankers. FAME will no longer be eligible to be a part of the Financial Institutions Trust for health benefits as a result of the Affordable Care Act (ACA). FAME is eligible to join the State's health benefit system, which would increase benefit costs by 7%. The 7% increase has been included in the budget. FAME will shop for other alternatives when we get closer to year end.

Before voting, Ms. Bordowitz advised members that the budget was approved by the Budget Committee and includes 3% pay increases and 3% incentive pay.

A motion was made by Treasurer Murphy and seconded by Mr. Lamarr to approve the FY 2014 Budget as presented. The motion was approved by a vote of 11 in favor, 0 opposed and 0 abstentions.

R-05-16-13-03

Mr. Armstrong exited the meeting at 11:39 a.m.

Commissioner Keliher exited the meeting at 11:39 a.m.

Commissioner Gervais exited the meeting at 11:39 a.m.

Treasurer Murphy exited the meeting at 11:40 a.m.

D2: Authorization for New Markets Tax Credit Investment – Advantage Capital Partners/Midwest Community Development Fund II, LLC

Mr. Armstrong re-entered the meeting at 11:41 a.m.

Commissioner Gervais re-entered the meeting at 11:41 a.m.

Treasurer Murphy re-entered the meeting at 11:44 a.m.

Mr. Howard of Pierce Atwood provided a handout outlining Advantage Capital's position regarding FAME staff's recommendation of denial for tax credits related to a project for JSI Store Fixtures. Mr. Howard pointed to Advantage's unique approach, which brings tax credits to operating businesses for working capital in low income communities rather than being "project finance" oriented as other NMTC allocatees. Mr. Howard stated that the issue is staff's interpretation of the FAME rule, which goes beyond the state statute by requiring a substantial amount of the qualified low-income community investment (QLICI) be expended in a Maine low-income community, whereas federal and state statutes define QLICI as "any capital or equity investment in, or loan to, any qualified active low-income community business". Mr. Howard stated that the Maine NMTC structure was intended to mirror the federal program, and the definition of a QLICI is identical in each. According to Mr. Howard, the additional requirement imposed by the FAME rule is inconsistent with both the federal and state legislation and that investment in all three of the entities will provide working capital to an operating business in a Maine low income community. Mr. Howard emphasized that the investment in Putney Vet and Quoddy cannot go forward without the approval of the investment in JSI. Mr. Howard asked the board to reconsider the interpretation of this regulation and construe it in a fashion that is consistent with both the state and federal programs.

Mr. Goldstein of Advantage Capital provided some company background. Advantage Capital is a 20 year investment firm and entered the NMTC application process in the first round, having successfully received federal tax credits nine out of ten times. The company has invested $650 million in 200 businesses, some of which has been returned and re-invested. Advantage Capital's investments have supported 11,000 jobs, 46% of which are new. All of the capital generated, 100% of the tax equity, is put into businesses. Advantage Capital makes money only if a business succeeds and raises further capital to repay the investment. Advantage Capital has received a $41 million tax credit allocation from the State of Maine, which it hopes to couple with $26 million in federal tax credits. It can take those federal tax credits anywhere in the country and will take them elsewhere if they are not successful in investing in Maine. Mr. Goldstein added that JSI expects to add 100 jobs, Quoddy would add 21 and Putney Vet would move from a base of 50 employees to 100. Mr. Howard added that there is a time constraint involved. The federal tax credit allocation must be used by September.

Mr. Roney stated several points in support of the staff's recommended denial of the tax credit allocation to JSI. He made the distinction between approval of investment into Putney Vet and Quoddy and denial of the investment into JSI. Both Putney and Quoddy would receive money that would be used for operating expenses. JSI's investment money would be used to refinance debt resulting from a leveraged buy-out, reducing debt and repaying equity investment. He stated that the intent of the legislation and the rule, which received a public hearing, was to put that money to work in a low-income community in Maine. In the case of JSI, no money is going into the business but rather is going into the transfer of ownership. Mr. Roney stated that staff is completely justified in their interpretation and approval for JSI is not a good precedent to set nor the intent of the legislation. Although Mr. Roney agreed that the company does not take up-front fees, he did point out that they could receive a much greater amount at the end of the seven years in contrast to what they would receive in up-front fees, depending on the company's success.

Commissioner Gervais strongly agreed that the state's NMTC program was intended to mirror the federal program.

In the ensuing discussion, Mr. Howard pointed out that by recapitalizing the company through the buy-out of higher cost debt, the company will be able to use the $9 million savings realized from the refinance of debt for cash flow to invest in programs, employees, sales and marketing.

Ms. Bordowitz added that in attending hearings regarding the state's NMTC, it was clear that the state program was intended to echo the federal program but it was also clear that there was an expectation that the allocations would bring new investment money to Maine. The rule language, which just requires there to be evidence that there actually are funds invested in a Maine low income community, was not intended as a hurdle, as all of the testimony at the public hearings before the legislature suggested that the tax credits would both provide investment and leverage additional investment. The rule did have a full public rulemaking process. In accordance with the rule, it must be demonstrated that the investment is substantially expended by the qualified active low-income community business within a low income community in the state, something that the applicant has not shown with regard to the investment in JSI.

Chair Snowden asked Mr. Roney to outline the options of the board under the rule. He stated that the board could find that the staff interpretation of the rule is inappropriate and use their own discretion to approve, decline the request based on the staff recommendation or table for further action. Mr. Roney suggested that staff look at amending the rule to further clarify it if the board decided to approve the request before them.

A motion was made by Commissioner Gervais and seconded by Mr. Pelletier to approve.

Mr. Nowak asked for a clarification of what was being voted upon.

A resolution approving the request for all three companies was handed out to board members, and the board is being asked to vote on the resolution.

Mr. Nowak stated that he is prepared to vote "no" on the resolution and on the motion as made because he did not hear anything compelling from the applicant to offset the staff's interpretation of the rule. The rule was previously approved by the board.

The resolution authorizing New Markets Tax Credit Investment for JSI Store Fixtures, Putney Vet and Quoddy was approved by a vote of 6 in favor, 3 opposed (Raymond Nowak, Evelyn Silver and Patrick Murphy) and 1 abstention (Anthony Armstrong).

R-05-16-13-04

Commissioner Gervais exited the meeting at 12:45 p.m.

Mr. Pelletier exited the meeting at 12:45 p.m.

D3: Authorization to Amend Maine College Savings Program (NextGen) Program Management Agreement

Commissioner Gervais re-entered the meeting at 12:48 p.m.

Ms. Dostie informed the board that staff is in negotiations with Merrill Lynch (ML) on Select accounts only. Members suggested they go into Executive Session to discuss the terms of the negotiations.

Dr. Silver moved to enter into Executive Session to consult with counsel. The motion was seconded by Mr. Lamarr and approved by a vote of 8 in favor, 0 opposed and 0 abstentions.

Members entered Executive Session #3 at 12:47 p.m.

Members exited Executive Session #3 at 12:55 p.m.

A motion was made by Mr. Nowak and seconded by Dr. Silver to authorize the amendment to the Maine College Savings Program (NextGen) Program Management Agreement as presented. The motion was approved by a vote of 9 in favor, 0 opposed and 0 abstentions.

R-05-16-13-05

Mr. Roney spoke to the item on the New Markets Tax Credit on the agenda in which the board did not vote along the lines of the staff recommendation. He expressed the respect the staff has for the board and commented that there are not always easy decisions to be made. Ms. Bordowitz added that staff will now look at a revision to the rule.

Mr. Corey reminded members that the June board meeting will begin with the Commercial Loan Committee at 8:30 a.m.

COMMISSIONERS' & TREASURER'S UPDATES:

None.

The meeting adjourned at 12:56 p.m.

Respectfully submitted,

Cheri Walker, Vice Chair