

Board Meeting
Minutes
August 4th, 2020

Present were:

Sarah Godlewski, Board Chair	State Treasurer
Josh Kaul, Commissioner	Attorney General
Doug LaFollette, Commissioner	Secretary of State
Tom German, Executive Secretary	Board of Commissioners of Public Lands
Richard Sneider, Chief Investment Officer	Board of Commissioners of Public Lands
Mike Krueger, IT Manager	Board of Commissioners of Public Lands
Denise Nechvatal, Senior Accountant	Board of Commissioners of Public Lands
Thuy Nguyen, Office Manager	Board of Commissioners of Public Lands

ITEM 1. CALL TO ORDER

Board Chair Godlewski called the meeting to order at 2:02 p.m.

ITEM 2. APPROVE MINUTES – July 21, 2020.

MOTION: Commissioner LaFollette moved to approve the minutes; Commissioner Kaul seconded the motion.

DISCUSSION: None.

VOTE: The motion passed 3-0.

ITEM 3. APPROVE LOANS

MOTION: Commissioner Kaul moved to approve the loans; Commissioner LaFollette seconded the motion.

DISCUSSION: Mr. Sneider commented on loan #11 for the Town of Beloit to finance a sewer project. Mr. Sneider shared that he has contacted them to ask if they were going to apply for the DNR Small Loan Program which subsidizes the BCPL loan interest rate. As for loan #12, City of Glendale in Milwaukee County, they are using a BCPL general obligation loan to refinance lease revenue bonds. Mr. Sneider believes they are doing that because BCPL provides flexible prepayment terms on the remaining balance of that debt.

Commissioner LaFollette commented about how large loan #12 is.

Mr. Sneider replied that the loan #12 is quite large and is likely the largest loan of the past year, but there have been larger loans in the past. He added that BCPL has had a few loans in the \$25,000,000 range over the past 10 years.

Commissioner LaFollette commented about the interest rate of the 5-year loan being very low and the longer term loans have a significantly higher interest rate.

Mr. Sneider noted this was a good observation. BCPL does have a significant spread between its short term and long term rates and a spread over similar length treasury rates. Part of the reason for that is incentive. BCPL prefers to have shorter term loans at this time.

Board Chair Godlewski commented that she noticed that there are four refinance loans. She asked about the reasons for refinancing.

Mr. Sneider explained that at certain times of the year it is advantageous for BCPL borrowers to refinance through BCPL. BCPL allows prepayment without penalty. Often customers will refinance through another institution to pay BCPL off but if customers can qualify to refinance through BCPL, BCPL can refinance at a lower cost because it does not charge any fees. There are also times when customers refinance BCPL loans through the loan program because they have another project on the books. To qualify to refinance an existing BCPL loan with BCPL, customers are required to borrow additional funds in an amount equal to at least 25% of the amount they are going to refinance. BCPL does that primarily because it does not charge any fees and needs to maintain revenue for its beneficiaries.

Board Chair Godlewski asked if any of the refinance loans were COVID related.

Mr. Sneider replied that the loans appear to be project related and not due to COVID.

VOTE: The motion passed 3-0.

The Board of Commissioners of Public Lands (BCPL) unanimously approved **\$13,920,841.00** in State Trust Fund Loans to support **15** community projects in Wisconsin.

1. Town of Martell / Pierce County / Finance purchase of plow truck / \$175,000.00
2. Whitnall School District / Milwaukee County / Finance cafeteria renovation and roof replacement / \$850,000.00
3. Town of Cassian / Oneida County / Finance purchase of fire tanker truck / \$68,000.00
4. Village of Fall Creek / Eau Claire County / Finance resurfacing of roadways, parking lots and park projects / \$80,000
5. Village of Fall Creek / Eau Claire County / Partial Refinance BCPL loan #2017090 / \$300,000.00
6. Blair-Taylor School District / Jackson and Trempealeau Counties / Finance building HVAC improvements / \$500,000
7. Town of Merton / Waukesha County / Finance 2020 capital projects / \$1,201,400.00
8. Town of Salem / Pierce County / Finance roadwork / \$200,000.00
9. Village of Winter / Sawyer County / Refinance Bank Debt / \$180,000.00
10. Town of Onalaska / La Crosse County / Finance purchase of loader / \$138,740.00
11. Town of Beloit / Rock County / Finance Sewer Project / \$820,055.00
12. City of Glendale / Milwaukee County / Refinance Lease Revenue Bonds / \$8,832,146.00
13. Village of Park Ridge / Portage County / Finance roadwork / \$125,500.00
14. Town of Lake Mills / Jefferson County / Finance roadwork / \$90,000.00
15. Town of Lake Mills / Jefferson County / Refinance BCPL Loan #2020037 / \$360,000.00

ITEM 4. OLD BUSINESS - City of Sturgeon Bay Submerged Land Lease

MOTION: Commissioner LaFollette moved to approve the resolution; Board Chair Godlewski seconded the motion.

DISCUSSION: Executive Secretary German commented that BCPL acts as the leasing agent for the State when it comes to leasing lake beds and riverbeds. There has never been a determination in Wisconsin that

these submerged lands are trust lands. They are considered “sovereign” lands, meaning they belong to the State. All money that comes from the leases go into the state’s general fund. BCPL’s leasing authority is very limited. BCPL can only lease for a limited period up to 50 years and it can only lease to certain entities, upland or riparian owners next to the water. The lease must be for limited purposes. BCPL can only lease for harbor improvement, navigation improvement or if the proposed lessee is a municipality the lease can be for recreation purposes related to navigation. As Commissioner LaFollette pointed out at the last board meeting, Sturgeon Bay has had internal disputes over this area for quite some time. The community has come together and decided to develop it into an area where the public can access it and access the water and in order to have control of that area they need to lease it from the State of Wisconsin. BCPL’s leasing authority is also contingent on the DNR making a regulatory finding that the physical changes are consistent with the public’s interest in the navigable waters. The DNR has made those findings, which are attached in the meeting packet. The DNR has made those findings and the proposed uses are within BCPL’s authority for providing a lease, staff is proposing a lease with the City of Sturgeon Bay. Executive Secretary German added that he is certain people are wondering about why the lease amount so low.

Executive Secretary German replied that the short answer is because the area will be open to the public. The City of Sturgeon Bay has already invested quite a bit of money cleaning up the area and will make the area available to the public. BCPL has had a policy of not charging the fair market leasing rate but rather a nominal rate to municipalities that provide open access to that area.

Commissioner LaFollette commented that this is a strange situation where the City of Sturgeon Bay is asking to lease the lakebed which is already built upon. Correct?

Executive Secretary German replied yes. The DNR has encountered this same situation over the years and that is when they come to BCPL to seek a submerged lease. The area was filled in years ago and someone had been using it for a different purpose.

Commissioner LaFollette commented that he remembers several cases when someone wanted to put in a marina and asked the BCPL to lease them the lakebed for that purpose. He does not recall situations where the improvements were already made. He then asked about the granary and where it is on the site.

Executive Secretary German replied that the granary was part of the dispute. There is a local historical society that had ownership of the granary. The granary had been on the site for over 100 years. There was a dispute over who owned the land under the granary and the historical society moved the granary off the site and roughly 3/4 miles away. The historical society was concerned that the granary would get destroyed or knocked down during the development plans. The community came together and realized this is a historic monument in the downtown area and put it back where it was originally.

Commissioner LaFollette commented that he sees that the granary is going to be converted into a usable space for events. He asks how big the granary is.

Executive Secretary German responded that the footprint is not very big although it is very tall, possibly 60 feet high.

Commissioner LaFollette asked for clarification about the useable space only being on the ground floor.

Executive Secretary German replied that he believes there are plans to do something with the granary higher up as well.

Commissioner LaFollette commented about the lease rates. He shared that all money made from leasing the granary will go into the improvements of the granary. He looks forward to getting to Sturgeon Bay after the

virus goes away to look at the space. He thanks the commissioners for indulging his questions and thanks Executive Secretary German.

Executive Secretary German asked if there are any other questions.

Board Chair Godlewski asked about the submerged land lease payments going back to the general fund.

Executive Secretary German explained that by statute this money goes to the general fund. It is not something that BCPL, he believes, has ever asked to change. The responsibility of collecting these payments moved to BCPL from the Public Service Commission roughly 35 years ago.

Board Chair Godlewski asked if BCPL acted as a “pass through” entity for the rental funds.

Executive Secretary German replied, yes. The money comes from the Lessee through BCPL and then on to the general fund.

Board Chair Godlewski asked if this is the case for all the submerged land lease payments.

Executive Secretary German replied, yes. Executive Secretary German further explained that when he first arrived at BCPL the total amount of money collected from submerged land leases was less than \$2,000 a year. The total is now roughly \$60,000 a year. Over the years BCPL has effectively done its job as the leasing agent. BCPL has ensured that if private entities were to lease those areas and the public would be excluded from using it, reasonable rent for that space would be charged. In areas where the public will have access for free, BCPL charges a nominal rate. When you add all those lease payments together, that number is now nearing \$60,000 year.

Commissioner LaFollette commented that he presumes there is no argument about whether that money should go into the School Fund. It is not BCPL land, it is submerged land which BCPL does not have control of.

Executive Secretary German commented that in the State of Montana there was a parent of a school child that sued the state, claiming that those sovereign lands were indeed Common School Lands because they were given to the state for no other express purpose. Their Supreme Court agreed with that. Based upon that ruling, rent from submerged land leases in the State of Montana goes to their permanent school fund. In Wisconsin there has never been a lawsuit like that.

Commissioner LaFollette asked if there is any way BCPL could initiate a lawsuit and get that money for the kids.

Executive Secretary German replied that the Board could file a lawsuit and draw parallels to the Montana case.

Commissioner LaFollette commented that that sounds interesting and asked Commissioner Kaul, the Attorney General, if that sounds reasonable to do so.

Commissioner Kaul responded that he has not looked at this issue but if it is something the Board would like to explore a process could be created for making a request to the AG’s office. He added that given the amount of money at stake, filing a lawsuit against the State seems problematic.

Commissioner LaFollette commented that he understands the point Commissioner Kaul is making. He added that he thought the lawsuit would be so simple that if no one were to oppose the suit it would go through easily. He asked Commissioner Kaul if he thought that could be the case.

Commissioner Kaul commented that he has not looked at the legal issues and shared that another option could be that the Board reach out to the legislature. If the Board wanted to there could be a legislative option as an alternative.

Board Chair Godlewski commented that the reason she asked about the funding is that any money BCPL can provide to the general fund is a big deal. We are seeing unprecedented deficits. She is thinking about these funds in relation to the overall financial picture because all agencies are facing 5%-10% cuts and BCPL is already contributing in the larger financial picture to help address the short falls of the general purpose fund. She added that she has concerns about pursuing this on a legal perspective, based on the time and effort. Perhaps this issue can be revisited after the financial crisis, if it seems worth it.

Commissioner LaFollette commented that he was not pushing it, he was bringing it up as a question of whether it was a doable idea. He thanks the Board for the discussion.

Executive Secretary German reiterated that Commissioner Kaul brought up the cost benefit of it. Executive Secretary German believes this is what brought on the suit in Montana. There had been a hydro-power plant that had been licensed for years but had never paid any leasing for all the land that was submerged by the dam. Because the dollar amount there was significant, tens of millions of dollars, that is what spurred the litigation there.

Commissioner LaFollette thanked Executive Secretary German.

Board Chair Godlewski asked about the terms of the lease and if 50 years was normal. She asked how the lease terms are determined.

Executive Secretary German explained that by statute the lease can be for up to 50 years. For communities that are going to put investment into that specific area they like to control it for as long as possible. Communities always ask for 50 years unless what they are doing is much more temporary in nature. As Commissioner LaFollette pointed out, this is area that had already been filled and it had been filled for a long time. So, for all intents and purposes, the community would like to keep that area filled and improved into the foreseeable future and the DNR is fine with that length of time.

Board Chair Godlewski asked if there were any other questions. She read the resolution and the Board commenced to vote.

Commissioner LaFollette commented that he is very excited to bring some conclusion to this project.

VOTE: The resolution passed 3-0.

ITEM 5. OLD BUSINESS - Revisit and discuss goals and priorities of BCPL

DISCUSSION: Board Chair Godlewski commented that she mentioned this in her update at the last board meeting. She would like to revisit these items explicitly after BCPL has a staff meeting offsite. She would like to discuss this in a larger group later in August to assess priorities and at that time bring the Board up to speed on the priorities and goals. In the meantime, it would be helpful to include the goals and priorities that we discussed at the end of last year in the next board meeting packet. It would be helpful to add that and she is happy to talk through that again with the commissioners knowing there might be updates moving forward.

NEW BUSINESS – NONE

ITEM 6. CHIEF INVESTMENT OFFICER'S REPORT

Mr. Sneider commented about page 18 of the Board meeting packet. He explained that the privately held fixed income securities is a fund that invests in debt issued to moderately sized corporations and the investment committee approved a \$30,000,000 commitment to that several weeks ago. BCPL closed on the first call of that, \$22,200,000, a few weeks ago at a price of 23.68. The current price listed on this report is an error because the current price had not been updated yet. The price is updated now and should be 23.68. The report is showing a loss but that is incorrect. BCPL should be receiving an annual yield in this investment at the 6% to 8% range.

ITEM 7. EXECUTIVE SECRETARY'S REPORT

Executive Secretary German shared that BCPL is being asked to lapse a certain amount of its budget for FY2021. BCPL has always been prudent with its budget authority and it is actively working on finding potential areas of additional savings for this fiscal year.

The fall has always been a time for BCPL staff to connect with its primary borrowing constituencies as the Wisconsin Towns Association, the Wisconsin Counties Association and the League of Wisconsin Municipalities all hold their annual conferences in early fall. This year, there will be no such in-person conferences so BCPL is working on connecting with its borrowers electronically this year. BCPL is participating in Towns Association streaming workshop for municipal borrowers and trying to develop other opportunities to reach out to constituents.

As part of the communication outreach for the proposed land exchange with the USFS, Executive Secretary German will be making an informational presentation to Voigt Intertribal Task Force of Great Lakes Fish and Wildlife Council on Thursday morning. He promised to make sure to pass along Commissioners' greetings to the tribal members. He is hopeful that this will be a good step toward developing better communication channels with the tribes.

The submerged land lease brought to the Board today will not be the last. There are some other potential leases working their way through the process so the Board should expect to see several more in the coming months.

He is working with DOJ on defining a legal pathway for selling conservation easement against BCPL's reserved mineral estate. BCPL currently has over 200,000 acres of severed mineral estate that it has reserved over the past century. However, to the best of his knowledge, since there has not been any mining on these lands, BCPL has not received any income from such mineral rights to date. Perhaps this is a way to earn some money from trust assets that have not produced any revenue so far.

Board Chair Godlewski asked Executive Secretary German to share what they did on Friday.

Executive Secretary German shared that four candidates were interviewed for the BCPL Deputy Secretary position and it was determined that one of them was better than the other three and he is in the process of checking references and making an offer. Hopefully at the next board meeting we will be introducing a new member of the BCPL.

Commissioner LaFollette asked for clarification on which position.

Executive Secretary German clarified that it is the Deputy Secretary position.

Commissioner LaFollette commented about the interview process. He asked if it was decided that the Board not be involved in looking at the resumes of the applicants.

Executive Secretary German explained that the Board Chair participated in the interview process.

Commissioner LaFollette thanked Board Chair Godlewski for representing the Board's interest.

Board Chair Godlewski shared there was a great group of candidates and she is excited about the candidate that was tentatively selected. Because they will be a great addition to the BCPL team.

ITEM 8. BOARD CHAIR'S REPORT

Board Chair Godlewski commented that she was also going to share the news about the Deputy Secretary candidate, and that she is looking forward to filling that position.

ITEM 9. FUTURE AGENDA ITEMS

Revisit and discuss Board goals and priorities

ITEM 10. ADJOURN

Commissioner LaFollette moved to adjourn the meeting; Commissioner Kaul seconded the motion. The motion passed 3-0; the meeting adjourned at 2:33 p.m.

A handwritten signature in black ink, appearing to read "Thomas P. German", written over a horizontal line.

Thomas P. German, Executive Secretary

Link to audio recording:

<https://bcpl.wisconsin.gov/Shared Documents/Board Meeting Docs/2020/2020-08-04 BoardMtgRecording.mp3>