

Special Meeting #559.1

A special meeting of the Lac qui Parle-Yellow Bank Watershed District Board of Managers was held on Friday, September 16, 2016 in the Courtroom at the Lac qui Parle County Courthouse at 9:30 a.m. The meeting was called to order by Chairman Darrel Ellefson. Managers present were: David Ludvigson, David Craigmile, John Cornel, and Joe Ferguson. Others present were: Trudy Hastad, & Mary Homan.

Chairman Ellefson opened the special meeting at 9:30 a.m. Chairman Ellefson asked for additions to the agenda. There being none, Manager Craigmile motioned to approve the agenda, seconded by Manager Ludvigson. Upon vote, all voted in favor.

Coordinator Homan discussed the SSTS Loan program and gave an overview of the history in the Watershed District. The proposed loan agreement is just for residents in Lac qui Parle County as the Watershed residents in Lincoln & Yellow Medicine qualify through the program through their local SWCD's. The general obligatory note with MPCA is for \$500,000 to loan out over the next three years, but we could possibly get an extension of 1 year for an additional \$500,000 if needed. Discussion followed. Homan asked the Board to approve the following resolution for the SSTS Loan Program through MPCA:

RESOLUTION RELATING TO THE MINNESOTA POLLUTION CONTROL AGENCY
CLEAN WATER PARTNERSHIP; AUTHORIZING THE LAC QUI PARLE-YELLOW
BANK WATERSHED DISTRICT TO BORROW MONEY FROM THE MINNESOTA
POLLUTION CONTROL AGENCY AND TO LEND MONEY TO ELIGIBLE
PARTICIPANTS AND ELIGIBLE LENDERS TO FUND PROJECTS FOR THE CONTROL
AND ABATEMENT OF WATER POLLUTION

BE IT RESOLVED by the Board of Managers of Lac qui Parle-Yellow Bank
Watershed District, Minnesota (the "Sponsor"), as follows:

Section 1. Authorization and Findings.

- 1.01. The Sponsor, a political subdivision of the State of Minnesota, is authorized and empowered by the provisions of Minnesota Statutes, Sections 103F.701 to 103F.761, as amended (the "Act"), to borrow money from the Minnesota Pollution Control Agency (the "MPCA") for the purpose of funding a revolving loan program under the Minnesota Clean Water Partnership, as provided in the Act. The Sponsor proposes to enter into a financing agreement (the "MPCA Agreement") with the MPCA pursuant to which the Sponsor shall borrow money from the MPCA (the "MPCA Loan") from time to time and lend the proceeds thereof to persons entitled to receive such loans under the MPCA Agreement ("Eligible Participants"), or may agree that loans to the Eligible Participants will be made by local lending institutions ("Eligible Lenders"), such loans to be documented by loan agreements between the Sponsor and each Eligible Participant or Eligible Lender (the "Project Loan Agreements"), in furtherance of the "Project Work Plan" as provided in the MPCA Agreement. The Sponsor may at any time determine to make project loans directly to Eligible Participants, rather than through Eligible Lenders, and in such case the references herein to Eligible Lenders and Project Loan Agreements shall be deemed to refer to Eligible Participants and the loan agreements between the Sponsor and the Eligible Participant.

- 1.02. The Sponsor is authorized to borrow money and issue its general obligation note (the "Note") to the MPCA under the Act, in evidence of the MPCA Loan. Under the Act, no election is required to authorize the issuance of the Note, and the Note shall not constitute an indebtedness of the Sponsor within the meaning of any constitutional or statutory provisions or limitations. The Chairperson and Secretary are hereby authorized to approve the final terms of the Note, and their execution and delivery of the Note shall evidence such approval. The terms of the Note, as so executed and delivered, shall be deemed to be incorporated herein by reference.
- 1.03. The Sponsor intends to make loans in amounts which will require the Sponsor to issue the Note in an aggregate principal amount not exceeding \$1,000,000, but recognizes that the MPCA Agreement referred to in Section 1.02 hereof permits the Sponsor to draw up to \$500,000 on the Note at this time. The remaining \$500,000 (or so much thereof as may be required) principal amount of the Note may be drawn only when the Sponsor and the MPCA have executed a new or amended MPCA Agreement permitting additional amounts to be drawn on the Note.
- 1.04. The execution and delivery of the MPCA Agreement, the form of which is attached hereto as Exhibit A, is, in all respects, hereby authorized, approved and confirmed, and the chairperson and Secretary are hereby authorized and directed to execute and deliver the MPCA Agreement in the form and content attached hereto as Exhibit A, with such changes as the Sponsor's Attorney deems appropriate and approves for and on behalf of the Sponsor. The Chairperson and Secretary are hereby further authorized and directed to implement and perform the covenants and obligations of the Sponsor as set forth in or required by the MPCA Agreement.
- 1.05. The execution and delivery of the Project Loan Agreements and the pledging of the loan payments thereunder for the security of the Note and the interest thereon shall be, and they are, in all respects, hereby authorized, approved and confirmed, and the Chairperson and Secretary are hereby authorized and directed to execute and deliver, from time to time, the Project Loan Agreements in such form and content as the District's Attorney deems appropriate and approves, for and on behalf of the Sponsor. The Chairperson and Secretary are hereby authorized to approve the final terms of each Project Loan Agreement, and their execution and delivery of such Project Loan Agreement shall evidence such approval.
- 1.06. Capitalized terms used but not defined herein shall have the meanings given thereto in the MPCA Agreement.

2. The Note.

- 2.01. The Sponsor has determined that it is necessary and expedient that the Sponsor issue at this time a Note to be designated "General Obligation Note (MPCA) (Lac qui Parle-Yellow Bank SSTS Loan Program), Series 2016" (the "Note") to provide moneys to lend to Eligible Participants or Eligible Lenders through the Project Loan Agreements from time to time as the Sponsor shall determine. Pursuant to the Project Loan Agreements, Eligible Participants are required to use the proceeds of the Loan for costs of projects permitted under the MPCA Agreement, and the Eligible Lenders are obligated to use the proceeds of the Lender Loans to make loans to Eligible Participants, as defined in the Project Loan Agreements. The Note shall be substantially in the form attached hereto as Exhibit B; the aggregate principal amount of the Note shall not exceed \$1,000,000; provided that only \$500,000 may be drawn under the Note until authorized by a new or amended MPCA Agreement. The principal balance of the Note from time to time shall be an amount equal to the aggregate of all MPCA Loan advances theretofore made under the MPCA Agreement, less the amount of any principal repayments or redemptions theretofore

made under Sections 2.02 or 2.03 hereof. If the full amount of the MPCA Loan has not been advanced under the MPCA Agreement by June 15, 2020, or such later date as may be provided in a new or amended MPCA Agreement, the MPCA shall, under the provisions of the MPCA Agreement reduce the principal amount of the MPCA Loan to an amount equal to the total loan amount then and theretofore advanced, and shall prepare and provide to the Sponsor revised Repayment Schedules for the MPCA Loan. Upon such action by the MPCA, the aggregate principal amount of the Note shall be limited to the principal amount of the corresponding MPCA Loan, and the revised Repayment Schedules shall be deemed to have replaced and superseded the payment schedule of the Note set forth in Section 2.02 (c).

2.02. (a) The Note shall bear a date of original issue as of the date of its execution and delivery to the MPCA.

(b) The Note shall bear interest from its date of original issue at an interest rate of 2% per annum, unless any payment provided for in paragraph (c) below is not paid when due, in which case the principal balance of the Note shall bear interest at the rate of 4% per annum, commencing on the day following the date on which such payment was due and continuing until the date on which payment in full thereof is actually received by the MPCA.

(c) The principal balance of the Note, plus the interest which has accrued on the Note at an interest rate of 2% annum shall be payable in semiannual installments of \$28,815.96 each, payable on June 15 and December 15 in each year, commencing June 15, 2020 (the "Note Payment Dates"). If the Sponsor satisfies the conditions specified in Sections 1.03 and 2.01, and draws amounts in excess of \$500,000 on the MPCA Loan, the schedule and amounts of the semi-annual installments shall be amended as provided in the new or amended MPCA Agreement. Interest, if any, which has accrued on the Note at a rate in excess of 2% per annum shall be payable on each Note Payment Date in addition to the regularly scheduled payment of principal and interest on the Note.

2.03. The principal balance of the Note is subject to redemption and prior payment at the option of the Sponsor on any date upon not less than thirty (30) days written notice to the MPCA, in whole or in part in such amounts as the Sponsor may determine at a redemption price equal to the principal amount being redeemed, together with any accrued interest to the redemption date. If less than all of the principal balance is to be redeemed and prepaid, the Sponsor may elect, in the notice of redemption, to reduce the amount of or eliminate specified semiannual payments; if the Sponsor does not specify otherwise, any partial prepayment will be applied to reduce the amount of the semiannual payments in inverse order of their due dates. Partial redemptions and prepayments shall be made in increments of \$1,000 principal amounts and in minimum amounts of \$1,000.

Section 3. Granting Clauses. The Sponsor, in order to secure the payment of the principal of and interest (if any) on the Note and the performance and observance of each and all of the covenants and conditions herein and therein contained, and for and in consideration of the premises and of the purchase and acceptance of the Note by the MPCA, and for other good and valuable considerations, the receipt whereof is hereby acknowledged, by these presents does hereby grant, bargain, sell, assign, transfer, convey, warrant, pledge and set over, unto the MPCA and to its successors a lien on, security interest in and pledge of the interests of the Sponsor in all Project Loan Agreements hereafter entered into between the Sponsor and Eligible Participants or Eligible Lenders in connection with Loans authorized hereby, and all payments of principal, premium (if any) and interest thereon, and all proceeds thereof. If the Sponsor shall well and truly pay or cause to be paid the principal of the Note and the interest, if any, due or to become due thereon, at the times and in the manner mentioned in this

Resolution and the Note, or shall provide for the payment thereof by depositing with the MPCA sums sufficient to pay the entire amount due or to become due thereon, and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of the MPCA Agreement and this Resolution, to be kept, performed and observed by it and shall pay to the MPCA all sums of money due or to become due to it in accordance with the terms and provisions hereof; then upon such final payment the lien, security interest and other rights hereby granted shall cease, determine and be void.

Section 4. Application of Note Proceeds and Other Moneys; Loan Fund; and Loans.

4.01. The proceeds of the Note shall be equal to, and deemed to be received by the Sponsor at the same time as, the advances of the corresponding MPCA Loan under the corresponding MPCA Agreement. Such proceeds shall be deposited, as received, in the Loan Fund, which is hereby established as a separate bookkeeping account on the books of the Sponsor. Once each month, the Sponsor will determine the amount necessary to fund Loans to Eligible Participants or Eligible Lenders base on Project Loan Agreements entered into subsequent to the last request by the Sponsor for an MPCA Loan advance under the MPCA Agreement, and shall submit a request, in accordance with the MPCA Agreement, for an MPCA Loan advance in the amount necessary to fund such Loans.

4.02. Amounts on deposit in the Loan Fund shall be used to make Loans to Eligible participants or Eligible Lenders in accordance with Project Loan Agreements, or to pay the principal and interest on the Note. No amounts in the Loan Fund which are required to be disbursed to an Eligible Participant or Eligible Lender under a Project Loan Agreement may be used to pay principal or interest on the Note.

Each Loan shall be made in accordance with the terms of a Project Loan Agreement and the MPCA Agreement. The interest rate and repayment terms of the Loans shall be determined by the Sponsor in accordance with the MPCA Agreement and applicable rules of the MPCA. The proceeds of each Loan must be expended for eligible costs under the Program (including any applicable federal law) and the MPCA Agreement.

Amounts on deposit in the Loan Fund shall be disbursed by the Sponsor pursuant to Participant or Lender Request. The Sponsor shall have no obligation to see to the proper application of the proceeds of the Loans.

Section 5. Funds and Accounts.

5.01. There are hereby established the following Funds and Accounts:

- (a) Loan Fund, as described in Section 4.02 hereof; and
- (b) Note Fund, as described in Section 5.02 hereof.

The Sponsor may also establish by resolution or otherwise within each Fund one or more separate Accounts or Subaccounts relating to a particular Loan or for other purposes.

5.02. Upon receipt of a payment of principal or interest on a Loan, the Sponsor shall deposit such principal and interest in the Note Fund. On or prior to each Note Payment Date, the Sponsor shall withdraw from the Note Fund and pay to the holder of the Note amounts sufficient to pay the principal and interest (if any) on the Note due on such Note Payment Date, including any principal of the Note which has been called for prior redemption.

5.03. For the prompt and full payment of the principal of and interest, if any, on the Note as such payments respectively become due, the full faith, credit and unlimited taxing powers of the Sponsor shall be and are hereby irrevocably pledged. It is, however, presently estimated that the revenues appropriated pursuant to Section 5.02 hereof will provide sums not less than 5% in excess of principal and interest on the Note when due, and therefore no tax levy is presently required.

Section 6. Particular Covenants of the Sponsor. The Sponsor covenants and agrees, so long as the Note shall be Outstanding and subject to the limitations on its obligations herein set forth, that:

- (a) It will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Resolution and in the Note; and will promptly pay the principal of and interest, if any, on the Note on the dates, at the places and in the manner prescribed in the Note.
- (b) All Loans to Eligible Participants or Eligible Lenders with the proceeds of the Note or from other funds in the Loan Fund shall be evidenced by Project Loan Agreements. The principal of and interest on the Loans shall be due and mature at the times and in the amounts and bear interest at the rates sufficient, with other available funds hereunder, to provide for payments, when due, of principal of and interest on the Note issued hereunder. The Sponsor shall diligently enforce, and take all reasonable steps, actions and proceedings necessary for the enforcement of, all terms, covenants and conditions of all Loans and all Project Loan Agreements with Eligible Participants or Eligible Lenders relating thereto.
- (c) The Sponsor shall keep proper books of record and account in which complete and correct entries shall be made of its transactions relating to all Loans and payments and all Funds and Accounts and subaccounts established by this Resolution, which shall at all reasonable times be subject to inspection by the MPCA or their representatives duly authorized in writing.
- (d) The Sponsor shall annually, on or before February 1 in each year, prepare and place on file a copy of an annual report or the preceding twelve-month period ended as of the preceding December 31, setting forth in reasonable detail:
 - (i) a schedule of Loans, Loan payments and the status of the Funds and Accounts established by this Resolution; and
 - (ii) a schedule of remaining payments and the principal balance of the Note outstanding at the end of such year, together with a statement of the amounts paid, redeemed and advanced during such year.

The report shall also include statements as to a description of the nature of any defaults with respect to any of the Loans.

- (e) The Sponsor shall not cause or permit any funds received under the Project Loan Agreements or held in any of the Funds or Accounts established hereunder to be applied in a manner which is in violation of any provisions of the Clean Water Act.

- (f) The Sponsor will faithfully keep and observe all the terms, provisions and covenants contained in the MPCA Agreement, this Resolution and the Project Loan Agreements.

Section 7. Certification of Proceedings.

7.01. The Secretary is hereby authorized and directed to file a certified copy of this resolution in the records of the Sponsor, together with such additional information as required, and to file a certified copy of this resolution with the County Auditor of each County in which the Sponsor is located and obtain from each County Auditor a certificate that the Note has been duly entered upon the County Auditor's bond register.

7.02. The officers of the Sponsor are hereby authorized and directed to prepare and furnish to the MPCA and to Dorsey & Whitney LLP, bond Counsel, certified copies of all proceedings and records of the Sponsor relating to the Note and to the financial condition and affairs of the Sponsor, and such other affidavits, certificates and information as may be required to show the facts relating to the legality and marketability of the Note as they appear from the books and records under their custody and control or as otherwise known to them, and all such certified copies, certificates and affidavits, including any heretofore furnished, shall be deemed representations of the Sponsor to the facts recited herein.

Manager Ludvigson motioned to approve the above resolution, seconded by Manager Cornell. Upon vote, all voted in favor.

Administrator Hastad reported on the Upper Deer Creek Dam. Discussion followed, with no action taken.

Hastad shared the draft Level II Performance Review (PRAP) being done by BWSR. Discussion followed on the draft findings & survey results. No action was taken.

The Board briefly discussed the Coordinator job position description, salary range, & advertising for the position due to the resignation notice received from Coordinator Homan. No further action was taken.

Hastad reported talking to Wollschlager Excavating about the Lincoln WS Ditch #11 leveling and seeding. They said they plan to get to it yet this fall as was submitted with the bid last spring. Hastad shared the bid from last spring. No further action was taken.

The meeting adjourned at 10:43 a.m.

Attest:


David Craigmile, LQP-YB Secretary


Darrel Ellefson, LQP-YB Chairman