

The January 27, 2021 Lakefront Development Advisory Commission draft minutes narrative.

The meeting was held virtually on Microsoft Teams and was accessible to the public both audibly and visually.

Chairman Lynch explained the Commission's vision, mission and functions.

The meeting commenced shortly after 5:30 pm and concluded shortly after 8 p.m. Its duration was 2 hours 33 minutes. The meeting was recorded and made available on the County's legistar website for viewing or listening to.

Chairman William Lynch called the roll. See attached.

Chairman Lynch reported that over 240 written submissions had been received and distributed to Commissioners prior to the meeting and that more were being received.

Item 1: Discussion: Chairman Lynch reported that all positions on the Commission are currently filled, except for two vacancies for appointees of the Milwaukee County Executive, one for a resident of Milwaukee County from the business community and one for an additional County resident. The Commission discussed the need for taking minutes during the Commission's meetings. No conclusion was reached.

Item 2. Discussion of the application of public trust requirements by LDAC to proposals: Chairman Lynch reported that LDAC had received a Joint Letter (10/31/20) and its enclosures which are attachments to HRA21-25 and attached to these minutes. Chairman Lynch recognized attorney Tony Wilkin Gibart, one of the authors of the joint letter, from Midwest Environmental Advocates, Wisconsin Wildlife Federation, Wisconsin Greenfire, Milwaukee Riverkeeper, Milwaukee Water Commons and Preserve Our Parks. Mr. Wilkin Gibart summarized the letter and the concerns of the 6 organization who joined in it. He also submitted his comments in writing. They are attached to these minutes. Discussion followed.

Item 3: Public hearing on proposal from Dock, Inc. for new development of the second floor of the Bradford Beach Pavilion for a bar and restaurant: The proponents had submitted a Request for Review by LDAC and a set of drawings which were attached to the meeting agenda and are attached to these minutes. The Commission had also received a staff report from the Milwaukee County Parks Department. It raises concerns about utilities, signage, including its lighting, and structural concerns, including requirements for additional engineering reports. It also includes Architectural and Site comments, including the need for documentation of State historic preservation plan review. Respecting Americans with Disabilities Act (ADA) review, the report includes Park's support for full accessibility to the container bar, and that Milwaukee County's Office of Persons with Disabilities has agreed an analysis must be performed regarding ADA. Respecting Public Trust Doctrine requirements for food service on lakebed lands, the report indicates that Wisconsin DNR is currently reviewing the proposal for compliance with the regulations applicable to lakebed lands.

Chairman Lynch reported that over 200 written submissions from the public had been received and that his review identified only one in favor of the proposal, the remainder being in opposition.

Mr. Luke Cholodecki and Mr. Nicholas Hynes of Dock, Inc. presented their proposal and responded to questions from and comments by Commissioners. Mr. Cholodecki explained that often times the Bradford Beach House and Bradford Beach is filled with people who are not residents of the neighborhood, coming from all places far and near, and it is not necessarily welcoming to older residents and families and that with table service they will be better able to serve the residents that live along that area. Container seating and enclosed seating will not be added. Table service will be provided at tables and chairs. There will be a modular service bar that can be removed when Dock's time comes to an end. The Dock has had a lease with Milwaukee County Parks since 2019. The Dock currently has picnic tables on the first level that are reserved for Dock's patrons. Those tables will no longer be for customers only and will be open to beachgoers because the tables proposed to be added on the second floor will be for Dock's dining customers only. Dock has to set those tables up for proper service, and Dock cannot have just anybody sit at the proposed second floor tables. Others can be seated at the second-floor proposed tables when Dock is not operating. Dock's hours are 11 am- 10 pm, 7 days a week, weather permitting. Mr. Cholodecki explained that when people see that an area is operating as a restaurant people who don't want to dine will go find tables where they know a server will not approach them. Dock will service special events in the second-floor area that are brought to it by Parks, such as for the air and water shows. Dock will also reserve the area for birthday parties, anniversaries and other such events. Mr. Cholodecki indicated that it is unlikely that Dock would service a 200-person anniversary party. Dock is open to doing private events and it has the right to do so under its lease, but it is not Dock's business plan to do it often. Concern about adding amenities that put pressure on limited parking, and about the impact of affordability of activities on beach access was raised, including the impact they have on who visits the beach. There will be a special menu for items that will be available only on the second level. A sit-down restaurant sells different food than a fast casual place would. One item is priced at \$21.95. Currently the Dock has the Tiki Bars and a concession stand that does not allow for a dining experience. Commissioner Supervisor Wasserman who chairs the County Parks, Energy & Environment Committee reported that the Dock's contract with the County gives exclusive rights for the Parks Department to agree to a plan without further County Board action and that the County Board does not have the right to vote on the proposed changes. Commissioner Guy Smith, the County Parks Director indicated his department could work with corporation counsel to enforce the lease provisions should a violation of them arise concerning public access. Commissioner Budzinski, of the State Department of Natural Resources explained the pavilion is on filled lakebed land and is part of the lakebed land granted to the County by the State in 1921 specifically for public park and boulevard purposes. He indicated under the requirements of the State Constitution, the State has an affirmative obligation to ensure lakebed areas are open and maintained for the public's use consistent with the Public Trust requirements. Destination restaurants, bars and similar commercial facilities are not an allowable use of lakebed lands under the Public Trust Doctrine. Private restaurants are an incompatible use under the Public Trust Doctrine. Concessions that are ancillary to the public's

use are certainly allowable. DNR is conducting a technical and legal review of this project, has met with the Parks Department and will meet again with Milwaukee County Parks to share DNR's findings about what are and are not allowable uses. Now the seating at the tiki huts is exclusively for customers, but anyone can sit at the tables on the first level. Those tables serve people who order at the concession stand. People are not allowed by the County to bring their own liquor to the Beach. The Dock would not permit people to bring their own liquor to drink at the tables where they provide service because of liquor license requirements.

Public testimony: Anne Steinberg: I am from the neighborhood. Lack of lifeguards and busses to the beach discourages families from using the park more than lack of an expensive restaurant. An expensive sit-down restaurant on the second floor would discourage people.

Mr. Charlie Kamps: Dock is a corporation whose people can change in the future. Concessions and concession food service differs from fine dining with chef's and table service. The latter is a destination restaurant. This proposed facility will take this establishment even further outside the guidelines set up by the DNR. Crispy pork bellies at \$21.95, that type of thing will have the effect of decreasing the public's rights with respect to enjoyment of the beach. A special event will fill up much of the very limited parking available and interfere with access to the beach by the regular users of the park. The commission should recommend against this proposal.

Ms. Barbara Wesson: I live in the River west area. The second floor of the bathhouse has been described as vacant. I see the second floor as open space where people can gather freely. It feels like this expansion wants to upscale the beach. This undercurrent of privilege creates division. This plan is not consistent with Milwaukee's core values of equity and inclusion. Access is not just being able to go to the beach. Access requires a feeling of belonging. Creating an upscale restaurant and bar will not create an atmosphere of belonging. This space belongs to everyone, not just the third district.

Mr. Michael Cain: I am representing Wisconsin Greenfire, a statewide organization of natural resources professionals. I worked for the Department of Natural Resources for 34 years, including dealing with public trust issues. Greenfire joined in the joint letter reviewed and discussed as item 2 on this agenda. Its concerns are statewide. I was involved in the meetings that resulted in the letter to County Executive Ament respecting a lakefront bar and restaurant proposal in 1996 telling the County that they could not develop such facilities. The letter is an attachment to the joint letter that had been discussed during item 2. He urged review and consideration of a 1987 Attorney-General's opinion that deals with the Pieces of Eight restaurant that is now Harbor House, which was also attached to the joint letter. The restaurant was placed there before the Department of Natural Resources was an entity. At that time the restaurant had been in operation for nearly 20 years without objection and the Attorney-General determined that it would not be an equitable or reasonable use of the State's prosecutorial discretion to seek dismantling and removal of the restaurant. He also concluded that the restaurant was not lawfully constructed to begin with and that its continued presence on the lakebed violates the terms of the lakebed grant. The bringing of monetary resources to the entity that controls or has been granted the lakebed is often raised as an issue, but the

Attorney-General's opinion concludes that it is only reasonable to insist that public trust purposes be preserved so that all citizens of the State can enjoy equal access to the lake which the State holds in trust for its people. It is totally appropriate to have concessions and some amenities for people who are using the park, but it cannot become a commercial restaurant or bar establishment. This does seem to cross the line and raises concerns. He urged consideration of the guidelines developed by DNR for how it attempted to deal with all these sorts of developments around the State. They were attached to the joint letter discussed in item-2. The Milwaukee Art Museum was advised that they could have an appropriate food service there, but not a destination restaurant when the Calatrava addition was proposed.

Chairman Lynch concluded the hearing and announced that the public will have the next two weeks to submit post-hearing comments. The chair will consult the Commissioners about the date for the next meeting at which the Commission will discuss this hearing and the information it has received and will receive during the 2 week comment period. The Commission will act on the proposal and determine the content of its report on its recommendations.