

Board Meeting Minutes
August 5, 2025

Present were:

Sarah Godlewski, Board Chair
John Leiber, Commissioner
Josh Kaul, Commissioner
Nicole Pegram, Deputy Chief of Staff
Tom German, Executive Secretary
Rich Sneider, Chief Investment Officer
Chuck Failing, IT Manager
Denise Nechvatal, Controller
Thuy Nguyen, Office Manager

Secretary of State
State Treasurer
Attorney General
Secretary of State
Board of Commissioners of Public Lands
Board of Commissioners of Public Lands
Board of Commissioners of Public Lands
Board of Commissioners of Public Lands
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

MOTION: Board Chair Godlewski moved to approve the minutes; Commissioner Kaul seconded the motion.

DISCUSSION: None

VOTE: The motion passed 3-0.

ITEM 3. APPROVE LOANS

MOTION: Board Chair Godlewski moved to approve the loans; Commissioner Kaul seconded the motion.

DISCUSSION: Mr. Sneider reported we have loans for roadwork projects, a bucket truck, a stormwater project and financing the Village of Summit's capital improvement plan and most of that is also roadwork.

VOTE: The motion to approve the loans passed 3-0.

The Board of Commissioners of Public Lands (BCPL) unanimously approved **\$3,205,000.00** in State Trust Fund Loans to support 7 community projects in Wisconsin.

1. Village of Mishicot / Manitowoc County / Finance roadwork / \$100,000.00
2. City of New London / Outagamie & Waupaca Counties / Finance purchase of DPW Bucket Truck / \$214,000.00
3. City of New London / Outagamie and Waupaca Counties / Finance roadwork / \$386,000.00
4. Village of Summit / Waukesha County / Finance operations / \$1,200,000.00
5. Town of Salem / Pierce County / Finance roadwork / \$180,000.00
6. City of Wisconsin Rapids / Wood County / Finance roadwork / \$725,000.00
7. Town of Shelby / La Crosse County / Finance stormwater project / \$400,000.00

ITEM 4. OLD BUSINESS

None

ITEM 5. Milwaukee County Fines and Forfeitures

Board Chair Godlewski explained that the state budget passed and included a budget amendment allowing Milwaukee County to retain 100% of the traffic fines and forfeitures collected in Milwaukee County to be used to fund operations and the hiring of district attorneys in that county instead of going into the Common School Trust Fund. This is a concern and the constitutionality of this budget amendment is in question. The Wisconsin Constitution clearly states that the clear proceeds of fines and forfeitures must be deposited into the school trust fund. A 1973 Wisconsin Supreme Court opinion confirmed that the legislature has the authority to define *clear proceeds* but that power is limited. Last board meeting Secretary German and the two Commissioners who are attorneys were asked to think about what the board's next steps might be. This budget amendment could result in the other 71 counties asking for the same authority as Milwaukee County. This could greatly impact the agency's duty as trustees and fiduciaries of the Common School Trust Fund. Secretary German has provided background materials: Article X of the Wisconsin Constitution, the Supreme Court opinion from the 1973 lawsuit brought on by the BCPL against the Kenosha County Treasurer and the pertinent amendment to this year's budget bill.

Executive Secretary German highlighted the parts of the Constitution article stating that the clear proceeds of all property that may accrue to the state by forfeiture or escheat and the clear proceeds of all fines collected in several counties for breach of penal laws are to be deposited in the school fund. In the 70s the Legislature passed a law which allowed counties to retain 50% of these funds in recognition of the costs incurred by the counties in prosecuting and collecting these fines and forfeitures. This law redefined the meaning of *clear proceeds*. The BCPL then filed a lawsuit. The case reached the Supreme Court. The Supreme Court declared it was appropriate for BCPL to be a party to this action. The BCPL argued that the Legislature should not be able to do this at all. The Supreme Court disagreed and declared that the legislature has the power to define *clear proceeds* but, the Legislature cannot define *clear proceeds* in a way that leaves merely a nominal amount going to the school fund.

Recently, the legislature and governor signed off on a budget that left nothing going to the school fund from traffic fines and forfeitures collected in Milwaukee County. Zero is less than nominal. This new provision appears to run afoul of the Supreme Court's opinion. The Supreme Court's decision highly focused on the concept of *clear proceeds* and the counties' costs of prosecution in obtaining those funds. The Supreme Court also made it clear that it did not like the idea of using these monies for other expenses. This current budget amendment is also problematic in that it allows for the use of these funds to pay for new expenses (additional assistant District Attorneys) in Milwaukee county. The board has three options: A.) figure out a way to negotiate a resolution; B.) litigation; and C.) do nothing.

Commissioner Kaul expressed that if the board is going to discuss the possibility of litigation, he would need to recuse himself. He wants to be clear about this before the board goes too far into discussions about litigation.

Executive Secretary German acknowledged Commissioner Kaul's position and commented that he has no intention of discussing the tactics or merits of the litigation. He is merely pointing out litigation as an option.

Commissioner Kaul confirmed he understands.

Executive Secretary German shared that Commissioner Leiber had suggested a possible approach with significant amount of merit. Commissioner Leiber suggested a budget change. Amend the budget again to allow BCPL to fund the agency operations with program revenue, hopefully with a slight increase to address some of the things originally asked for and give Milwaukee County BCPL's GPR budget funds to pay for the additional assistant District Attorney positions. Milwaukee County would get the money they need and BCPL would be put on more stable financial footing.

Opting to acquiesce to a budget change that moves the sharing of forfeitures from a 50/50 split to something less than a 100/0 split with the County does not appear to be helpful at all. For example, if Milwaukee County keeps 60% and 40% goes to the school fund, instead of getting 12.5 positions, they would get roughly 2.

This will not be a normal negotiation. The budget has been confirmed. These monies will not be deposited to the Common School Fund but instead given to Milwaukee County. The impact of sending a cease-and-desist letter to

Milwaukee County is uncertain. It's likely to be difficult to enforcement that request without litigation.

Commissioner Leiber shared that these fines and forfeitures build the principal of the Common School Fund. It is important for BCPL to keep these moneys flowing into the principal of the fund because we can't make up for the losses of these additions to principal elsewhere.

Board Chair Godlewski commented that if we negotiate with the Legislature and the governor, pointing out the potential Constitutional violation, we will want to negotiate so we do not have to file a lawsuit. Ideally, we would like to move BCPL from GPR back to program revenue and have that GPR funding go to Milwaukee County. She asked about the process for doing this. The Legislature will need to agree to it and then it will need to pass both chambers.

Executive Secretary German replied that her assessment was correct.

Board Chair Godlewski asked if the governor would have to sign such bill.

Executive Secretary German replied, yes.

Board Chair Godlewski commented that this is not a minor mistake. This is something that must be fixed and it has to go through the legislative process.

Executive Secretary German agreed. The budget was done in such haste that there has been talk of a trailer bill to address some of the things not addressed in the final budget. The parties went from zero to 100 in one week. Another issue is the current budget has no funding, as of the end of September, for two of the state's veterans nursing homes. It's uncertain if the legislature or the governor intended this to be the case. It was likely an oversight because they were going too fast. There may be other things that were overlooked. If there is a trailer bill addressing some of these things, it would be logical to include our budget amendment request to such trailer bill. Our request would have a net zero impact on GPR spending by the state. We have to get legislative leaders and the governor on board. He is unsure how difficult a change this will be with the Legislature.

Board Chair Godlewski asked Commissioner Leiber who he has talked to in the Legislature and asked if he could share what the process would look like from his end with Republican leaders.

Commissioner Leiber responded that he has talked with staff in the speaker's office briefly, just floating the idea. From the discussion, it sounds like they would prefer not to have a lawsuit. There is some willingness to find some sort of solution. If something can be resolved to everyone's satisfaction, they'd rather go down that route. At least there appeared to be some willingness to work on this.

Board Chair Godlewski shared that she does not believe C is an option. We cannot look the other way because we would be failing our responsibility as trustees to the Common School Fund. Especially, when there is clear precedent that the board has filed suit in the past and the court declared we were able to sue. The Legislature does have authority to determine what "clear proceeds" means. Zero proceeds is beyond what the court said is not okay. Her preference would be to negotiate. This may have been an inadvertent mishap in the haste of the budget process. If negotiating does not work, litigation is an option. What do other commissioners think? One thing we want to be aware of is timing. The longer we wait to act the longer Milwaukee County and other folks are able to become comfortable with this and not acknowledge it as a violation. We don't want to look like we're late to the game. It's our responsibility to address this in a timely manner.

Commissioner Leiber stated he would prefer to negotiate as it's a win win for us and them. Milwaukee County would get funding for their assistant DA positions without having to go through litigation and BCPL would return to program revenue funding at a reasonable level. He hopes we can get something going in September when the legislators are back and have meetings scheduled for the fall session. He will continue to ask around and see what they're doing about follow-up budget actions. It would be best if we could have it included in another bill because this should not impact anything else.

Commissioner Kaul stated he will have to abstain from the discussion if it moves toward the litigation route. He will have to recuse himself.

Board Chair Godlewski asked about parliamentary process. If we want to go into a conversation about negotiation, are we able to do that in closed session?

Executive Secretary German replied, yes. He explained anytime you're talking about litigation, you can move into a closed session and it's recommended that you do so.

Board Chair Godlewski stated she would like to move to closed session to put together at least a plan with the Commissioners on the next steps.

Commissioner Kaul commented that he believes Secretary German and Board Chair Godlewski are referring to slightly different situations. Board Chair Godlewski is referring to negotiation and Secretary German was referring to litigation.

Board Chair Godlewski clarified that she would like to talk about negotiation while keeping in mind that litigation is an option. She would like to put together a high-level plan so the board is on the same page with the next steps in negotiating.

Commissioner Leiber asked if she meant litigation strategy.

Board Chair Godlewski stated that litigation is part of the conversation.

Executive Secretary German asked if Board Chair Godlewski is asking to discuss a negotiation strategy in hopes of resolving a potential claim BCPL has. He is not an expert on this but when discussing litigation, litigation strategies and litigation merits that conversation definitely warrants a closed session.

Commissioner Kaul shared that to the extent there is going to be discussion that relates to litigation strategy, he will recuse himself. He wants to be clear about that upfront.

Board Chair Godlewski shared that she wants to make sure the board is on the same page with the plan. How and who we talk to in the legislature, what our timeline is and who is going to be a part of those meetings? And talking to the governor's office. How do we want to implement this piece? The third leg of this stool has to be communicating with Milwaukee County and letting them know we are taking steps to address this budget amendment. They need to be aware of what we believe is a haste mistake in the budget process. As she is not an attorney, or an expert on open meetings laws she is asking for guidance on whether we can talk about this right here and now. What is said here will be in the minutes and we will likely discuss this in front of larger groups. Would it be best to make a motion to talk about this in a closed session because there are potential sensitivities and confidentiality?

Executive Secretary German commented that if the board asked him to take Commissioner Leiber's suggestion and turn it into a proposal for the Legislature and governor, that would be fine. Commissioner Leiber had generalized meetings with the speaker's office, but there were not any concrete in-writing talking points. He could put that together to be able to move that along. He agreed it is important to talk to the governor's office because if the legislature agrees but the governor's office does not, that doesn't get us anywhere. We need both of them on board.

Board Chair Godlewski reiterated Secretary German's point about putting together a negotiation plan. We can then, talk about it at our next board meeting, which would be the 19th of August.

Executive Secretary German replied, yes. Commissioner Kaul will not be available for the 19th meeting.

Board Chair Godlewski believes that will not be an issue because Commissioner Kaul has recused himself from a majority of this conversation regardless.

Commissioner Kaul replies, yes. He will figure out whether there's further input he needs to add on recusal if he misses the next meeting.

Board Chair Godlewski asked if there are any issues if we wait until the August 19th meeting or do we need to consider a special meeting.

Executive Secretary German commented that he does not believe it necessary to have a special meeting. It is his understanding that each of the commissioners received a letter from the Wisconsin Educational Media Technology Association (WEMTA) expressing their extreme concern about the budget amendment.

Board Chair Godlewski shared that she is unaware of the letter.

Commissioner Leiber commented that he received one.

Board Chair Godlewski will ask her team about the letter.

Executive Secretary German shared that WEMTA sent out a letter and they expressed a significant amount of concern and want the board to take it seriously and take prompt action.

Commissioner Leiber shared that July 25th is when the WEMTA letter was sent.

Board Chair Godlewski reiterated that Secretary German will put together a negotiation plan and we will discuss that plan on the 19th. Furthermore, we will be prepared if we need to go into closed session.

Executive Secretary German stated that we must include Milwaukee County in the conversation with Legislature and the governor.

Board Chair Godlewski stated that Milwaukee County is the third leg of the stool. We have to include all three.

Executive Secretary German agreed. If the change to the budget works out the way Commissioner Leiber suggested, Milwaukee County gets the money they need and BCPL gets put on program revenue. From the Legislature's standpoint, this change does not increase GPR spending. If BCPL could get a little more program revenue then the agency's financial position moving forward is better as well. We may end up with something that works well for everyone.

Board Chair Godlewski agreed it's a win. Let's do our best to make this happen.

Executive Secretary German concurred.

Commissioner Leiber shared that from his conversations, it sounds like Milwaukee County just wants the money. Where it comes from isn't such a big deal as long as they get the money they wanted.

Board Chair Godlewski commented that no one wants to be part of a lawsuit.

Executive Secretary German commented that not too many people do. Secretary German shared some number discrepancies with the new budget provisions. The appropriation for Milwaukee County shows as \$984,000 in the first fiscal year and about \$1.3 million in the second fiscal year. That's roughly \$2.3 million. The first provision talks about how much the Common School Fund will decrease. The budget shows it as \$2.2 million annually. Those numbers are pretty close. \$1.3 million and \$984,000 equal about \$2.3 million. That's close to \$2.2 million. They may have meant it was roughly \$2.2 million in this biennium. However, if they meant \$2.2 million for each fiscal year, that would be \$4.4 million. That's way off from \$2.3 million, so something's missing.

Commissioner Leiber explained it might just be Milwaukee County's been asking for money and so they're happy just to get some extra as well in funding the position. That might be part of it.

Board Chair Godlewski believes the board has a good plan in place to talk about the next steps in this negotiation. We need to talk to the governor's office, the Legislature and Milwaukee County.

Executive Secretary German shared that because of this discrepancy, we also have to talk to the Fiscal Bureau. We need to understand what the discrepancy is. Right now, BCPL's GPR budget is \$1.5 million a year and change. If Milwaukee County is expecting \$2.2 million a year, we have a big discrepancy. Commissioner Kaul at the last meeting had asked him to hold off on reaching out to the Fiscal Bureau, so he did not but they reached out to him about some other things. He is now asking for permission to talk to the Fiscal Bureau.

Board Chair Godlewski does not see that as a problem unless other Commissioners see a problem with that. We have to understand the discrepancy financially.

Commissioner Leiber agreed.

ITEM 6. Pigeon Lake Field Station, Bayfield County – Offer to Purchase

Board Chair Godlewski shared that we've been talking about Pigeon Lake for some time. It's something we know is a treasured piece of public land up north. The good news is we received an offer.

Executive Secretary German agreed. BCPL had an appraisal done of the Pigeon Lake 10 years ago. We received the property in an exchange with the Forest Service. When the Forest Service owned the land, they developed a lease on the property with the UW. The UW was responsible for maintaining the buildings on the property and also built some additional buildings on the property. The Forest Service retained ownership of the land until the exchange with BCPL.

Roughly ten years ago, the UW then decided it no longer needed to use the property for summer classes and activities. There is a desire by both BCPL and the UW to divest this property. However, there is a strong interest by local folks and people that have come through that camp over the years to keep it in the public domain. Running a public park is not the mission of BCPL. Our job is to make money for our beneficiaries.

Bayfield County expressed varying degrees of interest over the years in obtaining the property. Recently, the county put out a request for proposals and received a proposal to redevelop the property in a way that would keep it as a community Learning Center but also add some housing to the property. However, the interested buyer wanted to acquire possession of the property at a price that is less than the previous appraisal. When the property was appraised in 2015, the total appraisal came in slightly higher than \$1.3 million, with roughly half a million in land value and roughly \$800,000 in improvement value.

The property has now sat vacant for some time. There is a decent chance that the current value of the improvements have decreased. The letter from Bayfield County clearly expressed that belief that the value of the improvements has gone down. However, lakefront property values tend to rise over time. With an appraisal 10 years old, it may be more prudent to have the land reappraised to determine total value and the relative values of land and improvements.

Board Chair Godlewski agreed about the reappraisal. We know lakefront property in Bayfield County has only increased. The property has been vacant for 10 years. The letter addresses the issue of the land being in a floodplain. How does that impact the assessed value of the property?

Executive Secretary German clarified that some parts of the property are in a floodplain which tend to have lower values. The land is a very long piece of property with a lot of lakefront. The middle of the property is high with vantage points overlooking the lake. On each end, the property slopes down toward the water and those ends are in a floodplain. The property is on the north side of the lake. Most of the properties on the south side have suffered significant water damage over the years because of the changes in water levels and most of the south side is in a flood plain. The north side, which we own a significant part of, has become a more attractive part of the lake because of the high ground in the middle there.

Board Chair Godlewski believes a new appraisal is needed in order to negotiate in good faith. It is exciting that we have a buyer. It is a buyer that goes back to the mission of BCPL in a good way. Let's try to figure this out. Sooner, rather than later, would be good in order to negotiate in good faith but we have to know what the property value is today.

Commissioner Leiber asked if there have been other interested buyers.

Executive Secretary German explained that in the 10 years since the property was appraised, there have been three calls from people expressing mild interest.

Commissioner Leiber asked if the land was making any money for BCPL.

Executive Secretary German replied, good question, but no. Part of the issue comes from a statute that impacts the sale of Normal School lands. Starting in ca.1909, the legislature enacted a statute requiring BCPL to reserve mineral rights, waterpower rights and access rights on our land. When they enacted that statute, the first question was, is this constitutional? The Attorney General at the time opined that with respect to Common School Lands, no. Those lands came directly from the federal government to BCPL. Normal School lands took a more circuitous route and as a result the legislature does have the power to place restrictions on those. The Pigeon Lake lands are Normal School lands. A person who wants this property for a kingdom lot likely does not want to allow the public to come across their property to access the lake. This is why the level of interest from private persons or private developers has been tepid. It's because of that statute, WI Stats. 24.11(3). An appraisal will be done as soon as possible

ITEM 7. CHIEF INVESTMENT OFFICER'S REPORT

None

ITEM 8. EXECUTIVE SECRETARY'S REPORT

Executive Secretary German reported that we are beginning work on our biennial report. He asked the board if they would be interested in having an upcoming board meeting in-person at the BCPL office so a picture can be taken of the board for the report.

Board Chair Godlewski asked if any commissioners objected to doing an upcoming board meeting in person.

Commissioner Leiber replied and Commissioner Kaul had no objections.

Commissioner Kaul stated that scheduling is the only issue but we can figure that out.

Board Chair Godlewski commented it would be great, so let's try to do it. It would be nice to do an in-person meeting.

Executive Secretary German still plans on retiring at the end of the year, first week of January. He has talked to the Board Chair about developing a plan for his recruitment, hiring and onboarding. We will have some work to do and we have started to put the pieces into place. He thanked the board for their support all these years. He has very much appreciated the opportunity.

We are going to close on a real estate transaction that was talked about several meetings ago. He will need some signatures. He asked if Board Chair Godlewski and Commissioner Leiber would be available next week.

Commissioner Leiber and Executive Secretary German agreed on meeting Thursday morning with Commissioner Leiber coming to the BCPL office.

Commissioner Kaul asked how obtaining signatures works. Will the document be sent to the Commissioner's

office?

Executive Secretary German stated that he generally brings it to the commissioner so he can notarize their signature. Board Chair Godlewski clarified that only two signatures are needed.

Executive Secretary German shared that if Commissioner Kaul is available and would like to sign that would be great but he knows how difficult his schedule is.

Commissioner Kaul replied that he does not need to sign unless Commissioner Leiber is unavailable.

Executive Secretary German reported that next week he is heading to northern Wisconsin for meetings. He plans on speaking with folks at UW Stevens Point and to the title company about the transaction we're closing. He will also have meetings with staff in Lake Tomahawk.

Executive Secretary German explained that he is planning to use money that would have paid for the real estate specialist position to partially fund the deputy position. He is also cobbling together some of the goods and services money to help fund the deputy position.

Board Chair Godlewski commented that we have been trying to get a deputy for a long time clearly the agency would benefit from a deputy.

Executive Secretary German agreed. We may have a good candidate, which is great.

Board Chair Godlewski commented that the thing we must make sure of is whoever takes Secretary German's role is capable of taking on the rest of the budget into the end of the biennium. That's the only piece of concern. We have to make sure we're set up for success that way. The agency would benefit from having a Deputy Secretary.

Executive Secretary German reported he will be meeting with Lake Tomahawk staff to look at the possibility of conservation credits again. When we had originally started looking at some of those issues, we had two big problems. One of them was the entity that we started working with wanted to keep all things confidential. The attorney general is responsible for enforcing the open records and open meetings laws. That entity's insistence on confidentiality ran counter to the interests of one of our board members so that wasn't going to work. The second part is our ability to be flexible. We have to be able to sell certain parcels and add certain parcels and this was compromised years ago. We found another potential partner that may be much easier to work with. That's something we're looking into.

ITEM 9. BOARD CHAIR'S REPORT

Board Chair Godlewski reported that we're going to have big shoes to fill with Secretary German leaving. Secretary German has been with BCPL for about 20 years. The tentative date for his final day is January 2nd. She has asked Secretary German to put together a position description and hopefully we will have that for an upcoming meeting to review. She will be meeting with her HR point of contact to establish the process of interviewing any potential candidates. We want to make sure we are reaching out to a large group of potential candidates. This position is unique in that it is an appointment by the board and not technically a civil service position. We have a lot more flexibility as far as appointing someone. She would like to make the appointment process as transparent as possible while being thoughtful and ensuring the best candidate applies, is interviewed and hopefully appointed. We would ideally like to have somebody by the end of the year. There may be some overlap with Secretary German as far as job shadowing and sharing, etc. She plans on updating the board at an upcoming meeting on the process.

Commissioner Leiber commented that because Commissioner Kaul is unable to make the next meeting, it might be best if waited until September to discuss the appointment process.

Board Chair Godlewski agreed. We won't be ready by the next one anyway.

Commissioner Kaul agreed that plan sounds great to him. The only minor caveat is he isn't sure about the overlap because of the way the hiring process works.

Board Chair Godlewski believes there is a creative way of doing that. The appointment might not be official until January 3rd, but there are ways we can think strategically to do that.

Executive Secretary German shared that HR is able to surplus a position for a short period.

Board Chair Godlewski agreed.

Executive Secretary German stated that the bigger issue is funding the surplus position.

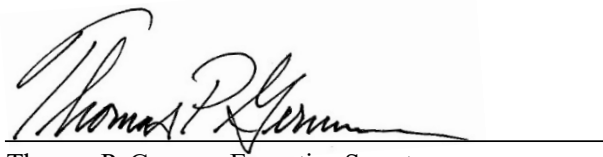
Board Chair Godlewski again agreed. She lastly reported that Secretary German will be meeting with UW staff in a little over a week about the Normal School Fund to discuss our annual distribution. We continue to see an increase in this distribution, however, it's not clear to the scholarship recipients where the money comes from. The recipients do not know they are beneficiaries of this fund. We want to have a conversation with UW to make sure there is transparency and a clear understanding of the funds we provide. We will provide the results of that meeting soon. We are hoping to change our relationship with the UW for the better and as the distribution increases we want there to be transparency and accountability with the university on that.

ITEM 10. FUTURE AGENDA ITEMS

None

ITEM 11. ADJOURN

Board Chair Godlewski moved to adjourn the meeting; Commissioner Leiber seconded the motion. The motion passed 3-0; the meeting adjourned at 3:02 p.m.

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

Thomas P. German, Executive Secretary

Link to audio recording:

[https://bcpl.wisconsin.gov/bcpl.wisconsin.gov Shared Documents/Board Meeting Docs/2025/2025-08-05 BoardMtgRecording.mp3](https://bcpl.wisconsin.gov/bcpl.wisconsin.gov%20Shared%20Documents/Board%20Meeting%20Docs/2025/2025-08-05%20BoardMtgRecording.mp3)