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Thomas P. German, *Executive Secretary*

## AGENDA

August 1, 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 18, 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

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Conference Line Number: 608-571-2209  
Conference ID Code: 207 822 241#

Board Meeting Minutes  
July 18, 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
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
Hannah Menchhoff, Communications Director	Secretary of State
Valeah Foy, Administrator, State & Local Finance Div.	Department of Revenue
Mary Gawryleski, Director, Equalization Bureau	Department of Revenue
Sara Regenauer, Director, Government Services Bureau	Department of Revenue

### ITEM 1. CALL TO ORDER

Board Chair Godlewski called the meeting to order at 2:02 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; Commissioner Kaul seconded the motion.

**DISCUSSION:** Mr. Sneider reported that today's loans are for road work or infrastructure except loan #5 and #6 to the City of Eau Claire. Loan #6 is to finance TID #15 projects. About \$3,000,000 of this is for a project that involves the Country Jam festival grounds, which includes the stage, event space, camping, and RV grounds with a total expected value eventually to be about \$15 million. Loan #5 is for several projects, the largest one being a \$7,000,000 transit center. The transit center will include 81 units of multifamily residential units above it. There are also development incentives for TID #8, which is a project called Phoenix Parkside II. It is a five-story workforce housing project with 115 units and underground parking with a total expected value is to be \$26.5 million. In TID #13 a project containing 260 units and two buildings in addition to 20,000 square feet of commercial space is being built with an expected valuation eventually to be \$50 million.

**VOTE:** The motion passed 3-0.

The Board of Commissioners of Public Lands (BCPL) unanimously approved **\$14,723,794.00** in State Trust Fund Loans to support **7** community projects in Wisconsin.

1. City of Menomonie / Dunn County / Finance TID #17 infrastructure projects / \$505,000.00
2. Village of Mishicot / Manitowoc County / Finance roadwork / \$145,750.00
3. Town of Weston / Marathon County / Finance roadwork / \$150,000.00
4. Village of Woodville / St Croix County / Finance street and sidewalk projects / \$653,044.00
5. City of Eau Claire / Chippewa and Eau Claire Counties / Finance Transit Center/TID and other projects / \$10,075,00.00
6. City of Eau Claire / Chippewa and Eau Claire Counties / Finance TID #15 Projects / \$3,015,000.00
7. Town of Salem / Pierce County / Finance roadwork / \$170,000.00

### **ITEM 3. Town of Sanborn State Trust Fund Loan Application**

Board Chair Godlewski asked that the meeting procedures be suspended so that discussion can be had about the Town of Sanborn loan application. The other commissioners did not object. The board is seeking information regarding the following: 1.) Details from BCPL staff about how loans are reviewed, how the amount of \$610,000 was decided on, and how creditworthiness is assessed. A memo has been provided by Executive Secretary German; and 2.) Information from the Department of Revenue. The board is asking for clarity regarding equalized value and chargebacks, additional information about the town and what percentage is going to be on the tax rolls in the future, and confirmation on how much is owned for tax refunds.

Department of Revenue attendees present:

Valeah Foy, Administrator for the State and Local Finance Division (SLF)  
 Mary Gawryleski, Equalization Bureau Directory  
 Sara Regenauer, Director of Government Services Bureau

Executive Secretary German discussed the process of review for the Town of Sanborn loan application. Originally, the Town of Sanborn requested a loan for \$1,000,000. This amount would have covered the entire amount of tax refund claims submitted. When reviewing loan applications, the first thing staff does is look at the loan amount and the community's borrowing capacity. This application was different because the debt limit was going to change as the equalized value changed. At the time of the application, \$1 million loan would have been easily within the borrowing limits. However, we understood that the equalized value was going to drop. Credit rating agencies look at a community to see how close they are to their borrowing capacity. The 50% to 60% range is common for a lot of communities. If a community goes over 60%, that can impact their credit rating and that's when we start taking a closer look at what's going on in that community. Once a community goes above 80% of their borrowing capacity, we take a much closer look and try to figure out if there is a different way of structuring the loan that makes sense for the community and for the State Trust Fund Loan Program.

We have scrutinized and approved applications for Menasha, Necedah, and other communities that have come close to their borrowing capacity. A million dollar loan for the Town of Sanborn would have been somewhere above 80% of their future borrowing capacity when their projected equalized value was adjusted to an estimated \$27 million. We attempted to figure out what was needed to address the current problem. We realized that a loan in the range of \$610,000 would be enough to clear the first four years of a property tax refund claims. Payment of those claims would then generate a chargeback which would be roughly in the same amount as the remaining amount of claims. If everything was done in a timely manner, the Town of Sanborn would receive the chargeback funds in February and would be able to pay the remaining claims which would then generate a second round of chargebacks.

This loan would provide the town the ability to address the most important pressing matter of paying those tax refund claims in a fairly timely manner and the remaining claims paid within about six months. It would also set the community up to be in a long-term stable basis financially and lower BCPL's risk. Instead of lending money to a community that would be above 80% of its borrowing capacity, with a \$610,000 loan we would be in a situation where it would be slightly over 50% of borrowing capacity, which is a much more comfortable position to be in. Dependent on the timing of things, if the loan is approved, funded timely and the town makes the tax refund payments quickly, it may be possible for the Department of Revenue to certify/process the chargeback claim and for the other governmental

units to get it on their tax bills for the coming year. Funds from the chargeback would then be used to pay the remaining \$400,000 or so of tax refund claims. Those payments would then generate a second round of chargebacks estimated to be around \$250,000. If that \$250,000 was used to reduce the amount of the outstanding loan, then the loan could be re-amortized over the remaining 18 or 19 years depending how fast everything is done. The annual loan payment would drop below \$30,000 a year, which would work for the community and hopefully for the taxpayers and that would work for BCPL too. We were shooting for a win, win, win situation.

Currently the tax refund claims are accruing interest at the rate of about 10% a year. As we are trying to work on a solution for the town, it is clear, time is of the essence. Executive Secretary German and Mr. Sneider are convinced that the risk associated with a \$610,000 loan is reasonable when compared to the rest of the State Trust Fund Loan Program loans.

If this loan were to go into default, it would be the first loan in the history of the State Trust Fund Loan Program to do so. Statutes would require us to intercept state aid, which is mandatory. Town of Sanborn receives over \$90,000 a year of shared revenue which means that the shared revenue would be three times as much as would be necessary to cover the annual loan payment.

Commissioner Leiber asked what would happen if one of those one of those things doesn't happen. What if it's not certified in time, what if the other counties don't give the chargeback to the town in time?

Executive Secretary German replied that if the chargebacks do not occur in the coming year, that remaining \$400,000 will be owed until the Town of Sanborn is able to finance the funds to make those refund payments. Until those payments are made that \$400,000 will continue to accrue interest at over 10%. A year of interest is over \$40,000 on that amount. Without this loan, it will become more challenging for the town as the obligation gets larger.

Commissioner Leiber asked about the town's ability to borrow when their equalized value is only \$7 million.

Executive Secretary stated that they would not be able to borrow much from August 15 2023 until August of 2024. He explained that we were anticipating the chargeback money would be coming in February. If it did not come in February and it actually got deferred a whole year, their equalized value would be back up to \$27 million next year and the Town would have sufficient borrowing capacity at that time.

Valeah Foy of the Department of Revenue presented a 5-page handout. The State and Local Finance Division (SLF) certifies equalized values each year, but we also cover and administer the chargeback process. These long-standing processes have been in place since the 80s. If there is an error, municipalities are able to submit a chargeback request. If we identify the error, then the department can correct the equalized values for the past two years.

Property taxes are paid to the counties, the school districts, the technical colleges, and special districts. These are the other taxing jurisdictions, 'county school tech special'. These taxing jurisdictions receive their money at the end of that tax season. They tell the municipality how much to levy for them. For example, School A says to Town of Sanborn, you have to levy \$50,000 for us. School A will receive their \$50,000 at the end of that tax season.

There are often errors in the property tax process because there are so many different districts and calculations. When there is an error, the municipality is responsible for resending or refunding those property taxes to the property owner. They must refund the entire portion of the property taxes due. They cannot refund just their portion of the tax bill. Upon refunding the full amount, they then have the chargeback process. The chargeback process goes through DOR for oversight because there are a lot of hands in that process. The chargeback process tells the other taxing jurisdictions that the municipality paid a refund and now you have to pay them back for your portion.

There are specific circumstances where a chargeback request can be submitted to DOR. For example, refunded or rescinded taxes because there was a palpable error on the part of the municipality, like a double taxation or similar. Assessors provide DOR with a list of different things that usually cause property tax errors for property owners. If any of these apply, the municipality is able to submit their chargeback request to DOR. Some other requirements are that the property cannot be within a TID because typically if a property is within a TID the municipality is collecting all of

those taxes. That doesn't apply here with Sanborn. Other circumstances are timing and amount requirements. For property tax years January 2018 and later, it's just a single amount. If the total property taxes on a property were \$250 or more, they can submit the request for a chargeback. Before the law changed in 2017 and prior, the property tax amount had to be \$500 or as a collective \$5000 to qualify for a chargeback. Those are the things that we're looking at to make sure it follows state law.

The other thing is a general filing timeline. They can submit chargeback requests for the last five prior assessment years unless there was a court determination. If there is a court determination, they have to refund those taxes and submit a chargeback request to us within a year of that court determination. When we're reviewing these requests, we're making sure that the request aligns with state law. The municipality is attesting to all of these things when they're putting information on our electronic form. Once approved, we begin calculating the correct tax amount based on data that we've received from the local governments throughout the year. For instance, we know the tax rate amounts for 2016 and 2017. We calculate the amounts and tell the other taxing jurisdictions, county, school, tech, and special, how much they owe, and they have to pay the municipality by the following February 15th.

The municipalities have up until October 1 to file a chargeback request with us. By November 15th, we notify every one of our determination. We tell the municipality if they're approved or not approved. And we tell the taxing jurisdictions how much they must pay the municipality. The other taxing jurisdictions have until the following February 15 to pay the municipality. What Executive Secretary German was referring to earlier is the early determination process. Sometimes the amounts of the refunds are large, and a school district might not have the funds to pay the municipality the following February 15th. DOR began the early determination process to assist municipalities owing large amounts, so they could inform us as soon as possible. Municipalities should file the chargeback request as early in the year as they can. Typically, by July 1. That provides time to review the request, give a preliminary determination and let the other taxing jurisdictions know their amounts so that in the fall they can include those increased amounts in their budget and on their tax levies, so they have the money to pay the municipality the following February 15th.

We have had conversations with the Town of Sanborn regarding these larger amounts. They have multiple years to consider. They need to try to submit these as early as possible and we're getting close to where the early determination process might be difficult to manage because we have other municipalities submitting chargeback requests as well. If this process keeps moving along, we will certainly try to calculate what is owed by the other taxing jurisdictions so they can make sure to include it in their budget process.

Last year we had 137 requests from municipalities. There are at least five taxing districts for each municipality. That is well over 500 notifications going out to different places. In 2021 we had 155 requests and in 2020 we had 183 requests.

Commissioner Kaul thanked Valeah Foy for her summary and thanked all of the DOR staff who joined us. He asked who is responsible to make the collection of the repayment after DOR calculates the chargeback amounts.

Valeah Foy responded that the county, the school, and the tech will receive an e-mail from DOR in November. That email states that by the following February 15th they must pay the municipality this specific amount. She shared that since she has been with SLF, about a decade, she cannot recall any circumstance where a taxing jurisdiction did not pay the municipality. If they did not pay, they would not be complying with state law and with DOR's instructions.

Commissioner Kaul asked if one of the other taxing jurisdictions were to object to the chargeback, either they thought that the taxes did not need to be paid or they object to the calculation, what is the process for that.

Valeah Foy answered that typically, when it's all the way through the chargeback process, the municipality has determined this refund or rescission of taxes had to be completed. The municipalities, and counties work hand in hand. They are aware of the rescission or refund of taxes. With the Town of Sanborn, everyone is very aware that there are multiple years pending because of the court decision that led to this. We have not had any taxing jurisdiction come back and say they object to this. We have had taxing jurisdictions ask questions. We then confirm, yes, this was submitted, or this refund was due based on this statute and that we've thoroughly reviewed it and it meets the

requirements of a chargeback and that's why we approved it. We have had to explain that to taxing jurisdictions before. Many DOR determinations are appealable under Section 227 but she will need to touch base with DOR's Office of General Counsel to confirm.

Commissioner Kaul asked if we have a sense of what the chargeback amounts will be to the other entities and what their ability to pay is. Do we have a sense of how that it would impact tax burdens? For example, in the school district or other similar districts.

Valeah Foy explained that once we go through equalized values, there is a portion on that where she did a rough estimate using \$630,000 because that was the last amount that she was aware of. Typically, when determining the chargeback amounts, we look at every assessment year and look at the actual taxes to calculate the amounts. In this scenario, it's just a rough estimate using 2021 taxes. For 2021 amongst the other taxing jurisdictions, the total amount of taxes imposed was \$766,000. The county received 35% of that, the town about 20%, the school district about 43% and the tech college about 1.5%. Those percentages were applied to the \$630,000 chargeback. Doing a rough estimate, it came out to this: the county would be responsible for \$225,000, the town would have about \$127,000, school \$267,000 and then the tech a little under \$10,000. There are different years and different amounts but this gives a picture of what we might expect.

Board Chair Godlewski asked about the estimated amounts of chargebacks being \$400,000 for the first phase and \$250,000 for the second phase.

Valeah Foy replied that it is really based on the loan amount. The town could request a refund of the entire approved loan amount. Based on that assumption, DOR would expect \$610,000 to be included in that first round for the first year and then as Executive Secretary German explained, the second year might be a little bit less.

Board Chair Godlewski asked if it was state law that interest accrues at 1% if the communities do not make these payments.

Valeah Foy explained that interest is accruing on the unpaid refunded taxes. She referred the question to Sara Regenauer of DOR who explained that the interest amount that was calculated for the refunds was based on the court determination. DOR did not verify that interest amount because it is not state law. We did confirm with the town that the interest rate applied was per the court order per their attorney. The interest is not provided by law and DOR does not try to recalculate or recreate that. We review it to see if it's reasonable, but unless there's a major red flag that is where our review ends when it's a court order.

Commissioner Kaul asked if part of the property or part of the refunds that Sanborn issues are impacted by the interest rates. Do they get to include the interest?

Sara Regenauer replied yes. When they submit the PC201 they can include the interest to be refunded as well.

Commissioner Kaul asked if the other taxing authorities are potentially impacted by the interest amount.

Sara Regenauer responded, yes. The total amount of the refund includes interest so that total amount with interest is ultimately what the Town of Sanborn is coming to BCPL for help with - to fund the refunds, which include interest. Then from there it would flow through each taxing jurisdiction and those taxing jurisdictions would be able to include their piece on their property tax bills and interest would be included.

Commissioner Kaul asked if those jurisdictions could work with the Town of Sanborn to preemptively, collectively pay off their amounts knowing that they're going to owe a chargeback or is the chargeback required first. Do they only pay as a result of the chargeback? If so, could the county and the municipality prevent more interest from accruing by reaching out to Sanborn and provide the town with resources to support the repayment and then have that allocated to the chargeback amount they owe?

Valeah Foy explained that in an ideal world with the local governments, county, school, tech, and special, the

municipality, they all know the chargeback is coming. Ideally, everyone would kind of come together and pay the amounts. A lot of the time though, similar to Sanborn not being able to, they don't have the funds to pay these refund amounts without assistance and the other taxing jurisdictions likely don't either. The chargeback process allows them to be notified that they have to pay this as a local government and then it allows them to include those amounts on property taxes so they can actually attain the funds to pay those amounts. It would be nice if they all worked together to pay the amounts but most of the time they run into a situation where they don't have the money, especially if it's a larger amount.

Valeah Foy discussed equalized value. Equalized value is completed by our Equalization Bureau which is headed by Mary Gawryleski. They certify the equalized values for counties and municipalities each year by August 15th. Section 70.57 allows us to correct any of the prior two years within our current year equalized value. Many times, that's going to be due to updated information or corrected information submitted to the department by the municipal assessor. The municipal assessor submits a municipal assessment report earlier in the year, which allows us to calculate and certify that equalized value. Sometimes, those values change because all of their work is not done. They might submit a preliminary report and then come back and amend it and submit a final report. At the end of the day, if it's after August 15th and we receive corrected information by the assessor, the Equalization Bureau will recalculate the equalized value based on the corrected information and the difference between what was certified on August 15th and the corrected amount is going to be entered in the following years equalized value as a correction.

We outlined the correction process in the handout. For example, the Town of Sanborn in 2022 had an equalized value of \$42 million that's what they were certified with as of August 15<sup>th</sup> 2022. DOR was notified towards the end of the year that there was the court determination and that there were significant corrections. Starting with 2023, we enter the correction. That is the \$19 million reduction that you see in the estimated 2023 column. That is a correction to get the equalized value to the correct starting point.

Next is determining compensation. Looking back at 2022, a correction is needed. That \$19 million was included and should not have been. The result of that is that everyone in that town received more county taxes, school taxes, and tech college taxes because the portions allocated from those jurisdictions is based on equalized value. It was determined that compensation is required because in 2022 the residents paid more. A second correction is made of the \$19 million and that is listed as the compensation. Right now, other adjustments have been made for 2023 as well. The town had some positive economic growth. They had new construction. What we are estimating is that they will be about \$7.7 million for their 2023 equalized value to finish the correction process.

The following year we will add that \$19 million back in because it's just a one-time compensation. We want to get back to an accurate level, so we'll add the \$19 million back and their equalized value will be around \$27 million. One thing that is noted on the bottom is the town's base value. The base value does not take into consideration the corrections or compensation adjustments. For 2022 the base value was around \$42 million. For 2023, even though their total tax will equalize value will be \$7.7 million, their actual base value was closer to \$27 million. She listed that there because that is their true value.

Equalized values are something that we certify each year to ensure uniformity of property taxes. If there is a significant error in the process that leads to an overvaluation or increase in property taxes to the town, then we want to correct that in the following year. What we expect to see for the town in 2023 is the smaller equalized value, \$7.7 million, less county taxes, less school taxes and less tech college taxes will be allocated or apportioned to the town. These are some of the scenarios that we have in the handout.

Commissioner Kaul asked when the new equalized value formally go into effect for the town.

Valeah Foy responded August 15th.

Commissioner Kaul asked about the timelines for the chargeback process. Are those mandatory or are those sort of the practice of DOR? If there were slight changes in the timeline, is that something that is feasible to work with.

Valeah Foy explained that the early determination process is not mandatory. That is something that we started doing

proactively to help local governments. The October 1 filing deadline is statutory, so that is mandatory. They have to submit by October 1. However, this can put the other taxing jurisdictions in a bit of a pickle to pay the chargeback next year if they don't have the funding and they don't have time to get their levy increased to accommodate the charge. The statutory part, October 1st is the filing deadline.

She walked the commissioners through different scenarios for the Town of Sanborn. For 2021 (with tax levy) the town's equalized value was \$37 million. The total taxes were \$766,000. An average property taxpayer with a \$200,000 property in the Town of Sanborn paid about \$4600, that's before property tax credits. For this purpose, we did not include property tax credit.

For 2022 (with tax levy) they had an increased equalized value of \$42 million. But after that value was certified, their assessed value dropped to \$18 million. Note how close the assessed value of \$42 million is to their \$37 million equalized value. Apportioned taxes based off of those amounts are not that much different. Equalized value is used for apportionment. The town's equalized value was \$37 million to all the different districts. With the town's equalized value being \$37 million, the town was responsible for about 2.9% of the county's total tax amount, about 4.9% of the school district and less than 1% of the tech college. The town itself is always responsible for 100% of its own taxes. That is the important piece to pay attention to. For 2022 the apportionment stayed relatively the same as far as the amount of each district's taxes because their equalized value was about the same, \$42 million even though their assessed value dropped to \$18 million. The town increased its tax levy in 2022 resulting in increased taxes for the \$200,000 average homeowner going up to \$9400. That was a significant burden on property owners, and everyone collectively heard from the property owners within the town. It was one of those things that happens with timing. This is why the equalized value correction process exists.

We created estimated values for 2023 (with tax levy and no chargeback). We know the town's estimated value is around \$7.7 million. For the other districts, they were reduced by about \$35 million, which is what the reduction is essentially in the town. We used last year's taxes because this year's taxes are not known yet. With \$7.7 million of equalized value and the other district's equalized value staying relatively the same, the town's portion for the county is less than 1%, school district 0.8 percent%, .01% for technical college. The tax levy funds coming through are \$47,000 for the county versus \$262,000 for 2022 for the county. The school was \$321,000 allocated to them in 2022 and in 2023 it's \$60,000. That's how the apportionment process works. When your equalized value goes down, if all the other districts stay relatively the same, the municipality will be responsible for a smaller share of those taxes. The municipality is still responsible for the town's taxes, which are \$258,000 for 2022, which may go down depending on what the town's levy plans are this year. With these estimated 2023 values, a \$200,000 property in Sanborn is taxed around \$4300. This scenario was without the chargeback.

Commissioner Kaul asked if the 2023 example would be unusual going forward?

Valeah Foy responded that 2023 is the unusual year because their equalized value is significantly less. When their equalized value goes up to the estimated \$27 million the following year, then you'd have to take out that chargeback or reduce by the chargeback amount. You will find that the homeowner owner would owe somewhere in between \$4,300 and \$5,800.

For 2023 with a chargeback using the \$630,000 amount. This scenario breaks down what each district would be responsible for. That is the only difference. The total district levy includes those chargeback amounts for each district and then also for the town, their total taxes are \$498,000. For the county, without the chargeback the town is responsible for \$47,000 and the town's total taxes are \$368,000. With the chargeback the town is responsible for about \$48,000. It is not a significant amount in the year of 2023 because their equalized value is so low. With the chargeback, including a full chargeback by the Town for the Town's share of the tax refund, the estimate would be around \$5,800 for the average property owner. Everything shakes out when you have that adjustment to your equalized value, and different things happen to the levy amounts.

Commissioner Leiber commented that as the equalized value of the town goes down, the share of their taxes for the county and school board goes down. But the remaining taxpayers in Sanborn are going to have to pay even larger dollar amounts because of the town services. If more property taxes are taken off the rolls, the remaining owners of



taxable property or taxpayers are going to have to pay higher amounts to keep up with that. First, it's going to go up, even if their portion of the county and the school taxes go down. They're still going to have to pay the full amount of the tax for the town, right?

Valeah Foy replied that is correct. The town levy definitely makes a difference. You are understanding the basic mechanics correctly. If your assessed value goes down and your taxes remain relatively the same then the tax rate increases because the tax amount is staying relatively the same and you have a shrinking assessed value, a shrinking base, so your taxes do increase. There are a lot of factors that go into that, what the town levies, what the other taxing jurisdictions levy, where the property assessed values go. Specifically, for the Town of Sanborn, they're reconstructing their relationship with the tribe so they do not have to incorporate such a significant levy. They have financial agreements they are making work outside of the property tax levy to work together and coordinate.

Executive Secretary German commented on the DOR projected 2023 scenario with the chargeback estimates. He asked if DOR was assuming that the town would chargeback their full share of the amount that they refunded in town taxes as opposed to spreading that amount out over the 20-year term of the loan. There is a distinction in these different assumptions and scenarios.

Valeah Foy explained that the assumption in the DOR projected scenario was that the town was implementing a similar chargeback process to what other municipalities tend to do. They include their full chargeback portion in that following year, but they do not have to do it that way. With a loan they could spread their portion out.

Executive Secretary German asked if they were going to spread it out over that period of time, that number instead of being \$4,500 something would be somewhere around \$2000 something which would drop the total taxes for that property somewhere into the \$3,000s.

Valeah Foy responded, right. This \$385,000 wouldn't be \$385,000. If they receive a loan from BCPL as a municipality, they have that backstop. They have the ability to levy for those annual loan payments. With chargeback requests, you do not usually spread it out for a longer amount of time, you do it the following year. The municipality and the taxing jurisdictions generally do the same. But with the loan, they could spread it out. Yes, they absolutely could.

Ms. Foy presented the estimated numbers for 2024. One of the things she did not change in the estimate for 2024 is the assessed value. She updated the 2024 equalized values as \$27 million. She added the difference, which was approximately \$19 million, back into the other taxing jurisdictions. The Town of Sanborn taxes remained pretty much the same as 2022 without the chargeback or anything. The result is 1.83% from the county, 3% from the schools as opposed to 2022 when it was 2.8% for the county and 4.7% for the school district. This part works but there is the piece where we do not know their assessed value. It will likely change. The assessed value plays a large part in what the tax bill is for the average property owner. In this example, for 2024, we have \$27 million, and you can see the allocation of taxes change and as a result. The average property owner tax bill is projected at about \$7,400 based on assumptions.

Mary Gawryleski commented that their total assessed value will remain fairly constant given the small size of their tax base until the point in time when they choose to revalue all property back to 100% of market value. This would bring their total assessed value more in line with the equalized value.

Commissioner Kaul asked if DOR knows when that would happen.

Mary Gawryleski replied that generally it is a decision of the municipality. Statute 70.05 requires municipalities to revalue once their level of assessed value relative to the equalized value has been below 90% for at least five consecutive years. They will then be looking at scheduling a revaluation and they will have a two-year window to complete that revaluation.

Commissioner Kaul commented that in the 2023 scenario with chargeback, the assessment is \$17 million, and the equalized value is \$27, they are well below the 90% so the assessed value would go up potentially significantly.

Mary Gawryleski responded, yes. Per that statute, once they are outside a window of below 90% or above 110%, a 10% gap between the estimated full value which is the equalized value, it starts a clock for them. Once they are out of compliance and they stay out of compliance for five consecutive years, that's when that requirement will come into place for them to revalue. They first went out of compliance in 2021.

Commissioner Kaul asked if the revaluation happens and their assessed value went from roughly \$17 million to roughly \$27 million, that would increase the share of the taxes owed to the county, the school district, and the technical college?

Valeah Foy explained that no, not their assessed value, but our equalized value is considered full market value and so it's already at \$27 million. Equalization looks at sales, it looks at various market data to try to keep that value full market and a true value. That is what is used for apportionment. That would be consistent regardless of the town's revaluation. What happens with the town's revaluation is their assessed value would increase. If their assessed value increased, then the property taxes goes down for that average \$200,000 property because the tax rates are adjusted.

Mary Gawryleski clarified that when it comes to creating the actual tax bill for the town's piece, you're looking at assessed value, not equalized value.

Commissioner Leiber asked if there are more parcels taken off the tax roll, the total assessed value will go down and the mill rate is going to have to go up on the remaining property.

Valeah Foy responded, yes. The mill rate will go up on all the remaining taxable property. For the Town of Sanborn and other impacted municipalities with this case. That is something we will continue to monitor and support them on. There was a trend for a very short time where tribal members were adding themselves to deeds and that kind of thing. The tribes quickly discouraged that. It would have to be properties being sold for additional exempt property in this situation to continue to grow. That is something that we certainly will monitor as our division helps local governments with the property assessment process and the property tax process. We are trying to stay diligent and offer resources and guidance when municipalities need assistance in that area.

Commissioner Kaul asked for clarification on the 2024 scenario.

Valeah Foy clarified that the average tax payment in the 2024 scenario for a \$200,000 property was estimated to be about \$7,400 if the town's assessed value was about \$17 million which it is for 2023. In the second 2024 scenario, when the town does a revaluation, the average tax payment changes to around \$4,700.

Commissioner Kaul asked how the revaluation leads to a lower tax burden.

Mary Gawryleski talked about the tax rate. The tax rate is determined as a function of the levy and the total assessed value. The levy divided by the total assessed value equals their tax rate. When that total assessed value goes up, it has an impact on their tax rate. Having a revaluation essentially redistributes the taxes among the property owners. It reestablishes uniformity. When there has been a lot of market activity driving up prices of real estate it can create a significant difference between the equalized value, which is an estimate of the market value versus the assessed value, which is now three years since it's been set at full value. The bigger that gap becomes, the more inequities and the more nonuniform the assessed values become. Certain properties will increase that market value at a much quicker rate than other properties. So, take an average assessed value of \$200,000, once they do that revaluation that average assessed value is going to change and it redistributes using the municipalities levy because it will redistribute that levy depending on how much an individual's assessed value increases at the time they do that revaluation. You may have some properties that only increase in assessed value by 15%. You may have others that increase in value by 50%. So those that are increasing more than that average of the municipality, are going to see higher tax bills.

Commissioner Kaul commented that the \$200,000 property could become a \$300,000 property.

Mary Gawryleski replied, correct. It all comes down to the average change and assessed value at the time they do that revaluation. If an individual's assessment increases by that average amount, they're likely going to see little change in

their taxes. That's the scenario where the property owner's assessed value increases more significantly than the town's assessed value. They will see an increase in their taxes. To summarize, going from 2021 to 2024, the reason 2022 or 2023 aren't being mentioned is because those are the unusual years because of the circumstances, you are going from total taxes for the \$200,000 property being about \$4700 to being about roughly \$2,800 dollars higher. She asked Valeah Foy for confirmation of those numbers.

Valeah Foy commented that with 2024, the part where that estimate falls apart is that assessed value. We do not really have an accurate assessed value for 2024. Even if we were going to meet in the middle and go to \$23 million, close to the middle of \$27 and \$17 million, the equalized value of what we know to be closer to actuality, then you get a \$5,500 tax bill. There is an increase in tax bills. Taxes do increase over time, but there is an increase when playing with these numbers. She believes it would be closer to \$5500 rather than \$7,000 because of the assessed value being inaccurate.

Commissioner Kaul asked would the average property value would go up too. What would the person owning the same home owe on average?

Valeah Foy replied, yes.

Mary Gawryleski commented that you're taking that mill rate and you're taking the levy divided by the assessed value. Your mill rate might look lower but then you're multiplying it by, for example, a \$300,000 property instead of a \$200,000.

Commissioner Kaul shared that if you added the chargebacks, because you were paying it out over 20 years, that would add a few hundred extra to that.

Mary Gawryleski explained if they used it as a debt adjustment, so they spread it out, it would slightly increase the town's levy. As the town levy went up a little bit then you divide that over the assessed value and possibly get a lower mill rate once that assessed value goes up, but then you're multiplying by perhaps a higher fair market value or home value.

Board Chair Godlewski thanked the DOR staff for their thorough explanation. This has been very helpful in explaining what Sanborn and their unique circumstances are as we evaluate this loan.

Valeah Foy thanked the board for having DOR staff. She shared that she keeps BCPL on her radar because DOR has many towns that get into difficult situations. They make an error and then if they don't have the capacity to pay back what they owe right away, BCPL is an option.

Timing wise, we are all aware of August 15th and the decreased debt capacity that does impact this decision and that does impact the town. Informing the other taxing jurisdictions as early as possible is also something to keep in mind and the October 1 deadline. October 1 is the chargeback deadline. If the loan was approved, this is debt that they can enter on their levy. With every municipality in the state, their general obligation can be entered and included in their tax levy, their upcoming specifically scheduled principal and interest payments. So that is the \$30,000 loan payment that Executive Secretary German mentioned. For instance, if the town missed that October 1 chargeback submission date. They can enter the \$30,000 on their town portion to pay back the first payment and then they could do the charge back the following year. That is something to keep in mind as well. There are a lot of processes in place to ensure that they can recoup those funds for municipalities and the local governments as well the other impacted local governments.

Board Chair Godlewski asked Commissioner Kaul and Commissioner Leiber if there was any other information that would be helpful.

Commissioner Leiber shared that 100% of the town is within the reservation boundaries but asked for confirmation.

Executive Secretary German commented that it was his understanding as well. The entire town was within the reservation boundaries.

Board Chair Godlewski commented that the other piece of information requested from last meeting was how much is owed. The \$1,000,000 was a number that was determined and submitted via the court documents, correct?

Executive Secretary German responded, yes. It was projected to be \$995,000 and change at this time with interest accrued.

Board Chair Godlewski asked Commissioner Leiber and Commissioner Kaul what other questions they have about the loan. To reiterate what Valeah Foy said, we need to make a decision about this, if not today at our next meeting knowing that August 15th is an important deadline for the Town of Sanborn. Do the other commissioners need more information? She shared that we're almost 30 minutes over our allotted time for our BCPL meeting. However, there are two things the board can do. We can table this to the next meeting where we then take a vote or we can move it into a vote today.

Commissioner Kaul shared his perspective. The biggest question he has is not something the board can answer. He would like to know where the legislative process is on potential solutions to the challenges the Town of Sanborn is facing. His concern is the numbers are not precise. The example using the \$200,000 value for the average property owner owing \$4600 to \$3,000 a year more in 2024 and going forward adding in the loan repayment portion on top of the tax calculation, that's not a sustainable change for folks. He worries that people are going to lose their houses. He is very concerned about turn over through foreclosure which will reduce the tax base further. There is a real opportunity for a legislative solution here. The town owes about \$1,000,000 and having the legislature step in to address that issue and to assess how to offset the increase in the tax burden makes a lot of sense. He suggests having the other entities that would have chargebacks work with the town to identify solutions. Then there are services that can be charged. Knowing what that would look like going forward would be helpful. He feels as though BCPL is being asked to go out on a limb when he does not have confidence about what is going to happen with the town in the long term given this this massive spike in property tax rates. This is where the risk is and why he believes the risk is too high for this loan. If we had some understanding of what the solution was going to be and how others were going to take action, he would be open to giving the loan to the town if there were a plan in place to ensure the town's long-term viability. As of now, he does not see that. Fundamentally the increase in the tax burden is substantial.

Board Chair Godlewski replied that we do know that there was an attempt for legislative action as the governor did put an action in the budget that the legislature removed. They did attempt to address this through the quickest legislative solution possible. One of her greatest concerns is that the board is overstepping their bounds and cherry-picking creditworthiness at a level that we have not done on a loan since she has been chair.

Another concern is the risk that this could bring to the town. If they face bankruptcy or they can't make these payments, what will happen with the property values? What will be done for residents when their homes are worth a lot less than what they're really valued at. She also worries that we are setting a very slippery slope precedent. The board reviews loans helping to pay back pension liabilities, which is something we've always approved. Our factors go into their financial ability. We look at the default risk, their base value, their ability to be well below the 5% borrowing limit and their default risk. All of this, knowing that they are secured through our ability to intercept shared revenue. She is worried that we are overstepping our bounds, and looking at a whole different Pandora's box when it comes to evaluating future loans. The one thing we do know is that the system has worked for well over 100 years and we have not had any defaults. Knowing that risk and creditworthiness as it relates to this assessed and equalized value is an important part of that and our ability, like no one else, to intercept state aid, she worries that we might be getting into a new level with the State Trust Fund Loan Program that is setting a precedent for the future.

Commissioner Kaul commented that he believes her points to be very valuable considerations. What feels different to him about this than the other loans is that the risk here is fundamentally different from what it is in a typical loan situation. The town itself is in a state of risk and volatility in a way that is very difficult to estimate or factor into a risk calculation. The individual tax liability for the average homeowner who owes taxes is going to go up so dramatically. He believes this to be a very significant fact here. He added that the shared revenue interception is an issue. He would not want to rely on that for a few reasons, it's one thing to take out a loan that's a routine loan where there is some unanticipated reason that the town can't pay it back. In a circumstance like this, there is some apparent risk that

exceeds the typical risk. The legislature could just change the intercepting shared revenue statute. It could not provide as much shared revenue to the town and leave BCPL holding the bag. From his perspective the risk here is just too significant at this point without having more certainty as to what they are going to do and what the state is going to do with respect to the significant increase in individual property tax liability.

Board Chair Godlewski shared that she believes there have been loans that have been similar. While this is unique, again, potentially, this is a slippery slope because we've also done loans for unfunded pension liabilities, and one could argue that is a lot riskier than a loan for building a bridge. If we are going in this direction, one could say it is a difference of risk, which is somewhat of an arbitrary issue. We have approved, infrastructure, and capital improvement projects in the past with uniqueness and uncertainty that have been secured to by the shared revenue aspect.

Executive Secretary German shared the risk is why he began the conversation with where they were on their borrowing capacity. The other communities that he mentioned, because they had borrowed up to 95, 96, 98% of their borrowing capacity, those expenses went straight onto the tax bills of those communities. In some ways that was even riskier because they were leveraging themselves so high. As the Commissioner Leiber and Kaul pointed out earlier, there are several pieces that go into the equation in terms of what the future tax bills are going to be. What's their level of spending, what's their level of taxing? The wild card in the deck here is how much is the tribe going to contribute outside of the of the tax levy to those services? For many years the Town of Sanborn had no municipal tax levy for town services. The tribe and shared revenue covered all of that. It was not until 2015 that the tribe pulled back from paying for a lot of those services that were paid for after 2015 by the town tax levy. If you're going from zero to a couple thousand, that's a very significant increase. We are now in a situation where everybody is reevaluating their position. It is hard to predict what tomorrow will look like. We do not know if the tribe will go back to paying what they were paying before. In terms of it being a financial risk, he does not see this situation as carrying the actual financial risk that some people think it does. When Valeah Foy did the calculations for 2023, she used the whole chargeback for the town. That made property tax payments jump up to \$5800. When you knock it back down to a 20-year payoff of the town's share of the loan payoff, it comes back into line with what it was a couple years ago. There are a lot of moving pieces, but he does not believe the level of risk is significantly higher than anything that we have encountered before considering the loan amount being \$610,000. He would recommend adding a loan condition that the second chargeback be used to reduce the amount of the loan so that the actual amount of outstanding loan balance after the second chargeback would come back down to somewhere in the \$360,000 range.

Commissioner Kaul commented that if you put to the side the change in the land that can be taxed, he understands the logic behind why this loan is not riskier than some that have approached the borrowing limit. What makes this different is that it is not the loan per se that's creating the risk, it adds to the underlying situation that is fundamentally different. Going back to the 2021 to 2024 comparison, he believes the tax rate is going up by something like 60 to 70% for the total amount owed and that is what makes this a fundamentally unique situation. He can't think of anything we've had similar to that.

Commissioner Leiber commented that he shares a lot of the concerns Commissioner Kaul has. It is such a unique situation. He believes there needs to be a legislative solution to this. Even if this loan went through and it covered this problem, there are going to be these types of issues popping up in a lot of places. He is unsure if we're really solving anything. In fact, this might get in the way of any solution that is being negotiated right now. There is talk about what to do about this issue so he wouldn't want BCPL to be put in the position of interfering or jumping the line on what's going on.

Executive Secretary German shared that he appreciates the other Commissioner's opinions and from where he sits, he does not go looking for problems or controversy. When it comes to BCPL, we try to come up with a creative, solid solution and that's what we attempted to do here.

Commissioner Leiber commented that he believes BCPL did great work on this and we've talked about this before, it is not the position anyone wanted to be in and BCPL staff came up with something that worked, which is more than anyone else could have done. It is no reflection on any of the work the agency has done.

Board Chair Godlewski asked is someone would like to make a motion to call the question.

Commissioner Kaul shared that he echoed Commissioner Leiber's thoughts about BCPL's work. If there were a legislative solution that was addressing the year over year increase in the property taxes and was able to ensure that we're not going to be potentially facing a wave of foreclosures or other challenging issues, he would feel much more comfortable about the loan. Although having the legislature step in, given the unique circumstances, to support the town and ensure the debts are paid is also a worthwhile option to consider. If you know to the extent that there are developments in the facts, he is happy to revisit things. From a just a procedural standpoint, he is not sure what the appropriate way to move forward is.

Board Chair Godlewski asked if the board would like to take a vote or table it. Is there more information that we think we need to come to a decision? Do we want someone from the legislature or the governor's office to come and share what might be going on?

Commissioner Kaul commented that if Board Chair Godlewski or someone from BCPL were to have conversations with the legislature or the governor's office and wanted to have them present additional information or update us about what they were doing, he would be open to that. Given the time constraints, he does not want to artificially hold out hope of something happening in a timeline that is not realistic. If it is helpful to have certainty through a vote, he would also be happy to do that.

Board Chair Godlewski shared that if Commissioner Kaul is looking for more information from the governor's office, that may not necessarily change his decision, it may just help you navigate the current status of the situation knowing that maybe their property taxes could go up or the community could face bankruptcy and would also put them in dire financial straits as homeowners. What additional information is needed to make a decision?

Commissioner Kaul stated that he is happy to vote based on what we have now if that is helpful. If the legislation and the governor were to have a plan to ensure the continued solvency and viability of the town and to ensure that tax rates could be limited in a way that would prevent the concerns we've talked about from coming to pass that would certainly change my view as to the risk of the loan. Whether there's state aid that is in the picture or the potential of collaboration among the taxing entities or anything else, if there were progress on those things and it changes the risk profile for the town, that would be the type of thing that could change his perspective.

Board Chair Godlewski expressed that the best next step is to table this to August 1<sup>st</sup>. We can ask the governor's office, DOR and the town to share any information they have about the town's future solvency and long-term financial plans and then come to a decision at the meeting. We have to call the question and let the Town of Sanborn know whether we approve the loan or not.

Commissioner Kaul added that he would be happy if in two weeks there is not meaningful movement, some sort of legislative solution, or other potential solution, we can wait till August 14th. He would be happy to know whether there's a clear pathway or not and if there is no new information. If it is helpful to take a vote now so that there's resolution, he is happy to do that too.

Board Chair Godlewski shared that for the sake of time, she would see if there's any other additional information about the financial future of Sanborn from the governor's perspective, from the legislature and even from DOR and from the town. We can ask them to present that information in the meantime. Commissioners, please let us know if there are any additional questions. The goal end of that meeting will be to vote on approval of the loan.

#### **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.

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/2023/2023-07-05/BoardMtgRecording.mp3](https://bcpl.wisconsin.gov/bcpl.wisconsin.gov/Shared%20Documents/Board%20Meeting%20Docs/2023/2023-07-05/BoardMtgRecording.mp3)

**BOARD MEETING  
AUGUST 1, 2023**

**AGENDA ITEM 3  
APPROVE LOANS**

Municipality	Municipal Type	Loan Type	Loan Amount
1. Wausau Marathon County Application #: 02024004 Purpose: Finance April 2022 Referendum Projects	School Rate: 5.50% Term: 3 years	General Obligation	\$19,810,000.00
2. Albany Green County Application #: 02024009 Purpose: Finance roadwork	Village Rate: 5.50% Term: 8 years	General Obligation	\$149,217.00
3. Emmet Marathon County Application #: 02024010 Purpose: Finance roadwork	Town Rate: 5.50% Term: 3 years	General Obligation	\$150,000.00
4. Clover Bayfield County Application #: 02024011 Purpose: Finance ADA restrooms at campground	Town Rate: 5.25% Term: 6 years	General Obligation	\$225,000.00
5. Byron Monroe County Application #: 02024012 Purpose: Finance roadwork	Town Rate: 5.25% Term: 7 years	General Obligation	\$350,000.00
6. Gull Lake Washburn County Application #: 02024013 Purpose: Finance roadwork	Town Rate: 5.00% Term: 5 years	General Obligation	\$150,000.00
7. Ashippun Dodge County Application #: 02024014 Purpose: Finance roadwork	Town Rate: 5.00% Term: 5 years	General Obligation	\$100,000.00
8. Ashippun Dodge County Application #: 02024015 Purpose: Finance roadwork	Town Rate: 5.50% Term: 5 years	General Obligation	\$100,000.00



Municipality	Municipal Type	Loan Type	Loan Amount
9. Marquette Green Lake County Application #: 02024016 Purpose: Finance roadwork	Town Rate: 5.25% Term: 10 years	General Obligation	\$250,000.00
10. Suamico Brown County Application #: 02024017 Purpose: Finance Oussumigong Wetland Mitigation Bank	Village Rate: 5.50% Term: 10 years	General Obligation	\$1,000,000.00
11. Elm Grove Waukesha County Application #: 02024018 Purpose: Finance roadwork	Village Rate: 5.25% Term: 20 years	General Obligation	\$1,000,000.00
12. Elm Grove Waukesha County Application #: 02024019 Purpose: Finance property and easement acquisitions	Village Rate: 5.25% Term: 20 years	General Obligation	\$178,150.00
13. Whitelaw Manitowoc County Application #: 02024020 Purpose: Refinance road construction loan	Village Rate: 5.50% Term: 8 years	General Obligation	\$175,499.99
14. Tomahawk Lincoln County Application #: 02024021 Purpose: Finance 2023 Capital Projects	City Rate: 5.25% Term: 15 years	General Obligation	\$2,100,000.00
<b>TOTAL</b>			<b>\$25,737,866.99</b>