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John Leiber, *State Treasurer*
Joshua L. Kaul, *Attorney General*

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Thomas P. German, *Executive Secretary*

AGENDA

July 18, 2023

2:00 P.M.

Board of Commissioners of Public Lands
101 E. Wilson Street, 2nd Floor
Madison, Wisconsin

Routine Business:

1. Call to Order
2. Approve Minutes – July 5, 2023 (Attachment)
3. Approve Loans

Old Business:

4. Town of Sanborn State Trust Fund Loan Application

New Business:

5. None

Routine Business:

6. Chief Investment Officer's Report
7. Executive Secretary's Report
8. Board Chair's Report
9. Future Agenda Items
10. Adjourn

AUDIO ACCESS INFORMATION

Conference Line Number: 608-571-2209
Conference ID Code: 335 125 302#

Board Meeting Minutes
July 5, 2023

Present were:

- | | |
|---|--|
| Sarah Godlewski, Board Chair | Secretary of State |
| Josh Kaul, Commissioner | Attorney General |
| John Leiber, Commissioner | State Treasurer |
| Tom German, Executive Secretary | Board of Commissioners of Public Lands |
| Rich Sneider, Chief Investment Officer | Board of Commissioners of Public Lands |
| Denise Nechvatal, Controller | Board of Commissioners of Public Lands |
| Chuck Failing, IT Manager | Board of Commissioners of Public Lands |
| Thuy Nguyen, Office Manager | Board of Commissioners of Public Lands |
| Micah Zeitler, Real Estate Specialist | Board of Commissioners of Public Lands |
| Mike Krueger, IT Specialist | Board of Commissioners of Public Lands |
| Hannah Menchhoff, Communications Director | Secretary of State |

ITEM 1. CALL TO ORDER

Board Chair Godlewski called the meeting to order at 2:01 p.m.

ITEM 2. APPROVE MINUTES

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

DISCUSSION: None.

VOTE: The motion passed 3-0.

ITEM 3a. APPROVE LOANS

MOTION: Board Chair Godlewski moved to approve the loans listed in Item 3a; Commissioner Kaul seconded the motion.

DISCUSSION:

Mr. Sneider shared that there are four loans for roads, two for capital purchases including equipment and vehicles, four loans for buildings, one for operations and one for development incentives. The Town of Belgium in loan #1, the Village of Bloomfield in loan #2, the Village of Fall Creek in loan # 7, and the City of Fox Lake in loan #9 are all borrowing to finance road work. For equipment and vehicles, we have the Town of Burlington which is buying a generator in loan #5 and in loan #12 the Town of Clover is buying a grader. Building additions or new buildings are in the purposes for loans for the Town of Jackson in #3 and #4 and the Town of Riverview in loan #8 along with the Town of Mountain in loan #11. The Town of Jackson in #3 and #4 have separated their loan amount into two separate loans, one for fire addition and one for a new highway shop. Municipalities will do that if they want some additional flexibility or transparency for the cost of each project. The Town of Jackson shares fire services with an adjacent town. Loan #6 for the Town of Janesville is something that happens on an annual basis. The town buys their fire protection from the City of Janesville. When we first started doing this for the Town of Janesville several years ago years ago, the price was substantially lower than it is now. The cost to the Town of Janesville is now over \$1,000,000 a year. The loan #10 to the City of Fox Lake is for development incentives. The project consists of zero lot line duplex units.

These are single family homes and not condominiums.

Commissioner Leiber asked if the Town of Jackson is close to their borrowing limit.

Mr. Sneider replied that the town has a borrowing limit of over \$16 million and has zero debt outstanding. So, the town is not close to their limit.

VOTE: The motion passed 3-0.

The Board of Commissioners of Public Lands (BCPL) unanimously approved **\$11,129,432.22** in State Trust Fund Loans to support **12** community projects in Wisconsin.

1. Town of Belgium / Ozaukee County / Finance roadwork / \$1,000,000.00
2. Village of Bloomfield / Walworth County / Finance roadwork / \$200,000.00
3. Town of Jackson / Burnett County / Finance New Highway Shop / \$2,500,000.00
4. Town of Jackson / Burnett County / Finance Fire Hall Addition / \$2,500,000.00
5. Town of Burlington / Racine County / Finance generator purchase / \$71,529.22
6. Town of Janesville / Rock County / Finance fire protection / \$1,077,903.00
7. Village of Fall Creek / Eau Claire County / Finance road and utility projects / \$700,000.00
8. Town of Riverview / Oconto County / Finance Construction of New Administration Building / \$1,500,000.00
9. City of Fox Lake / Dodge County / Finance repaving projects / \$200,000.00
10. City of Fox Lake / Dodge County / Finance housing project development incentives / \$80,000.00
11. Town of Mountain / Oconto County / Finance addition to Town Office/Shop / \$950,000.00
12. Town of Clover / Bayfield County / Finance purchase of grader / \$350,000.00

ITEM 3b. Town of Sanborn State Trust Fund Loan Application

Board Chair Godlewski asked that the meeting procedures be suspended so that discussion about the Town of Sanborn loan application and the memo from the Attorney General's office can be discussed. There are two unique issues, the equalized value, and a potential conflict of interest.

The process of loan review involves Mr. Sneider reviewing the loan application thoroughly and making sure the amount of the loan application is within the applicable debt limit. Executive Secretary German then reviews the application and if it passes this review, the loan is sent to the Attorney General's office (aka DOJ) for approval before presenting the loans to the board for final approval. The Attorney General's office has written a memo sharing their thoughts and details regarding issues with the Town of Sanborn loan application.

Commissioner Kaul expressed that it is important to note that the way the statute is set up, the responsibility of the Department of Justice is to weigh in on the regularity of the loan. It is not a requirement for his office to approve the loan when it be identified as regular. This loan application is unusual in that the attorneys at the Department of Justice (DOJ) wanted to provide a description about some of the distinctions from this loan versus other loans. He added that the letter from DOJ speaks for itself in terms of the issues that it raised. He asked that Executive Secretary German further discuss the loan for the board.

Executive Secretary German shared that this loan came to us through a very unusual route. The 7th Circuit Court of Appeals issued a decision that property owned by tribal members that is located within the boundaries of the tribe's reservation are exempt from property tax. Tribal members who paid property taxes applied for a refund of their taxes pursuant to that ruling. The Town of Sanborn does not have the financial resources to refund such property taxes and therefore is looking to borrow money to make those payments.

After the court decision was issued, the town and the tribe put into a stipulation that the Town may borrow from BCPL to obtain the money to refund such property taxes. This was done without talking to BCPL first. Originally the town

asked for \$1,000,000. This is roughly the total amount of all the property tax refund claims. Upon reviewing the application, he and Mr. Sneider had concerns that the loan amount could put the town too close to their total borrowing limit in the future. The reason for this is because municipalities can borrow up to 5% of the equalized value of the property located in their community. The equalized value is determined once a year by the Department of Revenue (DOR). An assessment is determined by each community's own assessor. DOR makes an adjustment once a year to "equalize the value" based upon how those assessed values compare to the rest of the state.

We anticipated that the equalized value for the community was going to decrease in the coming year because more properties were coming off the tax rolls. Currently, the town's equalized value is well over \$40 million. An equalized value of \$40 million would support a loan of over \$2,000,000. However, when looking at a loan like this, we like to make sure that it makes sense now and into the future.

The Town of Sanborn is now applying for a trust fund loan of approximately \$600,000. This amount is estimated to be enough for the town to refund property taxes paid for the years 2015, 2016, 2017 and 2018. In accordance with the statutes, the town would then be able to chargeback to the other governmental units their respective share of the refunded property taxes. Those chargebacks are usually received in February. To explain further, property taxes are made by taxpayers in one payment and then divvied up among the other governmental units (e.g., city, county, school). Refunds work that same way, but in reverse. A refund is requested from the municipality and then the municipality asks the other governmental units for their share back in the form of chargebacks. The chargeback amounts from the county and the school districts should be approximately enough to pay the remaining tax refund claims. Therefore, the loan amount of \$610,000 was chosen to provide a path for the community to resolve its financial obligations, while keeping the risk to the BCPL loan program at a reasonable level and taking into consideration the taxpayers in the community.

The Assistant Attorney General who reviewed this loan application flagged some issues. First, the equalized value. BCPL does not determine a community's equalized value. It is determined by DOR once a year. The next determination will be made in early August. The next thing they looked at was outstanding debt. Debt in this particular situation is really a term of art. It does not include accounts payable. There are all types of obligations that are not considered debt. The State of Wisconsin issues all kinds of transportation revenue bonds which are not backed by the taxes of the State of Wisconsin. They are backed by the fees that are collected on certain things by DOR. So, the outstanding debt of the town is their only existing loan of approximately \$100,000.

Finally, a potential conflict of interest was identified. There are three members of the town board. One of the members applied for a refund himself, but recused himself from the meeting, discussion, and vote on the loan from BCPL. Therefore, that potential conflict is not an issue with respect to him. Another board member has a brother that applied for a tax refund. It is Executive Secretary German's understanding that the brothers are not very close and neither brother provides significant financial support to the other one. These factors would normally take that issue off the table as well.

Subsequent to the Assistant AG's memo, the loan situation was further complicated by the fact that the legislature included in the Budget Bill three provisions that would have made it more difficult for the town to borrow: 1.) The town would have been limited to a debt service mill rate of five basis points.; 2.) The town would not be able to chargeback to the other governmental units their share of those property tax refunds; and 3.) It would have changed the rules for debt service completely for the community. In Wisconsin, debt service payments are outside of the levy limits. However, for the Town of Sanborn, those debt service payments would have been included in their levy limits. This would have made it very difficult for the town to borrow money and to repay that debt.

Looking at the governor's budget veto message just an hour ago or so, it looked like those provisions had been vetoed. Executive Secretary German has not seen the actual text of the budget bill language only the governor's message on that and there was a specific line item where he talked about vetoing those provisions.

Another complicating detail is that DOR has given some additional guidance on the equalized value. At the present time, the town's equalized value is over \$40 million, which would definitely be enough to support the loan. In August, DOR will be reducing the equalized value by the amount that is coming off the tax rolls, roughly \$19 million. DOR is

also issuing a one-year equalized value correction. This would reduce the equalized value for the next year down to roughly \$7.7 million. This will result in the town having very little borrowing capacity from roughly August 15th, 2023, to August 15th of 2024. The following year, after that one-year correction adjustment is reversed, DOR anticipates the equalized value for the Town to increase to \$27 million. This is what the equalized value is projected to be going forward. The equalized property value of a community decreasing severely to a point below their outstanding debt has happened before. Not long ago, we had the financial crisis of 2008, 2009, 2010 when there were a lot of properties that fell in value and many communities found themselves in this situation. It is, however, unusual to see a situation this significant.

At this time, we are faced with a loan application in the amount of \$610,000 that the community would use for repaying property taxes. BCPL has issued a number of loans in the past for repaying property taxes. Some of these loans were for much larger loan amounts than this loan application. We have made loans to communities that were close to their borrowing limit. Each time a loan application like this is reviewed, we try to make sure what we are doing is developing a plan that not only resolves the issue of the moment but helps put the community on a path to solvency and success while keeping the risk to the trust fund loans at a manageable and reasonable level. Fact, BCPL has gone 150 years with no defaults in our trust fund loan program.

Commissioner Leiber asked what will happen when the equalized value decreases and the town's debt total goes over the 5% limit.

Executive Secretary German replied that as soon as that equalized value goes into effect, the town will not be able to borrow any amount for the following year.

Board Chair Godlewski asked for clarification on the equalized value. Today the equalized value is \$47 million. It is estimated to be \$7 million next year and then it will go to \$27 million the year after.

Executive Secretary German replied that today the equalized value is \$43,032,100. In mid-August this year it is expected to fall to \$7,710,000 and then the year after that it is projected to be \$27,076,000.

Board Chair Godlewski commented that knowing that equalized value is one of the ways in which we determine who can qualify for the State Trust Fund Loan Program, at this point in time the equalized value for the town is \$43,000,000 which makes the loan nowhere close to their borrowing capacity, even if you add the \$100,000 + loan that the town already has. Nowhere close. That is supposed to be our barometer, this point in time, today. Therefore, following all our rules, today's point in time, the equalized value is not going to be a credit risk based on what we know at this point in time. In the future, if the equalized value changes to \$7,000,000, but then it goes back up again to \$27 million the following year when payments are supposed to start, the loan still puts debts below the 5% debt limit. Equalized value of \$27 million gives the municipality a \$1.3 million debt limit. Based on the memo and knowing that creditworthiness and the ability of communities to borrow is evaluated at a point in time how does that weigh in as far as changing the period of time?

Commissioner Kaul shared that since he is a voting member of the board, the best way to proceed today would be to let the DOJ memo speak for itself and asked Executive Secretary German to weigh in on the legal issues as he sees them. He asked for confirmation about the borrowing limit being based on the equalized value as a legal requirement. He asked Executive Secretary German about the following potential scenarios: whether we think that there is a credit risk or not, in theory a borrower could be well below the equalized value and still be a credit risk, and there are likely non-risky loans above the equalized value but are still prohibited.

Executive Secretary German responded that Commissioner Kaul is correct. The equalized value limit was put in place to keep communities from going too deep into debt. No one foresaw a situation where you would have this unusual one year adjustment of equalized value so significant that it would foreclose a community from being able to borrow for a year. This equalized value correction situation does not impact the creditworthiness of a municipality, but it does impact their ability to borrow for a specific period of time because of the adjustment.

Commissioner Kaul asked Executive Secretary German to clarify his analysis of the town's debt versus what the

memo describes. He added that he is not suggesting either is right or wrong but would like to understand the difference.

Executive Secretary German explained that the memo raises issues in terms of what could be included in debt. To the general world, debt can mean all those things, but within the world of public finance, it has a particular meaning. It is an obligation that is backed by the full faith and credit of the community and their tax dollars. In this situation, this would not fall into that grouping. Clarification is made that he is referring to the tax repayments owed.

Commissioner Kaul asked what Executive Secretary German what the basis is for his position about the town's debt. Aren't these repayments owed with the full faith and credit of the community?

Executive Secretary German replied that the payments are owed but just like they pointed out with the transportation revenue bonds, they are owed but they are not an obligation of the full faith and credit of the community. Each time a state agency, whether it be BCPL or DOJ, buys something on a credit card or however that is an obligation. That's an account payable but it is not considered debt within the confines of public finance.

Board Chair Godlewski asked about the creditworthiness versus equalized value. Based on the DOJ memo, that was multiple pages, she is trying to understand from statute with equalized value if it is true that it is about point in time. So, if that is correct, what the statutes say today the equalized value is, the town would be fine.

Executive Secretary German shared that in his opinion equalized value is determined once a year by the DOR and that is the equalized value that is in place for the rest of the year. There is a provision that if the territory changes, there is an exception to the equalized value, it will change at that point in time, but not for anything else.

Commissioner Kaul asked if Executive Secretary German's view on equalized value is consistent with the DOJ memo.

Executive Secretary German responded that he believes so.

Commissioner Kaul asked about the issue of equalized value with respect to DOR. It is his understanding that that is what will impact the borrowing ability of the town next year. He does not understand why DOR would be changing the equalized value in the way it is. He understands that the current equalized value overstates the actual value in light of the decision but if the idea of equalized value is to limit borrowing, or at least part of the purpose is, is for borrowing to be limited to 5%, why would DOR adjust it that way? The fact that the equalized value is changing so much year by year seems to be of concern.

Executive Secretary German replied that he does not have a good explanation for why this coming year has both the compensation adjustment and "correction adjustment". He has the same question for DOR. If you notice, both adjustments are the same amount. It's a double adjustment for the coming year.

Commissioner Kaul shared two general thoughts, in the interest of moving a step forward on the decision-making process. First, he thanked Board Chair Godlewski for suggesting we suspend the rules because it is helpful to have this discussion and he thanked BCPL staff for all the work they've been doing on this. It is a complicated issue and BCPL staff has put in a lot of work to the extent that they can be helpful to both the taxpayers who deserve money and to the Town of Sanborn. He shared a substantive concern that there seems to be a lot in flux right now. The equalized value is changing. We will get a new formal equalized value in August which is not that long from now. There seems to be some uncertainty as to exactly what DOR will do. And we do not yet know exactly how much refund money is owed to the taxpayers. There is the broader big issue of the Town of Sanborn, thinking longer term, with likely more volatility than there would be in most circumstances. He added that not any of those is necessarily determinative, but those are all things that make this loan somewhat unusual.

Commissioner Kaul stated that it does seem like this is an issue where legislative involvement or significant DOR involvement may well be warranted. He compared this situation to the shared revenue deal and the fiscal difficulties that the City of Milwaukee had. Given the uncertainty of the situation, it seems like having a legislative solution or clear input from DOR as to how the process could work out may make a lot of sense. Those things weigh in favor of

further discussions likely with some other partners, legislature, and DOR. He added that it does not seem like there is an urgency to moving forward. The reimbursement from DOR has a certain deadline, but either the Town of Sanborn or DOR could work on that or perhaps they just wait till next year to make those reimbursement payments and apply for it next year.

Board Chair Godlewski shared that the staff at BCPL has believed that based on this loan application and conversations, it meets all the check marks that we need: creditworthiness, the town's ability to pay things back and the loan follows the statutes that are outlined. She expressed that she is concerned about the urgency associated with the loan. Staff has determined that this loan can be approved at that \$610,000 because of the equalized value that is assessed until the 15th of August. Once the equalized value changes, that changes the requirements and potentially the ability for BCPL to lend to the town. There is a timeline and aspect about this as far as our involvement and what we can and cannot do and potentially meeting our fiduciary requirements as well as upholding statutes.

Executive Secretary German shared that the chargeback statutes indicate that requesting DOR's assistance in charging back the other governmental units must be done by October. However, he was informed by DOR that they felt the timeline was more urgent because the town needed to request the chargeback earlier in order to give the other governmental units enough time to have it included in their fall budgets development. Otherwise, those other government units will not be collecting those chargebacks from their taxpayers to pay back the town by this February. Even though the statutory framework was set for an October notification, unless you do it this summer, it would probably not mechanically occur until the following year. There was some more urgency in terms of making this work not just by getting the notice on chargeback to DOR but if things weren't done by August on our end, the town would be effectively foreclosed from borrowing much money for a full year after that. Yes, there are some factors of urgency. We are not at the 11th hour yet, but we are getting close.

Commissioner Kaul asked about the precise amount the town owes in tax refunds.

Executive Secretary German we know within a couple dollars. The total amount of refunds is approximately one million. It is not expected to deviate much from that Excel spreadsheet because it's a moving target as interest is accruing daily as the refund claims are not paid.

Commissioner Leiber asked about the town's revenues estimate going back and whether it represents the equalized value going back up to \$27 million. Are they estimating that's what it would be today if we didn't do the correction or is that a prediction on what's actually going to be happening in the town in a year from now.

Executive Secretary German replied that that is based upon no other changes, no new construction, no market value changes, no other adjustments. Yes.

Commissioner Leiber asked if that number means that no other property will be taken off the tax roll.

Executive Secretary German responded yes, to the best of my knowledge that was the assumption they were taking into account.

Commissioner Kaul asked if it was possible that could happen.

Executive Secretary German replied that it is possible. In any community properties are bought and sold. No one knows exactly what will happen over the next year there.

Commissioner Kaul asked if this is much more volatile than the normal situation. There are properties that if they're purchased by tribal members will no longer be taxable and there is a possibility that you'll have people moving out of town because of the spike in the tax burden. This feels like a much riskier loan situation than our typical loan profile. The benefit of time and clarity is potentially quite helpful to us.

Executive Secretary German explained that is why he and Mr. Sneider sat down and looked at the situation to figure out what would make sense. The \$27 million would support borrowing of \$1.35 million. We considered what happens

if things really get difficult, what if another significant part of the property comes off the tax rolls? You reach a point where not much more can come off the tax rolls since much of the property is already off. With a \$610,000 loan from BCPL and the \$100 some thousand out there of existing debt it would take a huge percentage of the existing property to come off the tax rolls to get down to where the total debt would be close to the 5% limit in future years.

Commissioner Kaul asked about the town's plan for bringing in the revenues to pay back the loan.

Executive Secretary German replied that when we sat down and charted this out, the \$610,000 loan would pay off the first four years of property taxes, at which point the town would chargeback the school district, the county, and the Technical College for their respective shares. Their respective shares would be approximately \$400,000. The \$400,000 would be roughly enough to pay off the remaining claims, which would then generate a second round of chargebacks which would be approximately \$250,000, which would then be used to pay down the balance of the trust fund loan bringing the loan down to roughly \$350,000. With the loan amortized over a full 20-year period, he estimated a payment of roughly \$27,000 a year.

Mr. Sneider shared that the annual payments the town would have to come up with would be closer to \$30,000 per year.

Commissioner Kaul commented that this raises the same question for the county and the school districts. Is the assumption that they would be doing a tax levy or are they in better financial shape because they're going to have to meet those obligations then?

Commissioner Kaul commented that there are lot of moving parts on this that add risk here (if we were a private bank, we would be viewing this quite differently from the traditional run-of-the-mill loan application): 1.) Even if we thought it was permissible, which it sounds like you do, we want to make sure we're not taking on more risk with this loan than we are with other loans at the same rate; 2.) Having a clear sense of why DOR is doing what it's doing; and 3.) The longer-term practice of BCPL being a part of what feels more like a legislative issue in this situation. He suggests possibly having DOR speak to their confidence in the ability to collect the chargebacks that are owed and how that process works and how this process is supposed to unfold. Thoughts from the other commissioners?

Commissioner Leiber agreed. This is an unusual situation with a lot of different things that can go wrong. He is concerned about the value of the town decreasing, the taxable property base shrinking. The tax rate on the remaining parcels will go up and those people are going to be incentivized to leave town. The only people who will want to buy property will be those that don't have to pay taxes. It's going to be a negative feedback loop for a lot of these people. The property taxpayers are going to move out. Town residents are going to sell it to the people who are making the best offer, which are going to be the people who don't have to pay any property taxes and there's going to be even less property value. The taxes are going to rise and it's just going to cycle like that. He's uncertain this loan helps the situation. If the town has to tax more to pay off this loan, that's just going to raise the burden even more. Is this a good solution for helping the town long term? Perhaps a Band-Aid, but it seems like to solve this issue, the legislature is going to have to do something here.

Commissioner Kaul wondered if there is precedent for this or at least similar examples where the same situation has unfolded. It would be good to have some sense of how the scenario on the ground will change for folks so we can make a risk assessment. As to Commissioner Leiber's point as to how likely that is seems worthwhile because it's a very small town. From the reevaluation roughly half of the land is going to be not taxable. A small number of people will be responsible for the tax changes and that may not impact anybody in terms of where they live, but there may be scenarios in which it would have an impact.

Board Chair Godlewski commented that what's she's hearing is a few things for the next meeting. That meeting would provide clarification around a few issues:

- 1.) From DOR with regards to this situation - clarifying the chargebacks, what that looks like, is there additional information on equalized value with the community and long term as they look at the town, how

they see the next few years and their ability to pay it back. In addition to DOR providing insight on that, perhaps we could have them come to a meeting and take questions from them.

- 2.) Mr. Sneider, Executive Secretary German and BCPL staff put together their memo on how they came up with this recommendation of \$610 thousand. We want to make sure we are very clear that we have a clean record of always making sure that communities pay back their loans and that's something that we take incredibly seriously. She would never want anyone to accuse BCPL or any of the commissioners of not upholding their fiduciary responsibilities. It would be very helpful for the commissioners to see how the team came up with that \$610 thousand recommendation to the credit worthiness and the ability of the town to repay the loan given the circumstances they are in.

Commissioner Kaul thanked Board Chair Godlewski for the summary. He added that it may be helpful if DOR has experience with data on changes in tax rates and impacts of that on inflow and outflow of people. If the repayment is \$23,000 a year spread out over 100 people, that is a \$230 increase in property taxes per year on average depending on how much property there is. If that is being charged back to other entities and we are confident that they can pay, that dollar amount may get much smaller. More detail on at what level there is likely to be some sort of change would be helpful. Has the town had any discussions with the legislature or DOR about other types of options or what options may be available? The most logical thing would be to ask for legislation directly addressing this.

Executive Secretary German commented that he does not have an answer but is more than happy to follow up with DOR to get the answers.

Commissioner Kaul asked if we could get specificity on exactly what is owed to the taxpayers. He would like a concrete number.

Commissioner Leiber asked how much of the territory of the town is actually at risk of being taken off the tax roll. A recent news article wrote that there is only 15% still taxable. This would be good to know in order to judge how much their ability to pay is in the future should even more be taken off. How many parcels remain that can be taken off the tax roll if the right owner is purchasing them?

Executive Secretary German replied that he heard the same percentage in terms of how much of the town was already off the tax rolls. The Town of Sanborn is within the boundaries of the reservation, so a fair amount of the town was already off the tax rolls to begin with because it was owned by the tribe, or it was owned by the federal government in trust for tribal members.

Commissioner Kaul thanked the BCPL staff for their work on dealing with a very complicated issue. He commented that his questions are in no way meant to be critical of that effort.

Board Chair Godlewski introduced the third issue brought up in the memo about a conflict of interest. Executive Secretary German has addressed it from his perspective. She asked if the commissioners needed additional clarification or have concerns about what was mentioned in the Attorney General's memo.

Commissioner Kaul reiterated Executive Secretary German previous comments that to his knowledge there exists no personal stake for the two board members who voted on the resolution and that one member has a brother who has a personal stake, but we are not aware of any financial entanglements between the two or any other things that would raise conflict of interest concerns. Is that right?

Executive Secretary German replied that that is correct.

The commissioners expressed no further concerns about the conflict-of-interest issue.

Board Chair Godlewski recapped the major points. 1.) clarification from DOR about equalized value and the chargeback process. Amount? What part of the town will be on the tax rolls? 2.) How BCPL determined the \$610,000.

Commissioner Kaul asked Board Chair Godlewski if she knows of someone from DOR who would be available to answer questions. Answers from DOR would be helpful.

Board Chair Godlewski agreed that that would be helpful and clarified that this has already been included as part of the board's next steps. She thanked everyone for a good discussion. We will continue to follow up at the next meeting.

ITEM 4. OLD BUSINESS

None

ITEM 5. NEW BUSINESS

None

ITEM 6. CHIEF INVESTMENT OFFICER'S REPORT

None

ITEM 7. EXECUTIVE SECRETARY'S REPORT

None

ITEM 8. BOARD CHAIR'S REPORT

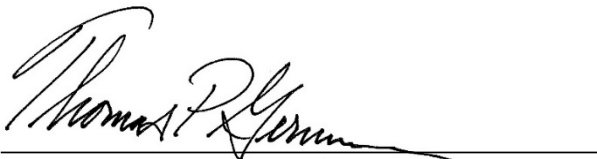
None

ITEM 9. FUTURE AGENDA ITEMS

None

ITEM 10. ADJOURN

Commissioner Kaul moved to adjourn the meeting; Commissioner Leiber seconded the motion. The motion passed 3-0; the meeting adjourned at 3:03 p.m.



Thomas P. German, Executive Secretary

Link to audio recording:

<https://bcpl.wisconsin.gov/bcpl.wisconsin.gov/Shared Documents/Board Meeting Docs/2023/2023-07-05 BoardMtgRecording.mp3>

**BOARD MEETING
JULY 18, 2023**

**AGENDA ITEM 3
APPROVE LOANS**

| Municipality | Municipal Type | Loan Type | Loan Amount |
|--|--|--------------------|------------------------|
| 1. Menomonie Dunn County Application #: 02024001 Purpose: Finance TID #17 infrastructure projects | City Rate: 5.00% Term: 20 years | General Obligation | \$505,000.00 |
| 2. Mishicot Manitowoc County Application #: 02024002 Purpose: Finance roadwork | Village Rate: 5.50% Term: 8 years | General Obligation | \$145,750.00 |
| 3. Weston Marathon County Application #: 02024003 Purpose: Finance roadwork | Town Rate: 5.50% Term: 2 years | General Obligation | \$150,000.00 |
| 4. Woodville St Croix County Application #: 02024005 Purpose: Finance street and sidewalk projects | Village Rate: 5.00% Term: 20 years | General Obligation | \$653,044.00 |
| 5. Eau Claire Chippewa and Eau Claire Counties Application #: 02024006 Purpose: Finance Transit Center/TID and other projects | City Rate: 5.00% Term: 20 years | General Obligation | \$10,075,000.00 |
| 6. Eau Claire Chippewa and Eau Claire Counties Application #: 02024007 Purpose: Finance TID #15 Projects | City Rate: 5.00% Term: 20 years | General Obligation | \$3,015,000.00 |
| 7. Salem Pierce County Application #: 02024008 Purpose: Finance roadwork | Town Rate: 5.50% Term: 2 years | General Obligation | \$170,000.00 |
| TOTAL | | | \$14,723,794.00 |

Supplemental Materials – Town of Sanborn Loan Application
July 18, 2023

Tribal members who owned land within their reservation boundaries had been paying property taxes under protest since 2015 as they believed that their treaty with the US Government made such properties exempt from property tax. The 7th Circuit Court of Appeals agreed with them in 2022. By then, the total property taxes paid under protest together with accrued interest had reached almost \$1 million. If the refund claims are not paid, court judgement interest accrual will increase the total amount of the claim by over \$100,000 per year.

The Town of Sanborn must pay the property tax refund claims to tribal members prior to being able to “charge back” other governmental taxing authorities.

The Town of Sanborn initially requested a Trust Fund Loan from BCPL in the amount of \$1 million dollars to satisfy the tax refund claims in full. BCPL staff reviewed such request. While the equalized value of the Town at the time of the request was over \$40 million, the equalized value was projected to fall to approximately \$27 million in the coming years as the tribal members’ properties were removed from the tax rolls. Together with existing debt, that would have pushed the Town’s total debt percentage to slightly over 80% of its borrowing capacity. In situations such as this, BCPL staff take a closer look at the borrower’s circumstances and ability to repay the loan and deal with future financial challenges. Also in these situations, staff make alternative recommendations as we have done with other communities who are getting near their respective borrowing limits.

BCPL staff developed a loan strategy for the Town of Sanborn with a couple of goals in mind:

1. Provide the community with resources sufficient to address the pressing need.
2. Provide the community a pathway to future financial stability.
3. Minimize the default risk to the trust funds.

BCPL staff have determined that a loan of \$610,000 to be paid back over 20 years accomplishes these goals.

1. A loan of \$610,000 together with the outstanding debt would put the Town at slightly over 50% of their future debt capacity. This percentage is generally considered reasonable by credit rating agencies. This loan amount would allow the Town to pay off the first 4 years of tax refund claims.
2. Immediately after paying the first round of tax refund claims, the Town may chargeback the other local government taxing entities (e.g. county, school district, technical college...) for their respective share of the total tax refunds paid. The amount of initial chargeback to these other entities is projected at approximately \$400,000 which is approximately equal to the estimate amount of the remaining tax refund claims.

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3. The second round of tax refund payments made by the Town would make the Town eligible for a second round of chargebacks to the other local government taxing authorities. It is estimated that this second round of chargebacks would total approximately \$250,000. This amount could be used to prepay the outstanding BCPL Trust Fund Loan, leaving a remaining balance of approximately \$360,000 (\$610,000 - \$250,000).
4. Utilizing the chargeback process and dedicating the 2nd chargeback to prepay the BCPL loan reduces the expected annual loan payment to less than \$30,000 per year. This amount appears manageable by the Town.
5. The BCPL loan reduces the interest rate charged to the Town of Sanborn on this obligation from the 12% court judgement rate to the 5.25% BCPL market rate available to all communities at the time of loan application. This lower interest rate allows the community to make progress on paying off this obligation, while deferring action to some later point in time makes the challenge more difficult as the liability would grow by 12% per year.
6. Statutes require that BCPL intercept shared revenue payments in case of loan default. Shared revenue payments to the Town of Sanborn are estimated at \$96,854.23 in 2023, and slightly exceeded \$100,000 in both 2022 and 2021. Prior to the reconfiguration of the shared revenue formula in the current state budget (which is expected to increase the annual amounts of shared revenue to all communities), the expected final debt service payments are well covered by current shared revenue payments. The default risk to BCPL-managed trust funds is very small.

To Governor Evers, attorney general, BCPL and interested parties

Clarifications on the BCPL meeting of July 5th 2023

- 1 . I Luis Salas am not a tribal member, and am the chairman for the town of Sanborn*
- 2. Ben Connors supervisor of the town of Sanborn , that voted for the application to the BCPL. Will not benefit in any way from the relative that is part of the LCO tribal tax case*
- 3. The township of Sanborn manage quite well for 8 years that the tribal tax property was not taxed*
- 4 the equalized value of the township of Sanborn is what the assessor indicated as correct . 23 million plus.*
- 5. 35 percent not 85 percent of the properties were taken of the book. The rest was tribal trust land .*
- 6 . The state of erred in 2015 when entered the opinion that property sold to non-tribal members lost their taxable immunity.*
- 7.misinformation by Ashland county and the local news paper has created harsh conditions that have impacted the welfare of our citizens and the township ability to borrow funds to resolve a situation that was not of our making.*

Thank you

Luis Salas

Chairman of the town Sanborn

A. General

This summary was compiled by the Wisconsin Department of Revenue (DOR) – State and Local Finance Division (SLF) for the Board of Commissioners of Public Lands, including:

- Chargeback of refunded or rescinded taxes (sec. 74.41, Wis. Stats.)
- Correction of equalized values (sec. 70.57, Wis. Stats.)

B. Chargeback of Refunded or Rescinded Taxes

A municipality may submit a chargeback request (Form PC-201) to DOR if the following applies:

1. Municipality has refunded or rescinded general property taxes under secs.
 - a. 70.511 – delayed action of reviewing authority
 - b. 74.33 – sharing and charging back of taxes due to palpable errors
 - c. 70.43 – correction of errors by assessors
 - d. 70.74 – lien of reassessed tax
 - e. 75.25(2) – defective or void tax certificate or tax deed
 - f. 74.35 – recovery of unlawful taxes
 - g. 74.37 – claim on excessive assessment
2. Property is not within a tax incremental district, unless the current value of the tax incremental district is lower than the tax incremental base in the assessment year for which the tax was refunded, rescinded, collected, or corrected
3. Refunded or rescinded amounts
 - a. January 1, 2018, property assessment year or later – the tax refunded/rescinded for any single description for one year is \$250 or more
 - b. January 1, 2017, property assessment year or prior – the tax refunded/rescinded must be at least \$500 or the municipality must accumulate at least \$5,000 of refunded/rescinded taxes in total for the same year
4. Filing timeline – due to DOR by October 1 each year
 - a. Refunded or rescinded taxes for the 5 prior assessment years
 - b. Refunded or rescinded taxes due to a court determination, no later than one year after the court's determination

General process:

- Early determinations (for larger refunded/rescinded tax amounts)
 - By July 1 – Municipality submits Form PC-201
 - By August 15 – DOR issues early determinations to municipalities and other taxing jurisdictions
- By October 1 – Municipality submits Form PC-201 to DOR
- By November 15 – DOR issues determinations to municipalities and other taxing jurisdictions
- By the following February 15 – Taxing jurisdictions must pay the municipalities

Additional information:

- Prior requests and determination notices – ww2.revenue.wi.gov/VaultPublic/publish/chargeback/report.html
 - 2022 – 137 requests
 - 2021 – 155 requests
 - 2020 – 183 requests
- Common questions – revenue.wi.gov/Pages/FAQS/slf-chargebk.aspx

C. Equalized Values – 70.57 Corrections

DOR certifies equalized values for counties and municipalities each year by August 15:

- Sec. 70.57, Wis. Stats., provides DOR the authority to correct either of the two prior year's equalized values
- The majority of the required corrections are the result of an amended Municipal Assessment Report (MAR) filed by the municipal assessor (after equalized values have been established on August 15)
- The equalized value is recalculated based on the corrected information, and any difference is applied to the following year's equalized value as a correction

Correction process:

1. Correction – equalized values are carried forward each year, so a correction amount is used to calculate the start-up value
2. Compensation – the dollar amount of the correction is included a second time to compensate for over or under valuation in previous year (Note: personal property values are not carried forward each year, requiring only a compensation amount included in the next year's equalized value, not a correction)
3. Compensation removal – the compensation is removed in the following year since it is a one-time occurrence

Town of Sanborn:

- 2022 certified value
- 2023 – estimate includes correction, compensation, positive economic growth, and new construction
- 2024 – estimate removes the compensation and does not include market value changes or new construction
- Base value – equalized value excluding any prior year compensation amounts

| | 2022 Equalized Value | Est. 2023 Equalized Value | Est. 2024 Equalized Value |
|--------------------|----------------------|---------------------------|---------------------------|
| Correction | | (\$19,366,500) | |
| Compensation | | (\$19,370,600) | \$19,366,500 |
| Other changes | | \$3,667,100 | |
| Total value | \$42,780,400 | \$7,710,400 | \$27,076,900 |
| <i>Base value</i> | <i>\$42,780,400</i> | <i>\$27,081,000</i> | |

Additional information:

- Equalized values summary reports – revenue.wi.gov/Pages/Report/Home.aspx
- Equalized values visualization tool – revenue.wi.gov/Pages/SLF/EqualizedValue.aspx

Scenarios

| 2021 Equalized Value and Tax Levy | | | | | |
|---------------------------------------|----------------------|-------------------|--|----------------------|-------------------------------------|
| District | 2021 Equalized Value | 2021 Tax Levy | District Total Equalized Value (TID Out) | District Total Levy | Percent to Total for Apportionments |
| State | 37,509,400 | 0.00 | 625,053,658,893 | 0.00 | |
| Ashland County (02) | 37,509,400 | 273,708.28 | 1,270,618,600 | 9,010,782.00 | 2.9521% |
| Town of Sanborn (02022) | 37,509,400 | 154,601.00 | 37,509,400 | 154,601.00 | 100.0000% |
| Sch D of Ashland (S0018) | 37,509,400 | 325,944.00 | 760,506,345 | 6,608,541.00 | 4.9322% |
| Northwood Technical College (V0016) | 37,509,400 | 12,038.83 | 41,382,226,361 | 13,281,836.00 | 0.0906% |
| Totals for the Town of Sanborn | 37,509,400 | 766,292.11 | | 29,055,760.00 | |

| Property Tax Bills | | | | | |
|---------------------------------------|--|--|-------------|--|--|
| 2021 Aggregate Ratio | | | 0.872119714 | | |
| 2021 Total Assessed Value of the Town | | | 32,712,600 | | |

| Ex: \$200,000 property | Taxes | Assessed Value Tax Rate | | | |
|--|----------------|-------------------------|--|--|--|
| State | \$0 | 0 | | | |
| Ashland County (02) | \$1,673 | 0.008367060 | | | |
| Town of Sanborn (02022) | \$945 | 0.004726038 | | | |
| Sch D of Ashland (S0018) | \$1,993 | 0.009963867 | | | |
| Northwood Technical College (V0016) | \$74 | 0.000368018 | | | |
| Total Taxes for \$200k Property | \$4,685 | 0.023424983 | | | |

| 2022 Equalized Value and Tax Levy | | | | | |
|---------------------------------------|----------------------|-------------------|--|----------------------|-------------------------------------|
| District | 2022 Equalized Value | 2022 Tax Levy | District Total Equalized Value (TID Out) | District Total Levy | Percent to Total for Apportionments |
| State | 42,780,400 | 0.00 | 713,014,265,937 | 0.00 | |
| Ashland County (02) | 42,780,400 | 262,729.12 | 1,492,722,000 | 8,960,746.72 | 2.8659% |
| Town of Sanborn (02022) | 42,780,400 | 258,326.00 | 42,780,400 | 258,326.00 | 100.0000% |
| Sch D of Ashland (S0018) | 42,780,400 | 321,107.00 | 908,874,302 | 6,821,954.00 | 4.7070% |
| Northwood Technical College (V0016) | 42,780,400 | 11,685.01 | 48,072,520,852 | 13,130,491.00 | 0.0890% |
| Totals for the Town of Sanborn | 42,780,400 | 853,847.13 | | 29,171,517.72 | |

| Property Tax Bills | | | | | |
|---------------------------------------|--|--|-------------|--|--|
| 2022 Aggregate Ratio | | | 0.769221419 | | |
| 2022 Total Assessed Value of the Town | | | 18,029,000 | | |

| Ex: \$200,000 property | Taxes | Assessed Value Tax Rate | | | |
|--|----------------|-------------------------|--|--|--|
| State | \$0 | 0 | | | |
| Ashland County (02) | \$2,915 | 0.014572584 | | | |
| Town of Sanborn (02022) | \$2,866 | 0.014328360 | | | |
| Sch D of Ashland (S0018) | \$3,562 | 0.017810583 | | | |
| Northwood Technical College (V0016) | \$130 | 0.000648123 | | | |
| Total Taxes for \$200k Property | \$9,472 | 0.047359650 | | | |

Est. 2023 Equalized Value and Tax Levy - No Chargeback

Assumptions:

1. Estimated 2023 equalized value of \$7,710,400 includes a correction, compensation, positive economic growth, and new construction
2. Used the 2022 tax levies
3. Est. 2023 county, school district and technical college equalized value reduced by approx. 35,070,000
4. Used 2023 assessed value

| | Est. 2023 Equalized Value | 2022 Tax Levy | District Est. Total Equalized Value (TID Out) | District 2022 Total Levy | Percent to Total for Apportionments |
|---------------------------------------|---------------------------|-------------------|---|--------------------------|-------------------------------------|
| State | 7,710,400 | 0.00 | 712,979,195,937 | 0.00 | |
| Ashland County (02) | 7,710,400 | 47,398.79 | 1,457,652,000 | 8,960,746.72 | 0.5290% |
| Town of Sanborn (02022) | 7,710,400 | 258,326.00 | 7,710,400 | 258,326.00 | 100.0000% |
| Sch D of Ashland (S0018) | 7,710,400 | 60,196.54 | 873,804,302 | 6,821,954.00 | 0.8824% |
| Northwood Technical College (V0016) | 7,710,400 | 2,107.55 | 48,037,450,852 | 13,130,491.00 | 0.0161% |
| Totals for the Town of Sanborn | 7,710,400 | 368,028.88 | | 29,171,517.72 | |

Property Tax Bills

| | |
|---------------------------------------|------------|
| 2023 Aggregate Ratio | TBD |
| 2023 Total Assessed Value of the Town | 17,045,800 |

| Ex: \$200,000 property | Taxes | Assessed Value Tax Rate |
|--|----------------|-------------------------|
| State | \$0 | 0 |
| Ashland County (02) | \$556 | 0.002780673 |
| Town of Sanborn (02022) | \$3,031 | 0.015154818 |
| Sch D of Ashland (S0018) | \$706 | 0.003531459 |
| Northwood Technical College (V0016) | \$25 | 0.000123640 |
| Total Taxes for \$200k Property | \$4,318 | 0.021590590 |

Est. 2023 Equalized Value and Tax Levy - \$630k Chargeback

Assumptions:

1. Allocated \$630k chargeback based on 2021 tax levies
2. Estimated 2023 equalized value of \$7,710,400 includes a correction, compensation, positive economic growth, and new construction
3. Used the 2022 tax levies plus allocated chargeback amounts
4. Est. 2023 county, school district and technical college equalized value reduced by approx. 35,070,000
5. Used 2023 assessed value

\$630K Chargeback Breakdown based on 2021 Tax Levy

| District | 2021 Tax Levy | Percent to Total | \$630,000 | Share of \$630,000 Refund |
|---------------------------------------|-------------------|--------------------|-----------|---------------------------|
| State | 0.00 | 0.000000000 | | \$0.00 |
| Ashland County (02) | 273,708.28 | 0.357185304 | | \$225,026.74 |
| Town of Sanborn (02022) | 154,601.00 | 0.201752045 | | \$127,103.79 |
| Sch D of Ashland (S0018) | 325,944.00 | 0.425352155 | | \$267,971.86 |
| Northwood Technical College (V0016) | 12,038.83 | 0.015710497 | | \$9,897.61 |
| Totals for the Town of Sanborn | 766,292.11 | 1.000000000 | | \$630,000.00 |

| | Est. 2023 Equalized Value | 2022 Tax Levy | District Est. Total Equalized Value (TID Out) | District 2022 Total Levy + Chargeback | Percent to Total for Apportionments |
|--|---------------------------|--------------------------------|---|---------------------------------------|-------------------------------------|
| State | 7,710,400 | 0.00 | 712,979,195,937 | 0.00 | |
| Ashland County (02) | 7,710,400 | 48,589.09 | 1,457,652,000 | 9,185,773.46 | 0.5290% |
| Town of Sanborn (02022) | 7,710,400 | 385,429.79 | 7,710,400 | 385,429.79 | 100.0000% |
| Sch D of Ashland (S0018) | 7,710,400 | 62,561.11 | 873,804,302 | 7,089,925.86 | 0.8824% |
| Northwood Technical College (V0016) | 7,710,400 | 2,109.14 | 48,037,450,852 | 13,140,388.61 | 0.0161% |
| Totals for the Town of Sanborn | 7,710,400 | 498,689.13 | | 29,801,517.72 | |
| Property Tax Bills | | | | | |
| 2023 Aggregate Ratio | | | TBD | | |
| 2023 Total Assessed Value of the Town | | | 17,045,800 | | |
| Ex: \$200,000 property | | | | | |
| | Taxes | Assessed Value Tax Rate | | | |
| State | \$0 | 0 | | | |
| Ashland County (02) | \$570 | 0.002850502 | | | |
| Town of Sanborn (02022) | \$4,522 | 0.022611423 | | | |
| Sch D of Ashland (S0018) | \$734 | 0.003670177 | | | |
| Northwood Technical College (V0016) | \$25 | 0.000123734 | | | |
| Total Taxes for \$200k Property | \$5,851 | 0.029255836 | | | |