

Board Meeting
Minutes
December 1st, 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
Jim DiUlio, Deputy 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
Julie Benkoske, Chief of Staff	State Treasurer

ITEM 1. CALL TO ORDER

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

ITEM 2. APPROVE MINUTES – November 17, 2020.

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

DISCUSSION: Board Chair Godlewski requested a correction to add the word ‘Trust’ to the State Fund Loan program referenced in her report last meeting.

VOTE: The motion passed 3-0.

ITEM 3. APPROVE LOANS

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

DISCUSSION: Mr. Sneider commented there are two larger loans. One loan is for the City of Glendale for a little over \$4 million to fund a variety of capital projects, including water main replacement, road work and equipment purchases. The Town of Lawrence and Brown County are asking for \$1.75 million for land purchase within their Tax Incremental District and about 2/3 of that land is targeted for future development with 1/3 for a park and athletic fields.

VOTE: The motion passed 3-0.

The Board of Commissioners of Public Lands (BCPL) unanimously approved **\$6,240,000.00** in State Trust Fund Loans to support **4** community projects in Wisconsin.

1. Town of Lawrence / Brown County / Finance TID land purchase / \$1,750,000.00
2. City of Glendale / Milwaukee County / Finance 2020 Capital Improvement Program / \$4,280,000.00

3. Village of Francis Creek / Manitowoc County / Finance Lift State and Backup Generator / \$140,000.00
4. North Shore Sanitary District / Finance rebuilding of sanitary lift station / \$70,000.00

ITEM 4. OLD BUSINESS - Status update on request for special counsel

Board Chair Godlewski recapped the three things that were discussed at the previous meeting:

1. Verifying what the issues are.
2. Understanding what has transpired. What might have been some of the challenges with the previous request.
3. Deciding what our next course of action is. Do we send another letter to the Governor from the Department of Justice, or do we need to think of legislative options?

Executive Secretary German shared that he sent out to the Board members, per request, a short summary of what happened last time. This included where the discussions were, how it tracked up and how the message was delivered.

Executive Secretary German commented that he didn't have the answer as to how the previous Special Counsel decision was made. He reached out to Ryan Nilsestuen last week but has not heard back yet. He did not ask Ryan Nilsestuen for reconsideration of the prior decision but rather asked to have a chance to talk to get a better understanding of how the decision was made so that BCPL could do a better job of making its case this time around.

Executive Secretary German shared that he also reached out to Charlotte Gibson at DOJ. Charlotte was the Assistant A.G. assigned to BCPL years ago, and he believes she is more familiar with BCPL and she understands the appointment of Special Counsel. Charlotte noted that she's currently tied up on pending pandemic and election lawsuits, but she would have some time next week to discuss the matter.

Executive Secretary German explained that he also went to look for some answers at the DOA Budget Office. It is possible that the issue may come down to a budgetary question as to who pays for the Special Counsel and if that has any impact on the decision to approve the use of Special Counsel. The folks at the DOA Budget Office questioned whether the special counsel statute governs this particular situation. The special counsel statute talks about the governor appointing special counsel to assist the attorney general in any "action or proceeding." An "action" is generally considered to be a lawsuit, or a situation that may lead to a lawsuit, but that's not what we have here. BCPL is looking for Special Counsel assistance with a transaction. It is possible that the current Special Counsel statute doesn't contemplate BCPL's requested use. Executive Secretary German commented that he was still in the process of trying to gather information on this topic.

Commissioner LaFollette asked if Legislative Reference Bureau (LRB) would be able to go back and look at the history of that and see something.

Executive Secretary German responded that that may be a possibility. He shared that inquiring with LRB was a little bit further down on the list but thanked Commissioner LaFollette for pointing that out. He added that he will reach out to Mike Gallagher and ask if he could shed some light on that.

Commissioner Kaul commented that he had a chance to touch base with Corey Finkelmeyer in his office about this issue. Corey is the Deputy Administrator of Divisional Legal Services. Commissioner Kaul recalled DOJ touching base with Ryan Nilsestuen almost a year ago now about this issue. Corey Finkelmeyer suggested that Executive Secretary German reach out to him and then reach out to Ryan Nilsestuen to follow up. Commissioner Kaul believes that is the easiest way to get things moving forward.

Executive Secretary German shared his appreciation and thanked Commissioner Kaul for the information.

Board Chair Godlewski addressed Mr. Sneider saying it was her understanding that BCPL, in order to have the reduced management fee on one of the real estate funds, BCPL must have all subscription agreement work done before the end of the year or the agency will no longer qualify for that \$30,000 fee reduction.

Mr. Sneider replied that that is correct.

Commissioner LaFollette commented that this is only a month away.

Mr. Sneider explained that it is just one of the funds that is part of an index and the index is changing its rules for the membership funds that they can no longer offer a fee reduction in exchange for a lock up period. For example, in exchange for BCPL agreeing to leaving its money in the fund for a period of two years, the fund would be willing to offer the agency a reduced management fee. The index is no longer going to allow that type of arrangement after the end of this year. However, the index met last week and postponed the final decision on implementing that rule. It may not be as imminent as suggested earlier, and so there may be some additional time on that. He added that he does not have any idea regarding the time frame of the rule change but does believe that it will change. It does have some logic to it and will probably be approved at some point in the future. He believes the time limit is no longer the end of the year.

Board Chair Godlewski commented that although the time limit may no longer be the end of the year, but it is still unknown if the time limit is January, February, second quarter...

Mr. Sneider replied that that is correct and shared that it may even be another year but it's uncertain.

Board Chair Godlewski asked Commissioner Kaul about putting a timeline on resolving the Special Counsel issue.

Commissioner Kaul responded that he does not have a timeline because ultimately it is a decision for the Governor's Office. He added that he believed Executive Secretary German and Corey Finkelmeyer could get in touch in the next few days and then it's mainly a question of what kind of timeline is feasible for the Governor's Office for the review process.

Board Chair Godlewski commented that she is trying to understand if the Board would like an email update a week from today, December 8th, so BCPL can move forward with this or is the Board fine with waiting until the next Board Meeting on December 15th for an update and whether there is any action needed.

Executive Secretary German stated that he is more than happy to provide the Board with an update. In terms of the Board taking action, he is not sure what that action would be because it depends on what comes out of the conversation with the Governor's Office.

Commissioner Kaul commented that given that there does not seem to be a year-end deadline, he does not believe there is much urgency and is comfortable with getting an update at the next meeting. He asked if there was an answer about the special counsel appropriation being sum certain or sum sufficient.

Executive Secretary German explained that the agency's budget analyst gave him a tentative answer of sum sufficient, but he did not say definitively. The budget analyst still needed to verify that.

Board Chair Godlewski commented that the next step is for Executive Secretary German and Corey Finkelmeyer to connect and circle back with Ryan Nilsestuen and let the Board know what they think is the best course of action. Does that make sense to the Commissioners?

Executive Secretary German shared that he looks at it as being three distinct things that are being done: 1.) Executive Secretary German connecting with Corey Finkelmeyer to in turn connect with Ryan Nilsestuen; 2.) Trying to connect with DOA's general counsel to see if she has any suggestions; and 3.) Connecting with the budget office to get a definitive answer on the sum certain or sum sufficient question. Those three things are still all queued up, but clearly the most

important of those is the conversation with the Governor's Counsel on whether BCPL's request for Special Counsel would be approved.

Commissioner Kaul commented that Ryan Nilsestuen will know whether the appropriation is sum certain or some sufficient. If it's a sum sufficient, it's just a question for the Governor's Office of whether this is a wise investment of resources, and Commissioner Kaul believes that the case for that is persuasive. But if it's sum certain, then it becomes a potential trade off that the Governor's Office has to make with other potential expenditures, and so it likely becomes a more complex analysis.

Executive Secretary German agreed.

Board Chair Godlewski commented that reaching out to DOA makes a lot of sense knowing that the new General Counsel is a woman named Anne Hanson who used to work at Epic and is a lot more familiar with some of these investment transactions domestically but also internationally.

Executive Secretary German commented about the legislative fix brought up by Commissioner Kaul at the last meeting. If it turns out that the Governor's Office is looking at BCPL's request as not permissible because of the language of the current Special Counsel statute, BCPL should then contact the Legislative Reference Bureau about a legislative fix. At the present time, it's important to understand the Governor's Office interpretation of the statute.

Board Chair Godlewski added that she recalled a conversation at the last meeting about legislative action. She asked if the Board would like to try to get something done with this budget process, knowing that the Governor is trying to wrap up the final budget and legislative actions by the 15th of December. This was something that she remembered talking about last meeting. However, as outlined, Executive Secretary German will follow up with Corey Finkelmeyer and then Ryan Nilsestuen, work with DOA and their general counsel, and see if anything has changed and get more information from the Budget Office. She believes from those conversations the next course of action will really start to surface, whether it is something to be worked out with the Governor's Office or if legislative action needs to be pursued.

Executive Secretary German shared that one of the things he was thinking about, if legislative action is required, was whether we should be asking for a slight modification of Wisconsin Statute Section 14.11 or should the new requested Special Counsel authority be added to Chapter 24. Since the Governor is not a member of the Board and the Attorney General is, should a member of our Board make that decision for special counsel for BCPL transactions? Should that decision be made by the Attorney General or the Governor? This is just one of the issues we need to think about when considering a legislative solution.

Board Chair Godlewski asked if there were any other questions or thoughts on next steps? She asked Executive Secretary German is there was anything else he needed from the Board at this time.

Executive Secretary German replied peace on earth, goodwill to men would be really wonderful right now.

ITEM 5. NEW BUSINESS – NONE

ITEM 6. CHIEF INVESTMENT OFFICER'S REPORT

Mr. Sneider shared that last week the Investment Committee approved a \$10 million commitment to the locally managed NVNG Fund contingent on a satisfactory due diligence report. NVNG is a fund of funds, meaning they invest in other venture capital funds rather than directly in young companies. They have a strategy of connecting Wisconsin entrepreneurs to national venture capital firms with established corporations within the State. The strategy has been very successful in both Michigan and Ohio. NVNG is headed by Carrie Thome, she was formerly the Chief Investment Officer

at WARF. You will recall from the asset allocation report dated September 30th that the Common School Fund has a 5% target allocation to private equity and venture capital with current funding levels at just over 1%. BCPL has room for this commitment, it believes in the managers and the strategy and thinks this will be a good opportunity to increase long-term capital gains within the Common School Fund.

Board Chair Godlewski shared that she believes it will be interesting to get more or share more information on this investment if it successfully passes its due diligence because one of the unique aspects, as Mr. Sneider emphasized, is its ability to focus on Midwest companies and opportunities here in Wisconsin. That is something that we always try to look at when the agency is seeking out investment opportunities. It will be a good addition to the portfolio.

ITEM 7. EXECUTIVE SECRETARY'S REPORT

Executive Secretary German reported the manager of our Lake Tomahawk Office, John Schwarzmann has given notice that he will be retiring in early January. John has been with the BCPL for 30 years. If the Board is agreeable, he would like to ask the Board to adopt a resolution at the next meeting, thanking John for his years of service. John has been a great public servant for a long time, and he has been a great asset to BCPL over the years.

Board Chair Godlewski believes that is a great idea. She asked how long John has worked for BCPL?

Executive Secretary German responded that he believed it to be 30 years.

Commissioner LaFollette expressed that that is a long time.

Executive Secretary German shared that John is one of those people that gives you the sense that he always takes his job seriously, but never himself and that he always has the best interest of the agency in mind, the Trust Funds and the Trust Lands. Executive Secretary German commented that he appreciates John's efforts over the years, and he will be missed.

Commissioner LaFollette commented that the agency will have to look for replacement filter position. Is that a hard position to fill?

Executive Secretary German replied no, because of the fact the person BCPL hired as the senior forester four years ago, Kevin Burns, is an excellent internal candidate. Kevin came to BCPL with a wealth of great experience in a lot of different aspects of land management and forestry. He is a very well-rounded individual and very well respected up North as well. Kevin came to the agency after having been an instructor at UW Stevens Point for a number of years at Treehaven. It was great to have him come aboard at that time, and he will be an excellent internal candidate for the position.

Commissioner LaFollette expressed that that is very good.

On a final note, Executive Secretary German stated that he would reach out to Assistant A.G. Corey Finkelmeyer via email per Commissioner Kaul's suggestion regarding the Special Counsel issue.

Commissioner Kaul said he would let Corey know that Executive Secretary German would be reaching out.

Executive Secretary German thanked Commissioner Kaul for his assistance.

ITEM 8. BOARD CHAIR'S REPORT

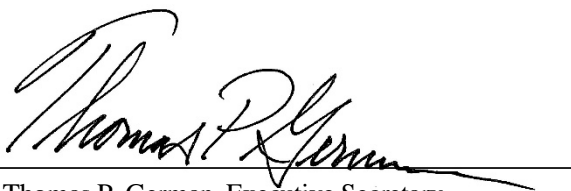
NONE

ITEM 9. FUTURE AGENDA ITEMS

NONE

ITEM 10. ADJOURN

Commissioner LaFollette moved to adjourn the meeting; Board Chair Godlewski seconded the motion. The motion passed 3-0; the meeting adjourned at 2:27 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/Shared Documents/Board Meeting Docs/2020/2020-12-01-BoardMtgRecording.mp3>