

**CITY OF BATAVIA
BUSINESS MINUTES
APRIL 13, 2015**

The regular business meeting of the City Council was held Monday, April 13, 2015 immediately following the Special Conference Meeting in the Council Chambers, One Batavia City Centre, Batavia, New York, with Council President Pro Tem Canale presiding.

Present were Councilpersons Pacino, Briggs, Canale, Doeringer, Cipollone, Jankowski, Deleo, and Christian. Council President Hawley was absent.

Council President Pro Tem Canale called the meeting to order at 7:30 PM. Councilperson Doeringer led the Lord's Prayer and the Pledge of Allegiance.

The minutes from the March meetings and draft monthly financial statements were approved.

The Council President Pro Tem assigned the regular agenda items.

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Public Comments

None.

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Council Response to Public Comments

None.

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Communications

CRB of Batavia, LLC submitted a liquor license for the North Pole. There was no objection from the police department. Councilperson Christian noted that 9 of 13 homes questioned said they didn't want the business there. Also, the application didn't say how big or where the patio would be or where the music was going to be. Mr. Molino noted that this was just relating to the liquor license and the other items would go before the planning and zoning board for approval. Council approved.

The Genesee County Crop Walk Committee submitted an application for their walk on Saturday, April 25, 2015 at 9:30am starting and ending at the First Presbyterian Church. Council approved.

Batavia Concert Band was looking to hold their concerts in the park on Wednesday's in July at Centennial Park at 7:00pm. Council approved.

The Batavia Business Improvement District requested to hold a downtown public market on Thursday's from June 18 – September 24 in the Bank St and Alva Pl parking lot from 9:00am – 4:00pm. Council approved.

The Batavia Business Improvement District requested to hold Beertavia on Saturday, May 16, 2015 at Jackson, School and Center St parking lot. It would be a craft beer festival of 15-20 microbreweries from NYS offering tastings from 3:00 – 6:00pm. Council approved. Councilperson Christian was not in favor of the event.

UMMC wanted to hold a Spring 5K Run/Walk and Kids on the Block run on Saturday, May 9, 2015 and the route would follow the Don Carroll Toys for Kids course. Council approved.

Councilpersons Pacino and Cipollone requested to have a Memorial Day parade on Monday, May 25, 2015 at 10:00am starting at East Town Plaza and ending at the UMMC war memorial. The normal parade would proceed to Bank St and then only Taps would be played from there to the memorial. Council approved.

Care-A-Van Ministries submitted an application for cookouts every Thursday in Austin Park from May 14th – September 10th at 5:00pm. They had rented the pavilion for all of the dates.

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Council President's Report

Council President Pro Tem Canale announced that the next regular City Council Conference Meeting would be held on Monday, April 27, 2015 at 7:00 PM at the City Hall Council Board Room, 2nd Floor, City Centre.

Councilperson Briggs presented the Homeowner of the Year Award to Ray and Patty Chaya for the great pride they have shown in their home and exceptional maintenance of their home.

Councilperson Canale presented the Community Volunteer of the Year Award to Steven Grice for his positive contribution, dedication and commitment to the community.

Councilperson Pacino presented the Business of the Year Award to P.W. Minor & Son, Inc. and noted they had been a vital part of the Batavia business effort. She complimented them on the industrious work ethic of their employees and was proud to recognize P.W. Minor as business of the year.

Councilperson Jankowski presented the Employee of the Year Award to Kerry Driscoll, Human Resource Clerk, for going above and beyond her regular job description. He noted her true dedication and professionalism and that she provided excellent service.

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City Attorney's Report

Mr. Van Nest noted that they continued to work on a variety of matters but there was nothing specific to report.

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City Manager's Report

Mr. Molino noted that there was nothing to report at that time.

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Committee Reports

Councilperson Christian noted that Habitat for Humanity wanted to renovate 27 Oak St on May 9th instead of the previously reported address.

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Unfinished Business

Councilperson Briggs asked what the status was of whether the City could hire outside contractors to assist with snow removal. Mr. Molino noted there were some legal interpretations that should be considered in closed session.

Councilperson Jankowski wanted to note that resolution #28 related to the administration of the CDBG grant and that a member of the City's planning board worked for Labella who was awarded the work. He was wondering if that was a conflict of interest. Mr. Molino noted that the member would recuse himself of any discussions or voting. Mr. Molino explained that there was also an alternate member who could take his place for a vote. Councilperson Jankowski felt that if the City Attorney was alright with it then he was alright with it.

Councilperson Jankowski asked if Council could get a copy of the bylaws and financials of the BDC like they do for Vibrant Batavia and the City's financials. Mr. Molino stated that was fine and that most of that information was online.

Councilperson Jankowski noted that there was a gas spill at a local business and the fire department billed the business for the fire service to clean up the spill. Mr. Molino noted

that it wasn't uncommon to bill for that type of service. Chief Maxwell explained there was a national standard for spillers of hazmat material to incur the cost to clean the spill and that there were only two such incidents last year. He also noted that the spill was from an unlawful disposal of gas. Mr. Van Nest noted that if the DEC came to the spill, they would bill the City so the City was in line to bill the business.

Councilperson Deleo asked how the City was doing with the Empire situation. Mr. Molino noted that the City was still in negotiations with them.

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New Business

#30-2015

RESOLUTION TO AMEND THE 2014-2015 BUDGET TO REFLECT THE RECEIPT OF \$6,542 FROM NEW YORK STATE ARCHIVES GRANT

Motion of Councilperson Briggs

WHEREAS, the City received \$6,542 from the New York State Archives for Historical Records project; and

WHEREAS, to properly account for the expenditure of this money, a budget amendment needs to be made; and

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia that the City Manager be and hereby is authorized to make the following budget amendments to the 2014-2015 budget to undertake the projects of "New York State Archives Grant":

Effective immediately, amend the 2014-15 budget by increasing expenditure accounts

1.1325.0423.1141 by \$2,560

1.1325.430.1141 by \$3,982

and increasing revenue account

1.1.3060.1141 by \$6,542

Seconded by Councilperson Doeringer and on roll call approved 8-0.

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31-2015

RESOLUTION TO ENTER INTO AN AGREEMENT WITH PROGRESSIVE ROOFING INC. FOR THE WATER FILTRATION PLANT 2015 ROOF REPLACEMENT PROJECT

Motion of Councilperson Christian

WHEREAS, a project for the replacement of the roof for the Water Filtration Plant located at 480 Lehigh Avenue; and

WHEREAS, a competitive bid was made by Progressive Roofing Inc., for the replacement of the roof specified in the contract document titled Water Filtration Plant 2015 Roof Replacement Project; and

WHEREAS, Progressive Roofing Inc. is the lowest responsible bidder (\$152,500.00);

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia that the City Council President is hereby authorized on behalf of the City to execute an agreement with Progressive Roofing Inc. for replacement of the roof on the Water Filtration Plant.

Seconded by Councilperson Briggs and on the roll call approved 8-0.

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#32-2015

RESOLUTION AUTHORIZING THE ADOPTION OF A PURCHASING MANUAL FOR THE CITY OF BATAVIA, NEW YORK

Motion of Councilperson Cipollone

WHEREAS, General Municipal Law requires the governing body of every municipality annually review and adopt a procurement policy for all goods and services; and

WHEREAS, the City Council last adopted its Purchasing Manual on February 10, 2014; and

WHEREAS, it is required by the Office of the New York State Comptroller that the City Council annually review the City's procurement policy and update as needed; and

WHEREAS, comments have been solicited from all Department Heads and Bureau Chief's in the City of Batavia involved in the procurement process; and

WHEREAS, said Purchasing Manual has been reviewed and approved by the City's Attorney; and

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Batavia, New York does hereby adopt the following Purchasing Manual effective immediately.

Seconded by Councilperson Deleo and on roll call approved 8-0.

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#33-2015

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

Motion of Councilperson Doeringer

WHEREAS, the City of Batavia is the owner of Dwyer Stadium and the Batavia Regional Recreation Corporation (BRRC) 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 BRRC 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; and

WHEREAS, the City, BRRC, GCBC and RCBI are mutually desirous of extending the Lease and Sublease Agreements, which presently is to expire on April 2, 2015, in accordance with, and as more particularly provided for by an Extension agreement; and

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 Christian and on roll call approved 8-0.

Attachment A

**DWYER STADIUM
LEASE AND SUBLEASE
EXTENSION AGREEMENT**

This Lease and Sublease Extension Agreement ("Extension Agreement") is made the day of April , 2015 by and among the City of Batavia ("City"), Batavia Regional Recreation Corporation ("BRRC"), Genesee County Baseball Club, Inc. ("GCBC") and Rochester Community Baseball, Inc. ("RCBI").

RECITALS

- A. The City and BRRC 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. 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, 2015, 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, 2017, 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 \$55,975. The City shall maintain a minimum capital fund balance of \$20,000 during the 2015 and 2016 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: _____
Brooks Hawley, Council President

By: _____
Brian Paris, President

BATAVIA REGIONAL RECREATION CORPORATION

ROCHESTER COMMUNITY BASEBALL, INC.

By: _____
Steven Maxwell, President

By: _____
Gary Larder, President

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

On this ____ day of _____ 2015, before me personally came BROOKS HAWLEY, 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 _____ 2015, 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 _____ 2015, 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

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#35-2015

RESOLUTION TRANSFERRING \$10,000 FROM THE LIABILITY AND CASUALTY RESERVE FUND TO THE GENERAL FUND UNASSIGNED FUND BALANCE

Motion of Councilperson Pacino

WHEREAS, pursuant to General Municipal Law 6-n the City of Batavia has an established Liability and Casualty Reserve fund for payments and costs related to judgments, actions or claims against the City of Batavia; and

WHEREAS, the City of Batavia has incurred costs in liability deductible for numerous liability claims; and

WHEREAS, the City Council is desirous of transferring \$10,000 of Liability and Casualty reserve restricted fund balance to the General Fund unassigned fund balance to assist with the expenditure as a result of the incurred costs in defense of the City and to be paid to Selective Insurance Company of America; and

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Batavia does hereby transfer \$10,000 from the Liability and Casualty Reserve Fund to the General Fund; and

BE IT FURTHER RESOLVED, by the Council of the City of Batavia that the City Manager be and hereby is authorized to make the following budget transfer:

Expense		
1.1315.0740	Administrative Services Judgments and Claims	\$10,000
Revenue		
1.1.1511.2104	Appropriated Reserves Liability and Casualty	\$10,000

Seconded by Councilperson Deleo and on roll call approved 8-0.

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MOTION TO ENTER EXECUTIVE SESSION

Motion of Councilperson Pacino

WHEREAS, Article 7, Section 105(1)(h), of the Public Officer's Law permits the legislative body of a municipality to enter into Executive Session to discuss "...the proposed acquisition, sale, or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof...".

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...”.

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

Seconded by Councilperson Cipollone and on roll call approved 8-0.

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Meeting adjourned at 8:05 PM.

Respectfully submitted,

**Heidi J. Parker
Clerk-Treasurer**