



OFFICE OF CORPORATION COUNSEL

MARGARET C. DAUN
Corporation Counsel

PAUL D. KUGLITSCH
Deputy Corporation Counsel

TIMOTHY R. KARASKIEWICZ
MOLLY J. ZILLIG
ALAN M. POLAN
DEWEY B. MARTIN
JAMES M. CARROLL
KATHRYN M. WEST
DALE R. NIKOLAY
SCOTT F. BROWN
TEDIA R. GAMINO
Assistant Corporation Counsel

TO: William H. Lynch, Chair, Milwaukee County Task Force on
the Mitchell Park Conservatory Domes

CC: Allyson R. Smith, Taskforce Coordinator

FROM: Paul Kuglitsch, Deputy Corporation Counsel *PK*

DATE: September 5, 2018

RE: Referral of Agenda Item 8 (August 1, 2018 meeting)

At its August 1, 2018 meeting, the Milwaukee County Task Force on the Mitchell Park Conservatory Domes (Task Force) referred Agenda Item 8 to the Office of Corporation Counsel (OCC). Agenda Item 8 is as follows:

Discussion on Phase 3 of the Future Path and Feasibility Project, and the intended process for completing needed work.

During discussions on this item, Task Force members Bautista and McCarthy moved to strike from consideration Options 1, 2, and 6 of the Future Path and Feasibility Project (Project).

- Option 1 is a recommendation to take no action on remediating deferred maintenance at the Domes.
- Option 2 is a recommendation to demolish the Domes.
- Option 6, which is divided into 2 parts, is a recommendation to raze the Show Dome and construct a new EcoDome (6A) or Adventure Dome (6B) as a destination attraction.

Instead of acting on the motion, the Task Force requested that the OCC provide a written opinion relative to the removal of Options 1, 2, and 6 from the Project considering the policy statements set forth in Milwaukee County Board File No. 16-200.

File No. 16-200 was adopted by the Milwaukee County Board of Supervisors on March 17, 2016. See Exhibit 1. For purposes of this opinion, the legislation very clearly established a county policy of “pursuing the repair and preservation of the existing Mitchell Park Conservatory (the Domes).” *Id.* at ll. 61-62. In support of this policy, the legislation required that any “recommendations by

engineering experts to repair the Domes should aim to extend the maximum usable life of the existing facility.” *Id.* at ll. 72-73.

Options 1, 2, and 6, as previously described, are not consistent with the County Board’s stated policy to repair, preserve, and prolong the existing Domes. However, the information the Task Force has already gathered on each option, e.g. the cost of demolition, etc., might be useful to the Board when it evaluates the remaining options to the extent that these are consistent with the Board’s stated policy. Ultimately, the decision on which options to present to the County Board rests with the Task Force.

###

(ITEM) A resolution by Supervisors Lipscomb, Sr., Broderick, Haas, and Taylor supporting the repair and reopening of the Mitchell Park Conservatory (the Domes) to the public in 2016, the creation of a task force to develop a comprehensive long-term plan for the Domes, and the authorization to use \$500,000 from the Appropriation for Contingencies, Org. 1800-1945, for use in the immediate repairs of the Domes, by recommending adoption of the following:

A SUBSTITUTE RESOLUTION

WHEREAS, on July 15, 2015, the Milwaukee County Board of Supervisors (County Board) adopted File No. 15-526 to reinvest budget surplus funds from the previous fiscal year with \$4 million designated as cash to finance eligible park infrastructure improvements; and

WHEREAS, the County Executive vetoed File No. 15-526 on July 27, 2015, which was subsequently overridden by the County Board; and

WHEREAS, in August 2015, Corporation Counsel opined in File No. 15-623 that the County Executive and the administration are required to execute and administer Milwaukee County's policies that have been directed and authorized by the legislative action; and

WHEREAS, on August 27, 2015, the Director, Department of Parks, Recreation, and Culture (DPRC) provided a verbal status update to the Capital Improvements Committee regarding the department's progress in assembling a list of \$4 million worth of cash infrastructure projects adopted in File No. 15-526; and

WHEREAS, on September 15, 2015, the Director, DPRC submitted a list of \$4 million in infrastructure projects for cash financing, which included the Mitchell Park Conservatory Domes (the Domes) in the amount of \$500,000; and

WHEREAS, the Committee on Parks, Energy, and Environment approved a By the Committee resolution to authorize DPRC's project list on September 15, 2015, resulting in the County Board adopting File No. 15-601 on September 24, 2015; and

WHEREAS, on September 29, 2015, the County Executive returned File No. 15-601 unsigned; and

WHEREAS, the Administration indefinitely closed all three domes on February 5, 2016, due to fallen concrete debris from the structure; and

WHEREAS, the County Board held a public hearing on the future of the Domes on February 24, 2016, to listen to the concerns of Milwaukee County residents about the Administration's closure of the Domes; and

WHEREAS, on February 22, 2016, the Office of Performance, Strategy, and Budget, Department of Administrative Services (OPSB-DAS) requested an additional \$500,000 for repairs to the Domes, and the Administration announced that the Show Dome would reopen by May 1, 2016; and

WHEREAS, to date, there is a discrepancy between the amount of \$500,000 in contingency funds requested by DAS-OPSB to make the immediate repairs to the Domes that differs from an estimate of \$700,000 included in a 2016 Budgeted Contingency Appropriation Summary which has not been explained or reconciled; and

WHEREAS, the Committee on Parks, Energy, and Environment, at its meeting of March 8, 2016, recommended adoption of this substitute resolution (vote 6-0); now, therefore,

BE IT RESOLVED, Milwaukee County shall pursue the repair and preservation of the existing Mitchell Park Conservatory (the Domes); and

BE IT FURTHER RESOLVED, the Director, Department of Parks, Recreation, and Culture (DPRC) is requested to reopen the Domes before the end of 2016 under the following established timeline:

- May 1, 2016, for the Show Dome
- August 1, 2016, for the Tropical Dome
- September 1, 2016, for the Arid Dome

; and

BE IT FURTHER RESOLVED, the recommendations by engineering experts to repair the Domes should aim to extend the maximum usable life of the existing facility; and

BE IT FURTHER RESOLVED, if it is determined by authorized expert facility engineers that any one of the Domes are unsafe for public use and should remain closed, the Director, Facilities Management Division (FM), Department of Administrative Services (DAS), is requested to provide a written report to the Milwaukee County Board of Supervisors (County Board) by next reporting cycle; and

BE IT FURTHER RESOLVED, the County Board authorizes the creation of a task force to develop a comprehensive long-term plan for the Domes; and

BE IT FURTHER RESOLVED, the task force shall be comprised of eleven (11) members, or their designees, including the County Board Supervisor for District 12, the Chairperson of the Parks, Energy, and Environment, the Chairperson of the Milwaukee County Parks Advisory Commission, the DPRC Director, Director, FM-DAS, one representative from the Friends of the Domes, one (1) representative from the historical preservation community, three (3) members of local community organizations

91 representative of the diversity of Milwaukee County, and one additional member that the
92 County Board Chairperson shall appoint as the Chairperson of the task force; and
93

94 BE IT FURTHER RESOLVED, DPRC shall provide adequate meeting space for
95 the task force in close proximity to the Domes, and the task force meetings shall be
96 staffed by the Office of the Comptroller; and

97 BE IT FURTHER RESOLVED, the task force shall provide a written
98 recommendation to the Committee on Parks, Energy, and Environment, no later than
99 the September 2016 cycle; and
100

101 BE IT FURTHER RESOLVED, the County Board will waive requirements of any
102 Milwaukee County Code of General Ordinances, including Sections 44.01, 44.14, and
103 56.30(5)(a) that may delay immediate repairs to the Domes; and
104

105 BE IT FURTHER RESOLVED, the Office of Performance, Strategy, and Budget-
106 DAS, is authorized to process an appropriation transfer of \$500,000 from Org Unit
107 1800-1945 Appropriation for Contingencies, for immediate repairs to the Domes.
108

109
110 ars
111 03/8/16
112 S:\Committees\2016\Mar\PE&E\Resolutions\16-200.docx