

**CITY OF BATAVIA  
BUSINESS MINUTES  
JANUARY 9, 2017**

The regular business meeting of the City Council was held Monday, January 9, 2017 at 7:00 PM in the Council Chambers, One Batavia City Centre, Batavia, New York, with Council President Jankowski presiding.

Present were Council President Jankowski and Councilpersons Pacino, Briggs, McGinnis, Viele, Tabelski, Canale and Christian.

Council President Jankowski called the meeting to order at 7:00 PM. Councilperson Canale led the Lord's Prayer and the Pledge of Allegiance.

The minutes from the December meetings and the November financials were approved.

The Council President assigned the regular agenda items.

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**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

Councilperson Viele made a motion to open the public hearing which was seconded by Councilperson Christian. On roll call, motion was approved 8-0.

There were no speakers.

Councilperson Canale made a motion to open the public hearing which was seconded by Councilperson Tabelski. On roll call, motion was approved 8-0.

**Communications**

The Little Ridge submitted their liquor license renewal and there were no objections from the police department. Council approved.

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## **Council President's Report**

Council President Jankowski announced the next regular City Council Conference meeting would be held Monday, January 23, 2017 in the City Hall Council Board Room, 2<sup>nd</sup> Floor, City Centre.

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## **City Attorney's Report**

Mr. Van Nest noted that he had one mater for executive session but nothing else to report on at that time.

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## **City Manager's Report**

Mr. Molino presented the 2017-2018 budget and attempted to post the presentation on Facebook live. Mr. Molino presented where he was proposing the City to go and how we got there. He noted that the goal was to achieve \$100 million in investment by 2022. He asked if everyone was doing things in the best interest of the community to achieve that investment. He stated that for every nickel the taxpayers give us he wants to be able to give them 25 cents and was committed to actively communicating the budget to the community via Facebook and Twitter to separate fact from fiction. Mr. Molino explained that the City has moved past its financial crisis phase and recovery phase and now moving into the growth phase. He noted that the growth phase would focus on four strategies; Focus on Growth, Organizational Excellence, Neighborhood Investment and Big Collaborative Projects. He explained that the budget remains under the tax cap with more than \$5 million in capital improvements. Mr. Molino stated that we need Council and the community to be "All In!" and help everyone get excited about growth. He encouraged everyone to support the brand "\$100 Million, I'm All In!" He noted that reaching \$100 million is a very high goal and it can't just happen with staff or Council support but we need the community support as well.

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## **Committee Reports**

Councilperson Pacino noted that Beth Kemp was the new executive director for the Batavia Business Improvement District and the pw minor was going into the old Chamber location.

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**Public Comments**

None.

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**Council Responses to Public Comments**

None.

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**Unfinished Business**

None.

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**New Business**

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**#1-2017**

**A RESOLUTION APPOINTING ROBERT BIALKOWSKI TO A COUNCILPERSON-AT-LARGE POSITION**

**Motion of Councilperson Viele**

**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 Tabelski and on roll call approved 8-0.**

Heidi Parker, City Clerk, swore in Mr. Bialkowski and he took his seat on Council for the remainder of the meeting.

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**#2-2017**

**A RESOLUTION TO APPOINT MEMBERS TO VARIOUS CITY COMMITTEES/ BOARDS**

**Motion of Councilperson Briggs**

**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 Pacino and on roll call approved 9-0.**

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**#3-2017**

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

**Motion of Councilperson Tabelski**

**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.

**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, 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 Canale and on roll call approved 9-0.**

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 ("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 BRRC to operate and manage the Facility.
- B. BRRC, GCBC and the City are parties to a Sublease Agreement, dated April 3, 2008 pursuant to which BRRC 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, BRRC 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, BRRC, 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, BRRC, 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, BRRC, GCBC and RCBI mutually extended the Lease Agreement and Sublease Agreement, which presently are to expire on April 2, 2017
- H. The City, BRRC, 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



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## **MOTION TO ENTER EXECUTIVE SESSION**

### **Motion of Councilperson Pacino**

**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 Viele and on roll call approved 9-0.**

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**Meeting adjourned at 7:53 PM.**

**Respectfully submitted,**

**Heidi J. Parker  
Clerk-Treasurer**