

**MINUTES OF THE JANUARY 16, 2014 MEETING OF THE MEMBERS  
OF THE FINANCE AUTHORITY OF MAINE**

Chair Nowak called the January 16, 2014 meeting of the members of the Finance Authority of Maine to order at 9:02 a.m. at the Finance Authority of Maine, 5 Community Drive, Augusta, Maine.

Chair Nowak 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 Nowak 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:

Raymond Nowak, Chair  
Cheri Walker, Treasurer  
Anthony Armstrong (*entered the meeting at 9:15 a.m.*)  
Neria Douglass (*entered the meeting at 10:03 a.m.*)  
George Gervais  
Reis Hagerman  
Larry Mitchell  
Rosaire Pelletier  
Susan Snowden

Those members absent:

Patrick Keliher  
Glenn Lamarr  
Michael Mahoney  
Patrick Murphy, Vice Chair  
Christopher Pierce  
Evelyn Silver

Staff present:

Elizabeth Bordowitz, Chief Executive Officer  
Christopher Roney, General Counsel  
Katryn Gabrielson, Deputy General Counsel  
William Norbert, Governmental Affairs & Communications Manager  
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  
Sally Garand, Commercial Loan Officer  
Scott Weber, Credit Manager  
Scott Bursey, Commercial Loan Officer  
Jennifer Cummings, Senior Workout Officer  
Jeff Murch, Credit Analyst  
Adele Bickford, Executive/Legal Assistant

Guests Present:

Chris Howard, Pierce Atwood  
Kris Eimicke, Pierce Atwood  
C. J. Dirago, Priority Group  
James Howard, Priority Group  
Mark Sangillo, Imported Motor Cars of Freeport, Ltd.

Chair Nowak asked members for any suggestions for additional agenda items or modifications. None were offered.

Chair Nowak thanked Ms. Snowden again for her service to the board and the help she provided for his transition to the Chair position.

### **A2: Approval of December 19, 2013 Board Meeting Minutes**

Ms. Bordowitz directed members to a handout presenting a modification to Executive Session #5 of the December board minutes. There is no substantive change but staff added to the context of that section and are recommending acceptance of the minutes with the modification.

**A motion was made by Mr. Mitchell and seconded by Mr. Pelletier to approve the minutes of the December 19, 2013 board meeting with the modification. The motion was approved by a vote of 7 in favor, 0 opposed and 0 abstentions.**

**R-01-16-14-01**

### **A3: Approval of the December 13, 2013 Commercial Loan Committee Report**

Chair Nowak called for a motion for the acceptance of the December 13, 2013 Commercial Loan Committee Report.

**A motion was made by Treasurer Walker and seconded by Ms. Snowden to approve the Report of the December 13, 2013 Commercial Loan Committee Meeting. The motion was approved by a vote of 7 in favor, 0 opposed and 0 abstentions.**

**R-01-16-14-02**

## **B: CHAIR'S REPORT**

Chair Nowak asked to go into Executive Session for a personnel matter.

**Treasurer Walker moved to enter into Executive Session for a personnel matter. The motion was seconded by Ms. Snowden and approved by a vote of 7 in favor, 0 opposed and 0 abstentions.**

*Members entered Executive Session #1 at 9:05 a.m.*

*Members exited Executive Session #1 at 9:34 a.m.*

*Staff, with the exception of Mr. Roney, exited the meeting at 9:05 a.m.*

*Staff re-entered the meeting at 9:34 a.m.*

**A motion was made by Treasurer Walker and seconded by Commissioner Gervais to approve the compensation and benefits offered to the prospective nominee for Chief Executive Officer of FAME subject to the confirmation by the Legislature in compliance with all employment conditions at FAME. The motion was approved by a vote of 8 in favor, 0 opposed and 0 abstentions.**

### **R-01-16-14-03**

#### **B2: Board of Directors' Guiding Principles**

Ms. Bordowitz presented the Guiding Principles contained in the board packet to familiarize members with them and for any comments. The Principles outline what is expected of board members. Chair Nowak explained that with the change to several new board members over the next few months, it is important to keep this before them along with a summary Ms. Bordowitz prepared which summarizes the responsibilities of the board and the responsibilities delegated to the Executive Committee and to the CEO.

#### **B1: CEO's Report**

Ms. Bordowitz advised that there has not been any commentary resulting from the financial statements containing the qualified opinion. A remediation proposal was just received from Merrill Lynch. The goal is to have a satisfactory plan by the end of the month and to then meet with the auditors in an effort to obtain re-issued reports with clean opinion for FY13. If that is not possible, we are looking for the auditors to confirm that the remediation plan will resolve the control matter and allow the FY14 audit to start with that matter resolved. Merrill Lynch will report on progress to FAME staff weekly and the board will be updated at each meeting. Treasurer Walker has agreed to be available for the conversations with the auditors.

FAME was asked to address the Special Committee on Workforce Development at one of its recent hearings. Specifically, FAME staff was asked to give their thoughts on the following: Commercial Loan Insurance Program, Regional Economic Development Revolving Loan Program (REDRLP), Venture Capital Investment Program, and Seed Capital Investment Tax Credits. FAME testified that as a first priority, FAME would like the \$5 million that was returned to the state from the

commercial loan insurance reserves restored; and additional funds provided for the Maine Seed Capital Tax Credit Program. An amendment to the Maine Seed Capital Tax Credit Program will come to the board next month. FAME will submit its response to the committee's additional questions this afternoon.

Ms. Bordowitz added that a clarification of the start date for the two year deadline for the use of Maine New Markets Tax Credits is posted on FAME's website. The qualified Community Development Entity (CDE) has two years from the date of the initial credit allowance letter (February, 2012) to undertake a Qualified Equity Investment (QEI) and the CDE then has 24 months from the date of the QEI to actually make the Qualified Low Income Development Investment (QLICI).

The federal Department of Education is conducting meetings with all of the FFELP guarantors to check on their financial health and status. FAME's meeting is scheduled for February 6<sup>th</sup>. Ms. Bordowitz reminded members that the federal Budget Bill will decrease FAME's FFELP revenues by \$1 million starting in July, 2014 and FAME, like the other guarantors, has to evaluate its position within the FFELP program as a result.

#### **B4: Monthly Update for Board on Lumber, Wood and Paper Industry**

Mr. Weber reported that there has not been any significant change over the last few months.

#### **D1: Approval of Bond Resolution – Trustees of Bridgton Academy (Revenue Obligation Securities Program)**

Mr. Roney advised the members that the bond resolution for the Trustees of Bridgton Academy is before the board for approval. The conduit bond poses no credit enhancement from FAME and will be used to refinance debt and campus improvements. A Public Hearing was held and a copy of the Findings and Certificate of Approval are included in the board packet.

**A motion was made by Mr. Pelletier and seconded by Mr. Hagerman to approve the resolution authorizing the issuance and sale of up to \$2,700,000 in Revenue Obligation Securities (Bridgton Issue, Series 2014) of the Finance Authority of Maine, authorizing and approving the execution and delivery of a Loan and Security Agreement, a Tax Compliance Certificate and other matters in connection therewith. The motion was approved by a vote of 8 in favor, 0 opposed and 0 abstentions.**

**R-01-16-14-04**

#### **B3: Marketing and Outreach Update**

Ms. Vanderweide reviewed the Marketing and Outreach information provided to members in their packets related to: Achieving Strategic Plan Goals, Historical Outreach Events & Attendance and Financial Education and Debt Management for Maine Students and Borrowers (SALT). In addition to the statistics provided, Ms. Vanderweide informed members that FAME is undertaking a PR campaign around FAFSA completion. Jessica Whittier has appeared on WCSH and is slated to appear on Fox News and there will be articles in the KJ and Bangor Daily News. Responding to a question regarding the use of SALT by college students, Ms. Vanderweide explained that the

percentages provided are an indication of registration and not of usage. That measurement she is expecting to do in year two.

#### **D4: Adoption of Repeal of Rule Ch. 323, Dental Equipment Revolving Loan Program**

Ms. Gabrielson presented rule Ch. 323, Dental Equipment Loan Program, for repeal. The FAME administered program was funded by money from the Department of Health and Human Services (DHHS) and has never been utilized. FAME returned the money to DHHS. There were no comments received during the comment period.

**A motion was made by Treasurer Walker and seconded by Mr. Mitchell to approve the adoption of the repeal of rule Ch. 323, Dental Equipment Revolving Loan Program. The motion was approved by a vote of 9 in favor, 0 opposed and 0 abstentions.**

**R-01-16-14-05**

#### **D2: Maine New Markets Capital Investment Program Certification Application of USBCDE Sub-CDE 110, LLC (Brunswick Landing Development Group, LLC)**

*Treasurer Walker exited the meeting for Conflict of Interest at 10:07 a.m.*

*Treasurer Walker re-entered the meeting at 10:30 a.m.*

Mr. Roney introduced Kris Eimicke and Chris Howard of Pierce Atwood and Jim Howard of Priority Real Estate Group. Before the board is a certification application for a qualified equity investment in Brunswick Landing Development Group, LLC. Exhibit C in the board packet diagrams the flow of funds resulting from the transaction. Of the \$10 million being invested, \$5.9 million will be used to refinance debt incurred by the purchase of the building; \$1.7 million will be for a temporary injection of equity to leverage the tax credits and the balance, \$2.4 million, will be used to make improvements to the property and transaction costs. Mr. Roney stated that what is at issue is the temporary equity piece, a “one-day” equity contribution to leverage tax credits, which the board has not previously addressed. However, the board has agreed to the determination of eligibility so long as it conforms to the requirements of the federal New Markets Tax Credit (NMTC) program and so long that any refinanced costs are within the timeframe enacted by the Maine NMTC program for eligibility, which is September, 28, 2011.

Mr. Howard provided a handout that is an overview of the project at Brunswick Landing, which repurposed a building on the decommissioned Brunswick Naval Air Station to house an educational facility for children with autism and developmental disabilities, a daycare facility and professional offices for staff and a resource center for veterans and their families. A second property at Cooks Corner was reconstructed to house a medical facility and sports field house. The refinance piece (\$5.4 million) of the NMTC involves some debt incurred at that site. Both sites qualify for New Markets Tax Credits because they fall within the census tract for eligibility and were incurred within the specified timeframe. Board members asked several questions of the applicant.

Mr. Roney reiterated that the board had previously indicated that the state program should mirror the federal NMTC program. Although this is not a federal project and no federal tax credits were sought, the Applicant will be required to certify that the one-day loan structure would have qualified

under the federal program. Staff is recommending approval based on the four conditions outlined in the memo to the board in their packets.

**A motion was made by Mr. Pelletier and seconded by Commissioner Gervais certifying an investment by U.S. Bancorp Community Development Corporation in USBCDE Sub-CDE 110, LLC and authorizing issuance of Tax Credit Certificates under the Maine New Markets Capital Investment Program. The motion was approved by a vote of 7 in favor, 0 opposed and 2 abstentions (Cheri Walker and Anthony Armstrong).**

**R-01-16-14-06**

**D3: Certification Application of USBCDE Sub-CDE 109, LLC NOVA Seafoods, LLC**

Mr. Roney presented a certification application for New Markets Tax Credits for NOVA Seafoods, LLC for consideration by the board. Mr. Roney indicated that \$7.5 million of the \$10.1 million application is in a one-day loan, which was made to leverage the tax credits; the remaining \$2.6 million less transaction costs will be expended to expand the business. The Applicant represents that, although no federal NMTC are being sought, the one-day loan structure meets the federal program requirements. Chair Nowak stated that this application differs from that of Brunswick Landing in its magnitude, where almost all of the proceeds are used to leverage the credits. Mr. Roney added that the magnitude is one aspect and the board did approve another application in which a large amount was leveraged. However, in that case, the Applicant had actually previously invested or would invest in the project the same approximate amount as the one-day loan. This is not the case in this one-day loan. Ms. Bordowitz noted that having been present at the Legislative hearings related to tax credits, it was emphasized that the program was expected to bring in outside dollars and would leverage those outside dollars. That aspect is not as present in this case as it has been other applications. Mr. Howard countered that what is relevant is what are the credits and the price being paid for them. If the price is market, the credits will generate proceeds that will be utilized by the project.

Mr. Eimicke provided an overview of NOVA Seafoods, LLC. NOVA has been in the processing and wholesale seafood business for 20 years and has 40 employees. It recognizes to survive it must diversify. It is looking to merge or acquire Free Range Fish and Lobster, a processing and retail, distribution company, and has entered into an agreement for retail restaurant space in the Bayside area of Portland. The \$10,000 sq. ft. space will be based on the concept of the food court at the Prudential Center in Boston and the old Portland public market. It expects to duplicate that concept in Augusta, Bangor and Portsmouth in the next few years. Mr. Howard added that NOVA is a traditional Maine business that has done well and that has grown to a larger scale. The proceeds from this transaction will help the company achieve its acquisition or merger and effect an expansion plan that will have the company grow from 40 employees to approximately 140 employees.

Chair Nowak noted that staff is recommending approval of the Resolution with certain conditions.

**A motion was made by Treasurer Walker and seconded by Mr. Pelletier certifying an investment by U.S. Bancorp Community Development Corporation in USBCDE Sub-CDE 109, LLC and authorizing issuance of Tax Credit Certificates under the Maine New Markets Capital Investment Program. The motion was approved by a vote of 6 in favor, 0 opposed and 3 abstentions (Anthony Armstrong, Larry Mitchell and Ray Nowak).**

**R-01-16-14-07**

**BREAK: 10:49 a.m.-11:06 a.m.**

**D5: Appeal of Denial of Economic Recovery Loan Program (ERLP) Loan – Imported Motor Cars of Freeport, Ltd.**

A request for an Economic Recovery Loan Program (ERLP) loan in the amount of \$235,000 was denied by FAME staff and there is an appeal of that denial by the company. Mr. Emmons indicated that the ERLP loan was denied on the basis of declining sales trends, insufficient cash flow and collateral and a “slow pay” credit history. Although not before the board at this time, FAME has just received an application for 90% commercial loan insurance on an additional \$350,000 loan to finance the borrower’s commercial real estate by Androscoggin Bank, which would put FAME’s exposure at \$550,000. Mr. Emmons included this in the presentation although not currently a part of the consideration for the appeal.

Mr. Sangillo provided a company overview, noting 40 years of experience in the car industry and most recently with Imported Cars of Freeport, Ltd. that opened in 2006. The company sells pre-owned Mini Coopers, and Mr. Sangillo believes that the company is now positioned to benefit from return business.

Mr. Sangillo asked for an Executive Session in order to discuss certain personal issues.

**Ms. Snowden moved to enter into Executive Session for which confidentiality has been requested and disclosure of which the Authority has determined would cause a significant detriment to or invasion of personal privacy of the Applicant. The motion was seconded by Commissioner Gervais and approved by a vote of 9 in favor, 0 opposed and 0 abstentions.**

*Members entered Executive Session #2 at 11:20 a.m.*

*Members exited Executive Session #2 at 11:28 a.m.*

Mr. Sangillo outlined the company’s planned growth. The company started a “detailing” component, which is in a break even position after six months and is looking into renting as means of adding to the business and its financial success. The company actually did slightly better last year than the previous year, and Mr. Sangillo believes the company has the potential to do even better this year.

Chair Nowak presented the board’s challenge in upholding the appeal. The board must find the Chief Executive Officer’s decision to be arbitrary, capricious, or an abuse of discretion in order to reverse the denial. Although alternatives were proposed to keep the bank relationship, Mr. Emmons indicated that he felt the TD Bank has reached the end of their ability to help the company.

Members went into Executive Session to better understand the possible insurance loan exposure requested by Androscoggin Bank, and TD Bank’s current position.

**Mr. Armstrong moved to enter into Executive Session for a matter the disclosure of which would cause a significant detriment to the Applicant. The motion was seconded by Treasurer Douglass and approved by a vote of 9 in favor, 0 opposed and 0 abstentions.**

*Members entered Executive Session #3 at 11:37 a.m.*

*Members exited Executive Session #3 at 11:38 a.m.*

Mr. Roney reiterated to the board what it must consider in order to uphold the appeal of denial: the board would need to find that the CEO's decision was "arbitrary, capricious or an abuse of discretion" in order to reverse the decision.

**A motion was made by Mr. Armstrong seconded by Treasurer Douglass to reverse the denial of the Economic Recovery Loan Program (ERLP) Loan. The motion failed by a vote of 1 in favor, 8 opposed (Neria Douglas, George Gervais, Reis Hagerman, Larry Mitchell, Ray Nowak, Rosaire Pelletier, Susan Snowden and Cheri Walker) and 0 abstentions.**

**R-01-16-14-08**

**COMMISSIONERS' & TREASURER'S UPDATES:**

None.

The meeting adjourned at 11:45 a.m.

Respectfully submitted,

Patrick Murphy, Vice Chair