



BATAVIA CITY COUNCIL BUSINESS MEETING

**City Hall - Council Board Room
One Batavia City Centre
Monday, January 9, 2017
7:00 PM**

AGENDA

- I. Call to Order
- II. Invocation – Councilperson Canale
- III. Pledge of Allegiance
- IV. Approval of December 2016 Minutes
- V. Approval of November 2016 Financials
- VI. Assignment of Agenda Items
- Public Hearing
 - a. Introducing a Local Law Amending §190-3, Zoning, Definitions, §190-14(D), Zoning, C-3 Central Commercial District, Downtown Design Guidelines, And §190-43, Signs And Exhibit a of the Batavia Municipal Code to Amend the City Sign Code and Related Provisions
- VII. Communications
 - a. Approved Liquor License – The Little Ridge
- VIII. Council President Report
 - a. Announcement of the next regular City Council Conference Meeting to be held on Monday, January 23, 2017 at 7:00 p.m. at the City Hall Council Board Room, 2nd Floor, City Centre.
- IX. City Attorney's Report
- X. City Manager's Report
 - a. Budget Presentation
- XI. Committee Reports
- XII. Public Comments
- XIII. Council Responses to Public Comments
- XIV. Unfinished Business

XV. New Business

#1-2017 A Resolution Appointing Robert Bialkowski to a Councilperson-at-Large Position

#2-2017 A Resolution to Appoint Members to Various City Committees/ Boards

#3-2017 A Resolution Authorizing the City Council President to Sign a Dwyer Stadium Lease and Sublease Extension Agreement

XVI. Executive Session...Collective Bargaining and Employment Matters and Litigation...

XVII. Adjournment

#1-2017
A RESOLUTION APPOINTING ROBERT BIALKOWSKI TO A
COUNCILPERSON-AT-LARGE POSITION

Motion of Councilperson

WHEREAS, due to Councilperson-at-Large, Brooks Hawley resignation, a vacancy has occurred in the Councilperson-At-Large position effective December 12, 2016; and

WHEREAS, Section 3.3 of the City Charter provides that when a position of a Councilperson becomes vacant, pending the election and qualification of a Councilperson to fill the vacancy, the Council shall fill the vacancy temporarily by appointment of a qualified person, who shall be the same political affiliation as the Councilperson whose place has become vacant; and

WHEREAS, Robert Bialkowski of 16 Union Street, Batavia, New York 14020 fulfills the qualifications to temporarily fill this vacancy;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia that Robert Bialkowski is hereby temporarily appointed as Councilperson-at-Large representing City of Batavia effective immediately, such appointment to remain in force until the election and qualification of Councilperson-at-Large to fill the vacancy in accordance with the Charter of the City of Batavia.

Seconded by Councilperson
and on roll call

#2-2017

A RESOLUTION TO APPOINT MEMBERS TO VARIOUS CITY COMMITTEES/ BOARDS

Motion of Councilperson

WHEREAS, certain vacancies exist on various City Committees/Boards.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia that the following appointments be made:

Board of Assessment Review

Bernadette Penfield

September 30, 2021

Genesee Association of Municipalities

Adam Tabelski

December 31, 2017

**Seconded by Councilperson
and on roll call**

#3-2017

**A RESOLUTION AUTHORIZING THE CITY COUNCIL PRESIDENT TO SIGN A
DWYER STADIUM LEASE AND SUBLEASE EXTENSION AGREEMENT**

Motion of Councilperson

WHEREAS, the City of Batavia is the owner of Dwyer Stadium and the Batavia Regional Recreation Corporation (BRRRC) operates and manages the Dwyer Stadium facility as outlined in the Dwyer Stadium Lease Agreement; and

WHEREAS, the Genesee County Baseball Club, Inc. (GCBC) owns the Batavia Muckdogs minor league franchise and the BRRRC sublets the premises to GCBC so that the Batavia Muckdogs can use the facility to play its home baseball games at Dwyer Stadium; and

WHEREAS, GCBC and Rochester Community Baseball, Inc. (RCBI) are parties to a Management and Operating Agreement by which RCBI manages and operates the day to day business of GCBC including the Batavia Muckdogs, pursuant to and as more particularly provided for by the Management and Operating Agreement.

WHEREAS, the City, BRRRC, GCBC and RCBI are mutually desirous of extending the Lease and Sublease Agreements, which presently is to expire on April 2, 2017, in accordance with, and as more particularly provided for by an Extension agreement.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia that the Council President by and is hereby authorized to sign said lease and sublease extension agreement as stated in "Attachment A" on behalf of the City of Batavia.

**Seconded by Councilperson
and on roll call**

Attachment A

DWYER STADIUM LEASE AND SUBLEASE EXTENSION AGREEMENT

This Lease and Sublease Extension Agreement ("Extension Agreement") is made the day of January 9, 2017 by and among the City of Batavia ("City"), Batavia Regional Recreation Corporation ("BRRRC"), Genesee County Baseball Club, Inc. ("GCBC") and Rochester Community Baseball, Inc. ("RCBI").

RECITALS

- A. The City and BRRRC are parties to a Lease Agreement, dated March 12, 2008 pursuant to which the City, as owner of certain real property with improvement thereon consisting of a baseball field and grandstand facilities, known as Dwyer Stadium ("Premises" or "Facility"), leases the Facility to BRRRC to operate and manage the Facility.
- B. BRRRC, GCBC and the City are parties to a Sublease Agreement, dated April 3, 2008 pursuant to which BRRRC subleases the Facility to GCBC, owner of the Batavia Muckdogs, minor league franchise of the New York-Pennsylvania Professional Baseball League, Inc. ("NY-Penn League"), so that the Batavia Muckdogs can use the Facility to play its home baseball games at the Facility and which Sublease Agreement amended the Lease Agreement, in part, as more particularly set forth in the Sublease Agreement.
- C. GCBC and RCBI are parties to a Management and Operating Agreement by which RCBI manages and operates the day to day business of GCBC including the Batavia Muckdogs, pursuant to and as more particularly provided for by the Management and Operating Agreement.
- D. In connection with RCBI's operation of the Batavia Muckdogs, GCBC, BRRRC and RCBI are parties to a Delegation Agreement, dated April 3, 2008 pursuant to which GCBC delegates to RCBI all of its rights, duties, privileges, obligations, benefits, responsibilities and authority under the Sublease Agreement and RCBI accepted and assumed such delegation and the City consented to the terms and conditions of the Delegation Agreement.
- E. On or about January 19, 2011 the City, BRRRC, GCBC and RCBI mutually extended the Lease Agreement and Sublease Agreement, which presently are to expire on April 2, 2013.
- F. On or about March 13, 2013 the City, BRRRC, GCBC and RCBI mutually extended the Lease Agreement and Sublease Agreement, which presently are to expire on April 2, 2015.
- G. On or about April 13, 2015 the City, BRRRC, GCBC and RCBI mutually extended the Lease Agreement and Sublease Agreement, which presently are to expire on April 2, 2017.
- H. The City, BRRRC, GCBC and RCBI are mutually desirous of extending the Lease Agreement and Sublease Agreement, which presently is to expire on April 2, 2017, and to confirm the

continuation of the Delegation Agreement, in accordance with, and as more particularly provided for by this Extension Agreement.

NOW, THEREFORE, for good and valuable consideration the receipt of which is hereby acknowledged by the parties hereto and in consideration of the mutual covenants and agreements contained therein, it is agreed as follows:

1. Subject to and pursuant to the terms and conditions set forth in this Extension Agreement, the Lease Agreement, as amended by the Sublease Agreement, is extended so that the term of the Lease Agreement shall continue through and including April 2, 2019, unless terminated earlier as more particularly provided for therein.
 2. The Lease Agreement, as amended by the Sublease Agreement, shall remain in full force and effect in accordance with its provisions during the extended term.
 - (b) The Sublease Agreement shall remain in full force and effect in accordance with its provisions except as follows:
 - (i) Section 18 of the Sublease Agreement is hereby amended as follows:

18. Capital Fund. In addition to the City's obligations set forth in Section 13 of the Lease Agreement, the City shall maintain the Dwyer Stadium Capital Fund, which funds shall be utilized as set herein and as permitted by the fund. The current balance in the capital fund is \$247,136. The City shall maintain a minimum capital fund balance of \$20,000 during the 2017 through 2019 NY-Penn League seasons. Under no circumstances shall the payment of the capital fund obligation eliminate (and shall be in addition to) the City's financial obligation to maintain and repair the Premises as provided in Section 13 of the lease or pursuant to Sections 5(d), 5(h), 5(i) or Section 19 herein. GCBC shall on an annual basis submit a capital project plan and budget for the next year for review and approval by the City. The City shall approve the capital project and spending prior to GCBC performing or undertaking any capital projects or improvements.
3. The parties hereby agree and reconfirm that the Delegation Agreement remains in full force and effect in accordance with its provisions.
4. Except as specifically set forth in this Extension Agreement, neither the Lease Agreement, Sublease Agreement nor the Delegation Agreement are otherwise amended or modified.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day first written above.

CITY of BATAVIA

GENESEE COUNTY BASEBALL
CLUB, INC.

By: _____
Eugene Jankowski, Jr., Council President

By: _____
Brian Paris, President

BATAVIA REGIONAL
RECREATION CORPORATION

ROCHESTER COMMUNITY
BASEBALL, INC.

By: _____
Steven Maxwell, President

By: _____
Naomi Silver, President

STATE OF NEW YORK)
 :SS.:
COUNTY OF GENESEE)

On this ____ day of _____ 2017, before me personally came EUGENE JANKOWSKI, JR., known to me to be the COUNCIL PRESIDENT of the CITY OF BATAVIA and the same person who executed the foregoing instrument; and that she acknowledged that she executed the foregoing instrument on behalf of the CITY OF BATAVIA as said COUNCIL PRESIDENT and pursuant to the authority vested in her by resolution of the City of Batavia City Council.

Notary Public

STATE OF NEW YORK)
 :SS.:
COUNTY OF _____)

On this ____ day of _____ 2017, before me personally came STEVEN MAXWELL, to me known, who being by me duly sworn, did depose and say that he has an office at _____; that he is the PRESIDENT of the BATAVIA REGIONAL RECREATION CORPORATION, the corporation described in and which executed the foregoing instrument; and that he signed his name thereto by order of the board of directors of said corporation.

Notary Public

STATE OF NEW YORK)
 :SS.:
COUNTY OF GENESEE)

On this ____ day of _____ 2017, before me personally came BRIAN PARIS, to me known, who being by me duly sworn, did depose and say that he has an office at _____; that he is the PRESIDENT of the GENESEE COUNTY BASEBALL CLUB, INC., the corporation described in and which executed the foregoing instrument; and that he signed his name thereto by order of the board of directors of said corporation.

Notary Public

STATE OF NEW YORK)
 :SS.:
COUNTY OF _____)

On this ____ day of _____ 2017, before me personally came NAOMI SILVER, to me known, who being by me duly sworn, did depose and say that he has an office at _____; that he is the PRESIDENT of the ROCHESTER COMMUNITY BASEBALL, INC., the corporation described in and which executed the foregoing instrument; and that he signed his name thereto by order of the board of directors of said corporation.

Notary Public

MOTION TO ENTER EXECUTIVE SESSION

Motion of Councilperson

WHEREAS, Article 7, Section 105(1)(e), of the Public Officer's Law permits the legislative body of a municipality to enter into Executive Session to discuss "...collective negotiations pursuant to article fourteen of the civil service law..." and;

WHEREAS, Article 7, Section 105(1)(f), of the Public Officer's Law permits the legislative body of a municipality to enter into Executive Session to discuss "...the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation..."and;

WHEREAS, Article 7, Section 105(1)(d), of the Public Officer's Law permits the legislative body of a municipality to enter into Executive Session to discuss "...proposed, pending or current litigation..." and;

WHEREAS, legal counsel for the City will have an attorney-client privileged communication that is exempt from the Open Meetings Law; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia, that upon approval of this Motion, the City Council does hereby enter into Executive Session.

**Seconded by Councilperson
and on roll call**