

A SPECIAL MONTHLY MEETING OF THE COMMON COUNCIL OF THE CITY OF NEKOOSA WAS HELD IN THE COUNCIL CHAMBERS ON TUESDAY, AUGUST 24, 2010 AT 6:00 P.M.

The Meeting was called to order by Mayor Gordon G. Freeman

Ken Hartje	Terry Shymanski	Robert Schultz
August Woiak	Robert Wenzel	Dan Carlson

Larry Krubsack & Brad Hamilton were absent.

### **Property Recreation & Human Affairs**

To the Honorable Mayor and Members of the Nekoosa Common Council:

A Property Recreation & Human Affairs meeting was held on Tuesday, August 23, 2010, at 1:00 p.m. in the Nekoosa Council Chambers.

Members present were Robert Schultz, *Chairperson*, Dan Carlson, *Secretary*, Larry Krubsack, Terry Shymanski. Also in attendance were: Mayor Gordon Freeman, August Woiak, Bill Kaberle-DPW, Tom Aeillo Jr. Chase Coyer, Pat Gagnon, James Lovett.

1. Motion by Shymanski seconded by Krubsack to go into CLOSED SESSION pursuant to Wisconsin Statutes 19.85(1)(c) to interview applicants for Temporary Parks Laborer Position.
2. Motion by Shymanski seconded by Krubsack to go into OPEN SESSION pursuant to Wisconsin Statutes 19.85(2).
3. Recommend hiring Chase Coyer and Pat Gagnon for Temporary Laborer Positions in Public Works Dept.
4. Recommend placing edging and landscape area around Welcome Sign.
5. Discussed Drainage Issue at Riverside Park.

### **Respectfully submitted**

Moved by Schultz Seconded by Woiak that the Property Recreation & Human Affairs Committee Report of August 23, 2010, be accepted as written. Carried

Moved by Schultz Seconded by Shymanski that Items 3-4 of the Property Recreation & Human Affairs Committee Report of August 23, 2010, be adopted for action.

Roll Call Vote: 6 Ayes, 0 Nays, 2 Absent. Carried.

Moved by Hartje Seconded by Schultz to approve Revised Pay Request #1 for the 2010 Utilities Project.

Roll Call Vote: 6 Ayes, 0 Nays, 2 Absent. Carried.

## RESOLUTION

### A RESOLUTION AUTHORIZING ENTRY INTO AN INTERGOVERNMENTAL COOPERATION AGREEMENT RELATING TO THE WISCONSIN RURAL WATER CONSTRUCTION LOAN PROGRAM

WHEREAS, Wisconsin Statutes, Section 66.0301 (the "Intergovernmental Cooperation Act") provides, among other things, that municipalities may contract with other municipalities for the joint exercise of any power or duty required or authorized by law; and

WHEREAS, the Wisconsin Rural Water Construction Loan Program (the "Program") was formed as of January 26, 1999 pursuant to the Intergovernmental Cooperation Act by the adoption of an Intergovernmental Cooperation Agreement relating to the Wisconsin Rural Water Construction Loan Program by the City of Bonduel, Wisconsin, the City of Coleman, Wisconsin, the City of Unity, Wisconsin, Abrams Sanitary District, Wisconsin and Lakewood Sanitary District No. 1, Wisconsin as the initial participants in the Program (the "Intergovernmental Cooperation Agreement"); and

WHEREAS, the Program is to be governed by the Wisconsin Rural Water Construction Loan Program Commission (the "Commission") in accordance with the terms of the Intergovernmental Cooperation Agreement; and

WHEREAS, the purpose of the Program is to provide efficient and economical interim financing for projects which are to be permanently financed by the United States Department of Agriculture, Rural Development or an agency of the federal government which is a successor to the functions of that agency or through a program which is a part of the State of Wisconsin Environmental Improvement Fund (the "Projects"); and

WHEREAS, the Intergovernmental Cooperation Act has been presented to this Governing Body; and

WHEREAS, the Intergovernmental Cooperation Act authorizes municipalities including cities, towns, town sanitary districts, commissions created by contract under Section 66.0301 of the Wisconsin Statutes, public inland lake protection and rehabilitation districts and metropolitan sewerage districts ("Municipalities"), to adopt and enter into the Intergovernmental Cooperation Agreement and become participants of the Program; and

WHEREAS, this Governing Body deems it to be advisable for this Municipality to adopt and enter into the Intergovernmental Cooperation Agreement and become a participant of the Program for the purpose of exercising jointly with other Municipalities the power to borrow money to finance Projects;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

**Section 1.** The City of Nekoosa, Wood County shall join with other Wisconsin Municipalities in accordance with the Intergovernmental Cooperation Act by becoming a participant of the Program and adopting and entering into the Intergovernmental Cooperation Agreement. A copy of the Intergovernmental Cooperation Agreement shall be filed in the minutes of the meeting at which this Resolution was adopted. The officers of the Municipality are authorized to take such actions and execute any and all such documents as they may deem necessary and appropriate to effectuate the entry of this Municipality into the Intergovernmental Cooperation Agreement.

**Section 2.** Members of this Governing Body and officials and employees of this Municipality are authorized to serve as Commissioners of the Commission from time to time if selected as such pursuant to the provisions of the Intergovernmental Cooperation Agreement.

Adopted and approved: August 24, 2010

By \_\_\_\_\_  
Mayor

Attest \_\_\_\_\_

City Clerk

Moved by Hartje seconded by Shymanski to adopt Resolution Authorizing entry into an Intergovernmental Cooperation Agreement relating to the Wisconsin Rural Water Construction Loan Program.

Roll Call Vote: 6 Ayes, 0 Nays, 2 Absent. Carried.

## RESOLUTION

### RESOLUTION AUTHORIZING AND APPROVING LOAN AGREEMENT WITH THE WISCONSIN RURAL WATER CONSTRUCTION LOAN PROGRAM COMMISSION AND AUTHORIZING THE ISSUANCE AND SALE OF \$1,757,500 REVENUE BOND ANTICIPATION NOTES, SERIES 2010C (WATER SYSTEM)

WHEREAS, the City of Nekoosa, Wood County, Wisconsin (the "Municipality") owns and operates a water system (the "System") which is operated for a public purpose as a public utility by the Municipality;

WHEREAS, under the provisions of Section 66.0621, Wisconsin Statutes (the "Act"), any municipality in the State of Wisconsin may, by action of its governing body, provide for purchasing, acquiring, constructing, extending, adding to, improving, controlling, conducting, operating or managing a public utility such as the System from the proceeds of bonds, which bonds are to be payable only from all monies received from any source by such utility (the "Revenues");

WHEREAS, to adequately meet the needs of the Municipality and the residents thereof, certain improvements, additions and extensions to and acquisitions for the System are necessary, including water distribution system improvements (the "Project");

WHEREAS, for the purpose of paying the cost of the Project, including paying interest and legal, financing and other professional fees, the Municipality intends by subsequent resolution (the "Bond Resolution") of the governing body of the Municipality (the "Common Council") to authorize the issuance and sale of water system revenue bonds pursuant to the provisions of the Act (the "Bonds"), payable solely from Revenues of the System deposited in a special redemption fund referred to herein;

WHEREAS, the Bonds have not yet been issued or sold and will be issued and sold only after completion of the Project;

WHEREAS, municipalities are authorized by the provisions of Section 66.0621(4)(L), Wisconsin Statutes, to issue bond anticipation notes in anticipation of receiving the proceeds from the issuance and sale of the Bonds;

WHEREAS, contracts are to be let for the Project and the financial officer of the Municipality has heretofore certified to the Common Council that proceeds of bond anticipation notes shall be required for the payment of said contracts, as well as other costs including paying interest and legal, financing and other professional fees;

WHEREAS, the Municipality has made an application to the Wisconsin Rural Water Construction Loan Program Commission (the "Commission") for the purpose of providing monies to finance the Project on an interim basis;

WHEREAS, the Municipality is required to enter into a loan agreement (the "Loan Agreement") with the Commission and to issue revenue bond anticipation notes to the Commission;

WHEREAS, pursuant to a resolution adopted on March 9, 2004 (the "Prior Resolution"), the Municipality issued its Water System Revenue Bonds, Series 2004, dated March 24, 2004 (the "Prior Bonds"), which bonds are payable from the income and revenues of the System;

WHEREAS, other than the Prior Bonds, no other bonds or obligations payable from the Revenues of the System are now outstanding; and

WHEREAS, it is the finding of the Common Council that it is necessary, desirable and in the best interest of the Municipality to authorize the issuance and sale of water system revenue bond anticipation notes pursuant to Section 66.0621(4)(L), Wisconsin Statutes, in anticipation of the issuance and sale of the Bonds, to pay the cost of the Project.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the Municipality that:

Section 1. The Notes. For the purpose of paying part of the costs of the Project, there shall be borrowed in anticipation of the issuance of the Bonds the sum of \$1,757,500 and the Revenue Bond Anticipation Notes, Series 2010C (Water System) of the Municipality (the "Notes") shall be issued in evidence thereof. The Notes shall be issued as a single note in the principal amount of \$1,757,500 and dated its date of issuance. The Note shall mature on October 15, 2010, and shall bear interest at the rate of 3.15% per annum. Said interest shall be payable at maturity.

The Notes shall be subject to call and prior payment as provided in the Loan Agreement which is attached hereto and shall be incorporated by this reference.

Section 2. Form of Notes. The Notes shall be in substantially the form set forth on Exhibit C to the Loan Agreement.

Section 3. Security. The Notes shall in no event be a general obligation of the Municipality and no lien shall be created upon the System as a result of the issuance of the Notes, but the Notes shall be payable only from (a) proceeds to be derived from the issuance and sale of the Bonds, which proceeds are hereby declared to constitute a special trust fund to be held by the Treasurer of the Municipality and expended solely for the payment of principal of and interest on the Notes, until paid; and (b) a pledge of the income and revenues of the System junior and subordinate to that granted the owners of the Prior Bonds and any Parity Bonds (defined below).

The Municipality agrees that, as permitted by Section 66.0621, Wisconsin Statutes, in the event of a deficiency in such proceeds or income and revenue to pay the principal of and interest on the Notes when due, the Municipality will pay such deficiency out of the tax levy; provided, however, such payment of the tax levy shall be subject to annual budgetary appropriations therefor; and, provided further, neither this resolution nor any such payment shall be construed as constituting an obligation of the Municipality to make any such appropriation or any further payment.

Section 4. Income and Revenue Funds. In accordance with the Act, for the purpose of the application and proper allocation of the Revenues of the System, and to secure the payment of the principal of and interest on the Prior Bonds, the Bonds (when issued), any bonds issued on a parity with the Prior Bonds or the Bonds then outstanding ("Parity Bonds") and the Notes, the funds of the System heretofore created by the Prior Resolution shall be continued and shall be used solely for the purposes set forth in the Prior Resolution and for the payment of principal of and interest on the Notes.

Section 5. Service to Municipality. The reasonable cost and value of any service rendered to the Municipality by the System, including reasonable health protection charges, shall be charged against the Municipality and shall be paid by it in monthly installments as the service accrues, out of the current revenues of the Municipality collected or in the process of collection, exclusive of the revenues derived from the System, to wit: out of the tax levy of the Municipality made by it to raise money to meet its necessary current expenses. The amount of such reasonable cost and value shall be equal to an amount which, together with other revenues of the System, will produce Net Revenues equivalent to not less than 110% of the sum of (i) the annual interest requirements on the Notes, and (ii) the annual principal and interest requirements on the Prior Bonds, the Bonds and any Parity Bonds. Net Revenues shall mean the revenues of the System minus all operation and maintenance expenses of the System without deduction of debt service, depreciation charges and local tax equivalents. Such compensation for such service rendered to the Municipality shall, in the manner provided hereinabove, be paid into the separate and special funds described in Section 4 of this Resolution. However, such payment out of the tax levy shall be subject to: (a) approval of the Public Service Commission, or successors to its functions, if necessary, (b) yearly appropriations therefor and (c) applicable levy limitations, if any; and neither this Resolution nor any such payment shall be construed as constituting an obligation of the Municipality to make any such appropriation over and above the reasonable cost and value of services

rendered to the Municipality and its inhabitants or to make any subsequent payment over and above such reasonable cost and value.

Section 6. Covenants of the Municipality. The Municipality hereby covenants with the owners of the Notes:

(a) It shall issue and sell the Bonds as soon as practicable at times and in amounts sufficient to retire the Notes.

(b) It shall faithfully and punctually perform all duties with reference to the System required by the Constitution and Statutes of the State of Wisconsin, including the making and collecting of reasonable and sufficient rates lawfully established for services rendered by the System, and will segregate the income and revenues of the System and apply such income and revenues to the respective funds hereinabove referred to.

(c) It will not sell, lease, or in any manner dispose of the System, including any part thereof or any additions or extensions that may be made part thereto, except that the Municipality shall have the right to sell, lease or otherwise dispose of any property of the System found by the Common Council to be neither necessary nor useful in the operation of the System, provided the proceeds received from such sale, lease or disposal shall be paid into the Special Redemption Fund described in the Prior Resolution (the "Special Redemption Fund") or applied to the acquisition or construction of capital facilities for use in the normal operation of the System, and such payment shall not reduce the amounts otherwise required to be paid into the Special Redemption Fund.

(d) It will cause the Project to be constructed as expeditiously as reasonably possible.

(e) It will pay or cause to be paid all lawful taxes, assessments, governmental charges, and claims for labor, materials or supplies which if unpaid could become a lien upon the System or its revenues or could impair the security of the Notes or the Bonds.

(f) It will maintain in reasonably good condition and operation the System, and will establish, charge and collect such lawfully established rates and charges for the service rendered by the System, so that annual Net Revenues shall not be less than 110% of the sum of (i) the annual interest requirements on the Notes, and (ii) the annual principal and interest requirements on the Prior Bonds, the Bonds and any Parity Bonds in any year and so that the revenues of the System agreed to be set aside to provide for the payment of such Revenue Obligations and the interest thereon as the same becomes due and payable will be sufficient for that purpose.

(g) It will prepare a budget not less than sixty days prior to the end of each calendar year and, in the event such budget (taking into account income, unencumbered surplus and expense) indicates that Net Revenues for each year will not exceed debt service for each corresponding year by the proportion stated hereunder, will take any and all steps permitted by law to increase rates so that the aforementioned proportion of Net Revenues to debt service shall be accomplished as promptly as possible.

(h) The Notes are issued for purposes for which the Municipality is authorized to issue the Bonds and for which the Bonds shall be issued.

Section 7. Books and Accounts; Inspection. The Municipality will keep proper books and accounts relative to the System separate from all other records of the Municipality and will cause such books and accounts to be audited annually by a recognized independent firm of certified public accountants including a balance sheet and a profit and loss statement of the System as certified by such accountants. Each such audit, in addition to whatever matters may be thought proper by the accountants to be included therein, shall include the following: (1) a statement in detail of the income and expenditures of the System for the fiscal year; (2) a balance sheet as of the end of such fiscal year; (3) the accountants' comment regarding the manner in which the Municipality has carried out the requirements of this Resolution and the accountants' recommendations for any changes or improvements in the operation of the System; (4) the number of connections to the System at the end of the year, for each user classification (i.e., residential, commercial, public and industrial); (5) a list of

the insurance policies in force at the end of the fiscal year setting out as to each policy the amount of the policy, the risks covered, the name of the insurer, and the expiration date of the policy and (6) for sewerage systems, the volume of water used in computing sewer charges.

The owners of any of the Notes or the Bonds shall have at all reasonable times the right to inspect the System and the records, accounts and data of the Municipality relating thereto.

Section 8. Insurance. The Municipality will carry for the benefit of the owners of the Notes and the Bonds: (a) adequate fire, lightning, vandalism, riot, strike, explosion, civil commotion, malicious damage, tornado and windstorm insurances on all portions of the System which are subject to loss through such casualties; (b) adequate insurance against loss of use and occupancy resulting from such casualties; (c) adequate public liability insurance; and (d) insurance of the kinds and in the amounts normally carried by private companies engaged in the operation of similar systems. All money received for loss of use and occupancy shall be considered income of the System payable into the separate funds named in Section 4 above. All money received for losses under any of such casualty policies, except those specified in (b) above, shall be used in repairing the damage or in replacing the property destroyed provided that if the Common Council shall find it is inadvisable to repair such damage or replace such property and that the operation of the System has not been impaired thereby, such money, including proceeds from insurance under (b) above, shall be deposited in the Special Redemption Fund, but in that event such payments shall not reduce the amounts otherwise required to be paid into the Special Redemption Fund.

Section 9. Approval of Loan Agreement, Sale of Notes and Application of Proceeds. The Common Council hereby approves and authorizes and directs the officers of the Municipality to enter into a Loan Agreement between the Municipality and the Commission substantially in the form on file with the Municipality for the purpose of providing the necessary interim financing for the Project in accordance with the terms of this Resolution. The Notes shall be issued and sold to the Commission in accordance with the terms of the Loan Agreement. Proceeds of the Notes shall be drawn for the purpose of paying costs of the Project. Any balance remaining after paying said costs shall be transferred to the Special Redemption Fund for use in payment of principal of and interest on the Notes.

Section 10. Closing; Manner of Executing Notes. The officers of the Municipality are hereby authorized and directed to execute and deliver the Notes to the Commission. The officers of the Municipality may execute the Notes by manual or facsimile signature, but, unless the Municipality has contracted with a fiscal agent to authenticate the Notes, at least one of said officers shall sign the Notes manually.

The officers of the Municipality hereby are directed and authorized to take all steps necessary or convenient to close this issue as soon as practicable hereafter, in accordance with the terms of sale thereof; and said officers are hereby authorized and directed to execute and deliver such documents, certificates and acknowledgments as may be necessary or convenient in accordance therewith.

Section 11. Conflicting Ordinances and Resolutions. All ordinances, resolutions (except the Prior Resolution) or orders or parts thereof in conflict with the provisions of this Resolution are hereby repealed and this Resolution shall be in effect from and after its passage. In the case of any conflict between this resolution and the Prior Resolution, the Prior Resolution shall control so long as the Prior Bonds are outstanding.

Adopted and approved August 24, 2010.

By \_\_\_\_\_  
Mayor

Attest \_\_\_\_\_  
City Clerk

Moved by Hartje seconded by Woiak to adopt Resolution Authorizing and Approving Loan Agreement with the Wisconsin Rural Water Construction Loan Program Commission and authorizing the Issuance and sale of \$1,757,500 Revenue Bond Anticipation Notes, Series 2010C (Water System)

Roll Call Vote: 6 Ayes, 0 Nays, 2 Absent. Carried.

## RESOLUTION

### RESOLUTION AUTHORIZING AND APPROVING LOAN AGREEMENT WITH THE WISCONSIN RURAL WATER CONSTRUCTION LOAN PROGRAM COMMISSION AND AUTHORIZING THE ISSUANCE AND SALE OF \$2,470,600 REVENUE BOND ANTICIPATION NOTES, SERIES 2010A (SEWERAGE SYSTEM)

WHEREAS, the City of Nekoosa, Wood County, Wisconsin (the "Municipality") owns and operates a sewerage system (the "System") which is operated for a public purpose as a public utility by the Municipality;

WHEREAS, under the provisions of Section 66.0621, Wisconsin Statutes (the "Act"), any municipality in the State of Wisconsin may, by action of its governing body, provide for purchasing, acquiring, constructing, extending, adding to, improving, controlling, conducting, operating or managing a public utility such as the System from the proceeds of bonds, which bonds are to be payable only from all monies received from any source by such utility (the "Revenues");

WHEREAS, to adequately meet the needs of the Municipality and the residents thereof, certain improvements, additions and extensions to and acquisitions for the System are necessary, including improvements to the wastewater treatment facility (the "Project");

WHEREAS, for the purpose of paying the cost of the Project, including paying interest and legal, financing and other professional fees, the Municipality intends by subsequent resolution (the "Bond Resolution") of the governing body of the Municipality (the "Common Council") to authorize the issuance and sale of sewerage system revenue bonds pursuant to the provisions of the Act (the "Bonds"), payable solely from Revenues of the System deposited in a special redemption fund referred to herein;

WHEREAS, the Bonds have not yet been issued or sold and will be issued and sold only after completion of the Project;

WHEREAS, municipalities are authorized by the provisions of Section 66.0621(4)(L), Wisconsin Statutes, to issue bond anticipation notes in anticipation of receiving the proceeds from the issuance and sale of the Bonds;

WHEREAS, contracts are to be let for the Project and the financial officer of the Municipality has heretofore certified to the Common Council that proceeds of bond anticipation notes shall be required for the payment of said contracts, as well as other costs including paying interest and legal, financing and other professional fees;

WHEREAS, the Municipality has made an application to the Wisconsin Rural Water Construction Loan Program Commission (the "Commission") for the purpose of providing monies to finance the Project on an interim basis;

WHEREAS, the Municipality is required to enter into a loan agreement (the "Loan Agreement") with the Commission and to issue revenue bond anticipation notes to the Commission;

WHEREAS, other than the \$1,263,000 Revenue Bond Anticipation Notes, Series 2010B (Sewerage System) (the "2010B Notes") which are being authorized by the Common Council on this same date, no bonds or obligations payable from the Revenues of the System are now outstanding; and

WHEREAS, it is the finding of the Common Council that it is necessary, desirable and in the best interest of the Municipality to authorize the issuance and sale of sewerage system revenue bond anticipation notes pursuant to Section 66.0621(4)(L), Wisconsin Statutes, in anticipation of the issuance and sale of the Bonds, to pay the cost of the Project.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the Municipality that:

Section 1. The Notes. For the purpose of paying part of the costs of the Project, there shall be borrowed in anticipation of the issuance of the Bonds the sum of \$2,470,600 and the Revenue Bond Anticipation Notes, Series 2010A (Sewerage System) of the Municipality (the "Notes") shall be issued in evidence thereof. The Notes shall be issued as a single note in the principal amount of \$2,470,600 and dated its date of issuance. The Note shall mature on October 15, 2010, and shall bear interest at the rate of 3.15% per annum. Said interest shall be payable at maturity.

The Notes shall be subject to call and prior payment as provided in the Loan Agreement which is attached hereto and shall be incorporated by this reference.

Section 2. Form of Notes. The Notes shall be in substantially the form set forth on Exhibit C to the Loan Agreement.

Section 3. Security. The Notes shall in no event be a general obligation of the Municipality and no lien shall be created upon the System as a result of the issuance of the Notes, but the Notes shall be payable only from (a) proceeds to be derived from the issuance and sale of the Bonds, which proceeds are hereby declared to constitute a special trust fund to be held by the Treasurer of the Municipality and expended solely for the payment of principal of and interest on the Notes, until paid; and (b) a pledge of the income and revenues of the System on a parity with the 2010B Notes.

The Municipality agrees that, as permitted by Section 66.0621, Wisconsin Statutes, in the event of a deficiency in such proceeds or income and revenue to pay the principal of and interest on the Notes when due, the Municipality will pay such deficiency out of the tax levy; provided, however, such payment of the tax levy shall be subject to annual budgetary appropriations therefor; and, provided further, neither this resolution nor any such payment shall be construed as constituting an obligation of the Municipality to make any such appropriation or any further payment.

Section 4. Funds and Accounts. In accordance with the Act, for the purpose of the application and proper allocation of the Revenues of the System, and to secure the payment of the principal of and interest on the 2010B Notes, the Bonds, any bonds issued on a parity with the Bonds then outstanding ("Parity Bonds") and the Notes, certain funds of the System are hereby created and established which shall be used solely for the following respective purposes:

- Revenues in amounts sufficient to provide for the reasonable and proper operation and maintenance of the System through the payment of Operation and Maintenance Expenses shall be set aside into the Sewerage System Operation and Maintenance Fund (the "Operation and Maintenance Fund").

- Revenues in amounts sufficient to pay the principal of and interest on the 2010B Notes, the Notes, any outstanding Sewerage System revenue bonds and, when they are issued, the Bonds and any Parity Bonds (referred to collectively herein as the "Revenue Obligations") shall be set aside into the Sewerage System Revenue Bond and Interest Special Redemption Fund (the "Special Redemption Fund"), to be applied to the payment of the principal of and interest on the Revenue Obligations. The monies standing in the Special Redemption Fund are irrevocably pledged to the payment of principal of and interest on the Revenue Obligations.

- Revenues in amounts sufficient to provide a proper and adequate depreciation account for the System shall be set aside into the Sewerage the "Depreciation Fund".

The Operation and Maintenance Fund and Depreciation Fund shall be deposited as received in public depositories to be selected by the Common Council in the manner required by Chapter 34 of the Wisconsin Statutes and may be invested in legal investments subject to the provisions of Section 66.0603(1m), Wis. Stats.

Money in the Operation and Maintenance Fund shall be used to pay Operation and Maintenance Expenses as the same come due; money not immediately required for Operation and Maintenance Expenses shall be used to accumulate a reserve in the Operation and Maintenance Fund equal to estimated Operation and Maintenance Expenses for one month. Any money then available and remaining in the Operation and Maintenance Fund may be transferred to the "Surplus Fund".

Revenues shall be deposited in the Depreciation Fund each month until such amount as the Common Council may from time to time determine to constitute an adequate and reasonable depreciation account for the System (the "Depreciation Requirement") is accumulated therein. Money in the Depreciation Fund shall be available and shall be used, whenever necessary, to restore any deficiency in the Special Redemption Fund. When the Special Redemption Fund is sufficient for its purpose, funds in the Depreciation Fund may be expended for repairs, replacements, new construction, extensions or additions to the System. Any money on deposit in the Depreciation Fund in excess of the Depreciation Requirement which is not required during the current Fiscal Year for the purposes of the Depreciation Fund, may be transferred to the Surplus Fund.

It is the express intent and determination of the Common Council that the amount of Revenues to be set aside and paid into the Special Redemption Fund shall in any event be sufficient to pay principal of and interest on the Revenue Obligations, and the City Treasurer shall each Fiscal Year deposit at least sufficient Revenues in the Special Redemption Fund to pay promptly all principal and interest falling due on the Revenue Obligations.

The Revenues so set aside for payment of the principal of and interest on the Revenue Obligations shall be set apart and shall be paid into the Special Redemption Fund not later than the 10th day of each month.

The Special Redemption Fund shall be used for no purpose other than the payment of interest upon and principal of the Revenue Obligations promptly as the same become due and payable or to pay redemption premiums. All money in the Special Redemption Fund shall be deposited in a special account and invested in legal investments subject to Section 66.0603(1m), Wis. Stats., and the monthly payments required to be made to the Special Redemption Fund shall be made directly to such account.

Funds in the Special Redemption Fund in excess of the minimum amounts required to be paid therein may be transferred to the Surplus Fund.

Money in the Surplus Fund shall first be used when necessary to meet requirements of the Operation and Maintenance Fund including the one month reserve, the Special Redemption Fund, and the Depreciation Fund. Any money then remaining in the Surplus Fund at the end of any Fiscal Year may be used only as permitted and in the order specified in Section 66.0811(2), Wis. Stats. Money thereafter remaining in the Surplus Fund may be transferred to any of the funds or accounts created by this section.

Section 5. Service to Municipality. The reasonable cost and value of any service rendered to the Municipality by the System, including reasonable health protection charges, shall be charged against the Municipality and shall be paid by it in monthly installments as the service accrues, out of the current revenues of the Municipality collected or in the process of collection, exclusive of the revenues derived from the System, to wit: out of the tax levy of the Municipality made by it to raise money to meet its necessary current expenses. The amount of such reasonable cost and value shall be equal to an amount which, together with other revenues of the System, will produce Net Revenues equivalent to not less than 110% of the sum of (i) the annual interest requirements on the 2010B Notes and the Notes, and (ii) the annual principal and interest requirements on the Bonds and any Parity Bonds. Net Revenues shall mean the revenues of the System minus all operation and maintenance expenses of the System without deduction of debt service, depreciation charges and local tax equivalents. Such compensation for such service rendered to the Municipality shall, in the manner provided hereinabove, be paid into the separate and special funds described in Section 4 of this Resolution. However, such payment out of the tax levy shall be subject to: (a) approval of the Public Service Commission, or successors to its functions, if necessary, (b) yearly appropriations therefor and (c) applicable levy limitations, if any; and neither this Resolution nor any such payment shall be construed as constituting an obligation of the Municipality to make any such appropriation over and above the reasonable cost and value of services rendered to the Municipality and its inhabitants or to make any subsequent payment over and above such reasonable cost and value.

Section 6. Covenants of the Municipality. The Municipality hereby covenants with the owners of the Notes:

- (a) It shall issue and sell the Bonds as soon as practicable at times and in amounts sufficient to retire the Notes.

(b) It shall faithfully and punctually perform all duties with reference to the System required by the Constitution and Statutes of the State of Wisconsin, including the making and collecting of reasonable and sufficient rates lawfully established for services rendered by the System, and will segregate the income and revenues of the System and apply such income and revenues to the respective funds hereinabove referred to.

(c) It will not sell, lease, or in any manner dispose of the System, including any part thereof or any additions or extensions that may be made part thereto, except that the Municipality shall have the right to sell, lease or otherwise dispose of any property of the System found by the Common Council to be neither necessary nor useful in the operation of the System, provided the proceeds received from such sale, lease or disposal shall be paid into the Special Redemption Fund or applied to the acquisition or construction of capital facilities for use in the normal operation of the System, and such payment shall not reduce the amounts otherwise required to be paid into the Special Redemption Fund.

(d) It will cause the Project to be constructed as expeditiously as reasonably possible.

(e) It will pay or cause to be paid all lawful taxes, assessments, governmental charges, and claims for labor, materials or supplies which if unpaid could become a lien upon the System or its revenues or could impair the security of the Notes or the Bonds.

(f) It will maintain in reasonably good condition and operation the System, and will establish, charge and collect such lawfully established rates and charges for the service rendered by the System, so that annual Net Revenues shall not be less than 110% of the sum of (i) the annual interest requirements on the 2010B Notes and the Notes, and (ii) the annual principal and interest requirements on the Bonds and any Parity Bonds in any year and so that the revenues of the System agreed to be set aside to provide for the payment of such Revenue Obligations and the interest thereon as the same becomes due and payable will be sufficient for that purpose.

(g) It will prepare a budget not less than sixty days prior to the end of each calendar year and, in the event such budget (taking into account income, unencumbered surplus and expense) indicates that Net Revenues for each year will not exceed debt service for each corresponding year by the proportion stated hereunder, will take any and all steps permitted by law to increase rates so that the aforementioned proportion of Net Revenues to debt service shall be accomplished as promptly as possible.

(h) The Notes are issued for purposes for which the Municipality is authorized to issue the Bonds and for which the Bonds shall be issued.

**Section 7. Books and Accounts; Inspection.** The Municipality will keep proper books and accounts relative to the System separate from all other records of the Municipality and will cause such books and accounts to be audited annually by a recognized independent firm of certified public accountants including a balance sheet and a profit and loss statement of the System as certified by such accountants. Each such audit, in addition to whatever matters may be thought proper by the accountants to be included therein, shall include the following: (1) a statement in detail of the income and expenditures of the System for the fiscal year; (2) a balance sheet as of the end of such fiscal year; (3) the accountants' comment regarding the manner in which the Municipality has carried out the requirements of this Resolution and the accountants' recommendations for any changes or improvements in the operation of the System; (4) the number of connections to the System at the end of the year, for each user classification (i.e., residential, commercial, public and industrial); (5) a list of the insurance policies in force at the end of the fiscal year setting out as to each policy the amount of the policy, the risks covered, the name of the insurer, and the expiration date of the policy and (6) for sewerage systems, the volume of water used in computing sewer charges.

The owners of any of the Notes or the Bonds shall have at all reasonable times the right to inspect the System and the records, accounts and data of the Municipality relating thereto.

Section 8. Insurance. The Municipality will carry for the benefit of the owners of the Notes and the Bonds: (a) adequate fire, lightning, vandalism, riot, strike, explosion, civil commotion, malicious damage, tornado and windstorm insurances on all portions of the System which are subject to loss through such casualties; (b) adequate insurance against loss of use and occupancy resulting from such casualties; (c) adequate public liability insurance; and (d) insurance of the kinds and in the amounts normally carried by private companies engaged in the operation of similar systems. All money received for loss of use and occupancy shall be considered income of the System payable into the separate funds named in Section 4 above. All money received for losses under any of such casualty policies, except those specified in (b) above, shall be used in repairing the damage or in replacing the property destroyed provided that if the Common Council shall find it is inadvisable to repair such damage or replace such property and that the operation of the System has not been impaired thereby, such money, including proceeds from insurance under (b) above, shall be deposited in the Special Redemption Fund, but in that event such payments shall not reduce the amounts otherwise required to be paid into the Special Redemption Fund.

Section 9. Approval of Loan Agreement, Sale of Notes and Application of Proceeds. The Common Council hereby approves and authorizes and directs the officers of the Municipality to enter into a Loan Agreement between the Municipality and the Commission substantially in the form on file with the Municipality for the purpose of providing the necessary interim financing for the Project in accordance with the terms of this Resolution. The Notes shall be issued and sold to the Commission in accordance with the terms of the Loan Agreement. Proceeds of the Notes shall be drawn for the purpose of paying costs of the Project. Any balance remaining after paying said costs shall be transferred to the Special Redemption Fund for use in payment of principal of and interest on the Notes.

Section 10. Closing; Manner of Executing Notes. The officers of the Municipality are hereby authorized and directed to execute and deliver the Notes to the Commission. The officers of the Municipality may execute the Notes by manual or facsimile signature, but, unless the Municipality has contracted with a fiscal agent to authenticate the Notes, at least one of said officers shall sign the Notes manually.

The officers of the Municipality hereby are directed and authorized to take all steps necessary or convenient to close this issue as soon as practicable hereafter, in accordance with the terms of sale thereof; and said officers are hereby authorized and directed to execute and deliver such documents, certificates and acknowledgments as may be necessary or convenient in accordance therewith.

Section 11. Conflicting Ordinances and Resolutions. All ordinances, resolutions or orders or parts thereof in conflict with the provisions of this Resolution are hereby repealed and this Resolution shall be in effect from and after its passage.

Adopted and approved August 24, 2010.

By \_\_\_\_\_  
Mayor

Attest \_\_\_\_\_  
City Clerk

Moved by Shymanski seconded by Hartje to adopt Resolution Authorizing and Approving Loan Agreement with the Wisconsin Rural Water Construction Loan Program Commission and Authorizing the Issuance and Sale of \$2,470,600 Revenue Bond Anticipation Notes, Series 2010A (Sewerage System)

Roll Call Vote: 6 Ayes, 0 Nays, 2 Absent. Carried.

## RESOLUTION

### RESOLUTION AUTHORIZING AND APPROVING LOAN AGREEMENT WITH THE WISCONSIN RURAL WATER CONSTRUCTION LOAN PROGRAM COMMISSION AND AUTHORIZING THE ISSUANCE AND SALE OF \$1,263,000 REVENUE BOND ANTICIPATION NOTES, SERIES 2010B (SEWERAGE SYSTEM)

WHEREAS, the City of Nekoosa, Wood County, Wisconsin (the "Municipality") owns and operates a sewerage system (the "System") which is operated for a public purpose as a public utility by the Municipality;

WHEREAS, under the provisions of Section 66.0621, Wisconsin Statutes (the "Act"), any municipality in the State of Wisconsin may, by action of its governing body, provide for purchasing, acquiring, constructing, extending, adding to, improving, controlling, conducting, operating or managing a public utility such as the System from the proceeds of bonds, which bonds are to be payable only from all monies received from any source by such utility (the "Revenues");

WHEREAS, to adequately meet the needs of the Municipality and the residents thereof, certain improvements, additions and extensions to and acquisitions for the System are necessary, including improvements to the wastewater collection system (the "Project");

WHEREAS, for the purpose of paying the cost of the Project, including paying interest and legal, financing and other professional fees, the Municipality intends by subsequent resolution (the "Bond Resolution") of the governing body of the Municipality (the "Common Council") to authorize the issuance and sale of sewerage system revenue bonds pursuant to the provisions of the Act (the "Bonds"), payable solely from Revenues of the System deposited in a special redemption fund referred to herein;

WHEREAS, the Bonds have not yet been issued or sold and will be issued and sold only after completion of the Project;

WHEREAS, municipalities are authorized by the provisions of Section 66.0621(4)(L), Wisconsin Statutes, to issue bond anticipation notes in anticipation of receiving the proceeds from the issuance and sale of the Bonds;

WHEREAS, contracts are to be let for the Project and the financial officer of the Municipality has heretofore certified to the Common Council that proceeds of bond anticipation notes shall be required for the payment of said contracts, as well as other costs including paying interest and legal, financing and other professional fees;

WHEREAS, the Municipality has made an application to the Wisconsin Rural Water Construction Loan Program Commission (the "Commission") for the purpose of providing monies to finance the Project on an interim basis;

WHEREAS, the Municipality is required to enter into a loan agreement (the "Loan Agreement") with the Commission and to issue revenue bond anticipation notes to the Commission;

WHEREAS, other than the \$2,470,600 Revenue Bond Anticipation Notes, Series 2010A (Sewerage System) (the "2010A Notes") which are being authorized by the Common Council on this same date, no bonds or obligations payable from the Revenues of the System are now outstanding; and

WHEREAS, it is the finding of the Common Council that it is necessary, desirable and in the best interest of the Municipality to authorize the issuance and sale of sewerage system revenue bond anticipation notes pursuant to Section 66.0621(4)(L), Wisconsin Statutes, in anticipation of the issuance and sale of the Bonds, to pay the cost of the Project.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the Municipality that:

Section 1. The Notes. For the purpose of paying part of the costs of the Project, there shall be borrowed in anticipation of the issuance of the Bonds the sum of \$1,263,000 and the Revenue Bond Anticipation Notes, Series 2010B (Sewerage System) of the Municipality (the "Notes") shall be issued in evidence thereof. The Notes shall be issued as a single note in the principal amount of \$1,263,000 and dated its date of issuance. The Note shall mature on October 15, 2010, and shall bear interest at the rate of 3.15% per annum. Said interest shall be payable at maturity.

The Notes shall be subject to call and prior payment as provided in the Loan Agreement which is attached hereto and shall be incorporated by this reference.

Section 2. Form of Notes. The Notes shall be in substantially the form set forth on Exhibit C to the Loan Agreement.

Section 3. Security. The Notes shall in no event be a general obligation of the Municipality and no lien shall be created upon the System as a result of the issuance of the Notes, but the Notes shall be payable only from (a) proceeds to be derived from the issuance and sale of the Bonds, which proceeds are hereby declared to constitute a special trust fund to be held by the Treasurer of the Municipality and expended solely for the payment of principal of and interest on the Notes, until paid; and (b) a pledge of the income and revenues of the System on a parity with the 2010A Notes.

The Municipality agrees that, as permitted by Section 66.0621, Wisconsin Statutes, in the event of a deficiency in such proceeds or income and revenue to pay the principal of and interest on the Notes when due, the Municipality will pay such deficiency out of the tax levy; provided, however, such payment of the tax levy shall be subject to annual budgetary appropriations therefor; and, provided further, neither this resolution nor any such payment shall be construed as constituting an obligation of the Municipality to make any such appropriation or any further payment.

Section 4. Funds and Accounts. In accordance with the Act, for the purpose of the application and proper allocation of the Revenues of the System, and to secure the payment of the principal of and interest on the 2010A Notes, the Bonds, any bonds issued on a parity with the Bonds then outstanding ("Parity Bonds") and the Notes, the funds of the System heretofore created by the resolution authorizing the 2010A Notes (the "2010A Resolution") shall be continued and shall be used solely for the purposes set forth in the 2010A Resolution and for the payment of principal of and interest on the Notes.

Section 5. Service to Municipality. The reasonable cost and value of any service rendered to the Municipality by the System, including reasonable health protection charges, shall be charged against the Municipality and shall be paid by it in monthly installments as the service accrues, out of the current revenues of the Municipality collected or in the process of collection, exclusive of the revenues derived from the System, to wit: out of the tax levy of the Municipality made by it to raise money to meet its necessary current expenses. The amount of such reasonable cost and value shall be equal to an amount which, together with other revenues of the System, will produce Net Revenues equivalent to not less than 110% of the sum of (i) the annual interest requirements on the 2010A Notes and the Notes, and (ii) the annual principal and interest requirements on the Bonds and any Parity Bonds. Net Revenues shall mean the revenues of the System minus all operation and maintenance expenses of the System without deduction of debt service, depreciation charges and local tax equivalents. Such compensation for such service rendered to the Municipality shall, in the manner provided hereinabove, be paid into the separate and special funds described in Section 4 of this Resolution. However, such payment out of the tax levy shall be subject to: (a) approval of the Public Service Commission, or successors to its functions, if necessary, (b) yearly appropriations therefor and (c) applicable levy limitations, if any; and neither this Resolution nor any such payment shall be construed as constituting an obligation of the Municipality to make any such appropriation over and above the reasonable cost and value of services rendered to the Municipality and its inhabitants or to make any subsequent payment over and above such reasonable cost and value.

Section 6. Covenants of the Municipality. The Municipality hereby covenants with the owners of the Notes:

- (a) It shall issue and sell the Bonds as soon as practicable at times and in amounts sufficient to retire the Notes.

(b) It shall faithfully and punctually perform all duties with reference to the System required by the Constitution and Statutes of the State of Wisconsin, including the making and collecting of reasonable and sufficient rates lawfully established for services rendered by the System, and will segregate the income and revenues of the System and apply such income and revenues to the respective funds hereinabove referred to.

(c) It will not sell, lease, or in any manner dispose of the System, including any part thereof or any additions or extensions that may be made part thereto, except that the Municipality shall have the right to sell, lease or otherwise dispose of any property of the System found by the Common Council to be neither necessary nor useful in the operation of the System, provided the proceeds received from such sale, lease or disposal shall be paid into the Special Redemption Fund or applied to the acquisition or construction of capital facilities for use in the normal operation of the System, and such payment shall not reduce the amounts otherwise required to be paid into the Special Redemption Fund.

(d) It will cause the Project to be constructed as expeditiously as reasonably possible.

(e) It will pay or cause to be paid all lawful taxes, assessments, governmental charges, and claims for labor, materials or supplies which if unpaid could become a lien upon the System or its revenues or could impair the security of the Notes or the Bonds.

(f) It will maintain in reasonably good condition and operation the System, and will establish, charge and collect such lawfully established rates and charges for the service rendered by the System, so that annual Net Revenues shall not be less than 110% of the sum of (i) the annual interest requirements on the 2010A Notes and the Notes, and (ii) the annual principal and interest requirements on the Bonds and any Parity Bonds in any year and so that the revenues of the System agreed to be set aside to provide for the payment of such Revenue Obligations and the interest thereon as the same becomes due and payable will be sufficient for that purpose.

(g) It will prepare a budget not less than sixty days prior to the end of each calendar year and, in the event such budget (taking into account income, unencumbered surplus and expense) indicates that Net Revenues for each year will not exceed debt service for each corresponding year by the proportion stated hereunder, will take any and all steps permitted by law to increase rates so that the aforementioned proportion of Net Revenues to debt service shall be accomplished as promptly as possible.

(h) The Notes are issued for purposes for which the Municipality is authorized to issue the Bonds and for which the Bonds shall be issued.

**Section 7. Books and Accounts; Inspection.** The Municipality will keep proper books and accounts relative to the System separate from all other records of the Municipality and will cause such books and accounts to be audited annually by a recognized independent firm of certified public accountants including a balance sheet and a profit and loss statement of the System as certified by such accountants. Each such audit, in addition to whatever matters may be thought proper by the accountants to be included therein, shall include the following: (1) a statement in detail of the income and expenditures of the System for the fiscal year; (2) a balance sheet as of the end of such fiscal year; (3) the accountants' comment regarding the manner in which the Municipality has carried out the requirements of this Resolution and the accountants' recommendations for any changes or improvements in the operation of the System; (4) the number of connections to the System at the end of the year, for each user classification (i.e., residential, commercial, public and industrial); (5) a list of the insurance policies in force at the end of the fiscal year setting out as to each policy the amount of the policy, the risks covered, the name of the insurer, and the expiration date of the policy and (6) for sewerage systems, the volume of water used in computing sewer charges.

The owners of any of the Notes or the Bonds shall have at all reasonable times the right to inspect the System and the records, accounts and data of the Municipality relating thereto.

Section 8. Insurance. The Municipality will carry for the benefit of the owners of the Notes and the Bonds: (a) adequate fire, lightning, vandalism, riot, strike, explosion, civil commotion, malicious damage, tornado and windstorm insurances on all portions of the System which are subject to loss through such casualties; (b) adequate insurance against loss of use and occupancy resulting from such casualties; (c) adequate public liability insurance; and (d) insurance of the kinds and in the amounts normally carried by private companies engaged in the operation of similar systems. All money received for loss of use and occupancy shall be considered income of the System payable into the separate funds named in Section 4 above. All money received for losses under any of such casualty policies, except those specified in (b) above, shall be used in repairing the damage or in replacing the property destroyed provided that if the Common Council shall find it is inadvisable to repair such damage or replace such property and that the operation of the System has not been impaired thereby, such money, including proceeds from insurance under (b) above, shall be deposited in the Special Redemption Fund, but in that event such payments shall not reduce the amounts otherwise required to be paid into the Special Redemption Fund.

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Section 10. Closing; Manner of Executing Notes. The officers of the Municipality are hereby authorized and directed to execute and deliver the Notes to the Commission. The officers of the Municipality may execute the Notes by manual or facsimile signature, but, unless the Municipality has contracted with a fiscal agent to authenticate the Notes, at least one of said officers shall sign the Notes manually.

The officers of the Municipality hereby are directed and authorized to take all steps necessary or convenient to close this issue as soon as practicable hereafter, in accordance with the terms of sale thereof; and said officers are hereby authorized and directed to execute and deliver such documents, certificates and acknowledgments as may be necessary or convenient in accordance therewith.

Section 11. Conflicting Ordinances and Resolutions. All ordinances, resolutions or orders or parts thereof in conflict with the provisions of this Resolution are hereby repealed and this Resolution shall be in effect from and after its passage.

Adopted and approved August 24, 2010.

By \_\_\_\_\_  
Mayor

Attest \_\_\_\_\_  
City Clerk

Moved by Shymanski seconded by Wenzel to adopt Resolution authorizing and approving Loan Agreement with the Wisconsin Rural Water Construction Loan Program Commission and authorizing the issuance and sale of \$1,263,000 Revenue Bond Anticipation Notes, Series 2010B (Sewerage System)

Roll Call Vote: 6 Ayes, 0 Nays, 2 Absent. Carried.

Moved by Hartje Seconded by Shymanski to adjourn. Carried

Respectfully Submitted

Joseph M. Rusch II  
City Clerk

