



OFFICE OF CORPORATION COUNSEL

Client-Driven. Community-Focused.

MARGARET C. DAUN
Corporation Counsel

PAUL D. KUGLITSCH
ANNE B. KEARNEY
Deputy Corporation Counsel

ALAN M. POLAN
KATHRYN M. WEST
DALE R. NIKOLAY
SCOTT F. BROWN
TEDIA K. GAMIÑO
MARY NELL REGAN
DAVID N. FARWELL
LISA PROCACCIO
NELSON W. PHILLIPS III
MELINDA S. LAWRENCE
Assistant Corporation Counsel

TO: Honorable Supervisors of the County Board

CC: County Clerk George Christenson (c/o Janelle Jensen)
County Executive Chris Abele

FROM: Paul D. Kuglitsch, Deputy Corporation Counsel *PK*

DATE: March 5, 2019

RE: Referral of File No. 19-87

At the County Board's February 7, 2019 meeting, several questions were referred to the Office of Corporation Counsel regarding File No. 19-87.

File No. 19-87 sought review and approval of the County Executive's December 27, 2018, appointment of Mr. Jason Rae to the Southeast Wisconsin Professional Baseball Park District Board ("District Board") pursuant to Wis. Stat. § 229.66(2)(b).

QUESTIONS PRESENTED

1. What is the term of the County Executive's appointments to the District Board?

Answer: Indefinite, if the appointment does not specify a term.

Pursuant to Wis. Stat. § 229.66(2)(b), the County Executive is authorized to appoint two (2) people to the District Board. The appointments must be county residents, and serve at the pleasure of the County Executive (*id.*), which means they serve on the District Board until removed by the County Executive or his successor.

2. When are the appointments effective?

Answer: Immediately upon appointment.

Again pursuant to Wis. Stat. § 229.66(2)(b), an appointment by the County Executive "may take his or her seat immediately upon appointment and qualification." The appointments,

however, are subject to confirmation by a majority vote of the County Board. Therefore, if the County Board rejects an appointment, the appointee is only then removed from the District Board seat s/he may sit upon appointment.

3. What are the powers of the District Board?

Answer: The District Board's powers are contained in Subchapter III of Chapter 229, Wis. Stats., and throughout various other statutory provisions.

Of note, and as discussed at the County Board's February 7, 2019 meeting, the District Board – not the County Board – is responsible for the imposition, oversight, and management of the 0.1% baseball stadium sales tax in Milwaukee County. *See* Wis. Stat. §§ 229.26(15) and 77.705.

Relevant Statutes

229.68 Powers of a district. A district has all of the powers necessary or convenient to carry out the purposes and provisions of this subchapter. In addition to all other powers granted by this subchapter, a district may do all of the following:

- (1) Adopt and alter an official seal.
- (2) Sue and be sued in its own name, plead and be impleaded.
- (3) Maintain an office.
- (4) In connection with baseball park facilities:
 - (a) Acquire, construct, equip, maintain, improve, operate and manage the baseball park facilities as a revenue-generating enterprise, or engage other persons to do these things.
 - (b) Acquire; lease, as lessor or lessee; use; or transfer property; except that the district may not enter into any lease that does not receive the affirmative vote of a supermajority of the district board.
 - (c) Improve real property.
 - (d) Enter into contracts, subject to such standards as may be established by the district board. The district board may award any such contract for any combination or division of work it designates and may consider any factors in awarding a contract, including price, time for completion of work and qualifications and past performance of a contractor.
 - (e) Grant concessions.
 - (f) Make a grant of land or other property to the state, especially dedicated by the grant to use for a professional baseball park.
- (5) Employ personnel, and fix and regulate their compensation; and provide, either directly or subject to an agreement under s. 66.0301 as a participant in a benefit plan of another governmental entity, any employee benefits, including an employee pension plan.
- (6) Purchase insurance, establish and administer a plan of self-insurance or, subject to an agreement with another governmental entity under s. 66.0301, participate in a governmental plan of insurance or self-insurance.
- (7) Mortgage, pledge or otherwise encumber the district's property or funds.
- (8) Issue revenue bonds under s. 66.0621, subject to ss. 229.72 to 229.79, and enter into agreements related to the issuance of bonds, including liquidity and credit facilities, remarketing

- agreements, insurance policies, guaranty agreements, letter of credit or reimbursement agreements, indexing agreements, interest exchange agreements and currency exchange agreements, except that the district may issue bonds under this subsection only if all of the following conditions are met:
- (a) A supermajority of the district board vote in favor of issuing bonds.
 - (b) A majority of the members of the district board determines, based on the best available information, that the total cost of the initial construction of baseball park facilities does not exceed \$250,000,000.
 - (c) A majority of the members of the district board determines that the district's lease arrangement with the professional baseball team franchise that uses baseball park facilities constructed under this subchapter as its home facilities incorporates a term of at least 30 years.
- (9) Maintain funds and invest the funds in any investment that the district board considers appropriate.
 - (11) Promote, advertise and publicize its baseball park facilities and related activities.
 - (12) Set standards governing the use of, and the conduct within, its baseball park facilities in order to promote public safety and convenience and to maintain order.
 - (13) Establish and collect fees, and establish shared revenue arrangements or other charges for the use of its baseball park facilities or for services rendered by the district.
 - (14) Enter into partnerships, joint ventures, common ownership or other arrangements with other persons to further the district's purposes.
 - (15) Impose, by the adoption of a resolution, the taxes under subch. V of ch. 77. A district may not levy any taxes that are not expressly authorized under subch. V of ch. 77 and that do not receive the affirmative vote of a supermajority of the district board. If a district adopts a resolution which imposes taxes, it shall deliver a certified copy of the resolution to the secretary of revenue at least 120 days before its effective date.
 - (16) Accept gifts, loans and other aid, which may be used only for the following purposes:
 - (a) Retiring the bonds used to construct the baseball park facilities.
 - (b) Maintaining the baseball park facilities.
 - (c) Operating the baseball park facilities.
 - (d) **Making capital improvements to the baseball park facilities.**
 - (17) Administer the receipt of revenues, and oversee the payment of bonds issued by the district.

77.705 Adoption by resolution; baseball park district. A local professional baseball park district created under subch. III of ch. 229, by resolution under s. 229.68 (15), may impose a sales tax and a use tax under this subchapter at a rate of no more than 0.1 percent of the sales price or purchase price. Those taxes may be imposed only in their entirety. The resolution shall be effective on the first January 1, April 1, July 1, or October 1 that begins at least 120 days after the adoption of the resolution. Any moneys transferred from the appropriation account under s. 20.566 (1) (gd) to the appropriation account under s. 20.835 (4) (gb) shall be used exclusively to retire the district's debt. Any moneys received under s. 341.14 (6r) (b) 13. b. and credited to the appropriation account under s. 20.835 (4) (gb) shall be used exclusively to retire the district's debt.

###