

SEPTEMBER 10, 2004
Report and Request to the Mayor,
City Councilors, and Parks Commissioners

Ladies and Gentlemen:

On March 8 of this year, less than two months after a gracious invitation signed by the Mayor, the President of the City Council, and the Chairman of the Parks Commission, we signed a license agreement for the use of Wahconah Park.

Our goal then was the same as it is now: to bring professional baseball back to Wahconah Park and to keep it there permanently. We have had some gratifying successes and some unexpected challenges. At the time that we signed the license agreement, we stated that we couldn't guarantee success, but that we could promise that we would work tirelessly to produce the best result possible, and that with the strong support of Pittsfield, we thought we could overcome any obstacles.

We have encountered some obstacles, and we're asking you to help us overcome them. I will be highly specific about the nature of that help. But first, I would like to enumerate what we have achieved in the six months since the license agreement was signed:

1. Jim Bouton took a little-noticed discovery of an 18th century bylaw and helped turn it into an international media event that dubbed Pittsfield as "Baseball's Garden of Eden."
2. We brought back the Hillies after 74 years and staged two well-received home games at Wahconah Park.
3. We brought ESPN Classic to Wahconah Park on July 3 for what amounted to a highly complimentary national "infomercial" for Pittsfield and the Hillies that lasted over four hours, and that has been rebroadcast multiple times.
4. We have cleared virtually all regulatory hurdles necessary to begin construction at Wahconah Park, including environmental.
5. We have completed the architectural and engineering work necessary to get "ballpark" numbers from potential contractors, and we have gotten those numbers.
6. We have made cosmetic but important initial changes to Wahconah Park, including paint, signage, scoreboards, demolition of dilapidated concession shacks and wire link fencing, creation of an expanded courtyard within a temporary construction fence, a new gated entrance to the overflow parking meadow, and an efficient new parking layout that has proven its worth at both Hillies games this summer. And all of the work has been done by local firms and individuals.

7. We have filed a preliminary prospectus with the SEC for a public offering of Wahconah Park, Inc. and have received commitments for over \$1.2 million to date, including \$250,000 from Jim Bouton and me. (Our commitment has already been mostly funded and spent on the architectural, engineering, permitting, and other pre-construction work described above.)
8. We have engaged both independent leagues in discussions regarding Pittsfield's place in a league schedule for 2005, and we should know where we stand around the end of this month.
9. We paid \$2,000 to booster clubs at PHS, Taconic, and St. Joe's for volunteer labor for the July 3 game and hope to establish an ongoing relationship with them and other Berkshire County volunteer organizations to supplement their budgets for most of the 60 home games (45 professional, 15 Hillies) that are being planned for 2005.
10. We paid over \$1,600 directly to our local game day staff for the Sept. 4 game, because the booster clubs were fully occupied with a large soccer tournament that weekend.
11. We are contributing over \$1,500 to the Dave Southard family to fulfill our pledge of \$1.00 for every ticket sold to the Sept. 4 game.
12. Jim Bouton and I (and our families) have worked diligently on behalf of Wahconah Park without pay all this year, and will do so again all next year.

We have also encountered some difficulties:

1. Pittsfield's status in a professional league in 2005 is still uncertain. Frank Boulton, the CEO of the Atlantic League, has promised us a franchise in a to-be-formed short season division, but it is now looking increasingly unlikely that the division will be formed in time for the 2005 season. Miles Wolff, Commissioner of the Northeast League, will probably accept Pittsfield as an eighth team in his league if he needs an eighth team, but he is currently negotiating for the Aces (the league's road team) to settle in Ottawa. If neither league is available for 2005, we are considering forming a new league, but it may not be achievable before 2006.
2. We wanted Pittsfield's own team to be majority-owned by Pittsfield residents, but to date, only about 2% of the money subscribed has come from Pittsfield (although most of the individual investors, of whom there are more than 80 signed up, are local). That has hurt us in our quest for large out-of-town investors, who properly expect to see some leadership from local businesses and individuals who stand to gain the most from a revitalized Wahconah Park.

3. The carpenters' union bid protest, which was filed in June, has spooked potential investors, and threatens to cost us investors who have already subscribed. Until then, we had quickly signed up most of the \$1.2 million that is circled today (out of \$2.8 million that we were seeking). Since then, very little new money has been pledged.

Since the bid protest has also cost us the time we needed to begin (and complete) major construction before Opening Day 2005, we have formulated a plan to go forward with the \$1.2 already pledged (\$950,000 new money, \$250,000 already spent), and then "bootstrap" the rest of the construction from profits over the next several years, if 2005 fan attendance warrants the investment. Tentatively, we would use \$500,000 to build the new food court, double the size of the women's restrooms within the existing grandstand, remove the cinderblock "goiters" (home and visitor clubhouses), install a temporary trailer beyond the left outfield fence for the visiting team, rehab a home clubhouse within the existing grandstand, and use the remaining \$450,000 for working capital.

However, all of this depends on the City's response to the Attorney General's opinion. In response to the bid protest, the A.G.'s office said, in effect, that if the Wahconah Park license agreement remains unchanged, they would side with the carpenter's union and require any work done at the ballpark to be done in accordance with the public bid law. Notwithstanding the fact that no work done by any previous tenants at the ballpark has been in accordance with that law, notwithstanding the fact that the public bid law was written to protect taxpayer dollars from corrupt practices by public officials and that only private investor dollars are at stake here, the A.G.'s office does not want to set a bad precedent.

No one is claiming that Wahconah Park, Inc. is a sham corporation set up by the City to circumvent the public bid law, but the A.G. is concerned that certain features of our license agreement, if left unchanged, would send the wrong signal to other communities if he decided to let us do the construction as the private entity that we actually are. However, his opinion has given us a clear set of guideposts for getting us treated as a private enterprise, rather than a project subject to the City's direction:

1. The initial term of our license agreement is very short-term, expiring in October 2005. The A.G. strongly suggests a minimum of 15 years.
2. The license agreement *requires* (italics in the original opinion) Wahconah Park, Inc. to make an investment in the City's asset. The A.G. implies that the requirement be eliminated.

We will blow our budget and lose our investors if we are required to go forward as if we were a public entity. Therefore, we see only two options: take our loss and go home, or modify the license agreement. That is where you come in. We are requesting a revised agreement that will cost the City nothing:

1. Instead of being automatically renewable annually based on performance criteria, the agreement will be long-term (and renewable) but cancellable at

any time based on non-performance of the same criteria. We would still be held to our commitment to maintain the ballpark entirely at our expense, to provide professional baseball, and to continue to make the Park available for other community uses.

2. Instead of requiring Wahconah Park, Inc. to make a \$1.5 million investment in the ballpark by Opening Day 2005 (or any other amount by any other deadline), the agreement will permit (but not require) WPI to make any investments it chooses, subject only to the same regulatory oversight that would apply to any private entity in the business of serving the public. Ironically, eliminating this investment requirement is the only way to ensure that we will be able to invest anything.

We want to stress that we are pro-union. Jim Bouton belongs to four unions and helped to organize one of them. Weeks before the hearing in the A.G.'s office, we met with the carpenters' union rep and asked him to provide names of recommended firms to have on our bid list. He was not willing to accept assurances that contractors would be chosen from a level playing field and wanted special consideration given to union workers. We would rather use local firms and workers, without regard to whether they are union or not.

Contrary to the carpenters' claim, we did not hire Allegrone as general contractor. They were retained to provide some pre-construction services, and with a view to using them as construction manager. All pieces of the actual work, which had not even been fully defined, were to be subject to competitive bid, with union shops included in all bid lists. The delay caused by the protest has cancelled our major construction for this year, and we have released Allegrone to pursue other clients and projects.

With respect to the scaled-down work that we are now proposing to do before Opening Day 2005, we pledge to review bids from as many union (and non-union) shops as are interested in bidding, and to give preference to union shops where bids are similar.

Even with a revised license agreement, which is an absolute prerequisite for our moving forward, success will not come easily. We must average almost 1,900 fans at 60 home games to break even. Our goal is 4,000. If we can do that, or even 3,000, we will be looking to complete our construction plan at the ballpark, including 1,200 additional seats over a new home team clubhouse and public restrooms. And if Wahconah Park is a success, we will be back to you with even more ambitious proposals for Pittsfield, because we will have proved to the capital markets that "tapping private capital for the public good" can be profitable for private investors while starting a "virtuous cycle" of investment and jobs.

I look forward to responding to your questions and comments. Please feel free to contact me by e-mail, or directly by phone at 413-XXX-XXXX.

Sincerely,
Chip Elitzer