



Allentown

435 Hamilton Street
Allentown, Pa. 18101

Minutes - Final

City Council

Wednesday, June 19, 2019

6:30 PM

Council Chambers

Special Meeting - Solicitor Nomination

Roll Call: President MacLean

Mayor Ray O'Connell stated that it is his pleasure, yesterday he sent Council as memorandum to inform all of them that Mr. Matthew Kloiber will be the administration's nominee to City Council to become the Allentown City Solicitor. As you know, the position has been vacant since 2018. Mr. Kloiber's resume is impressive and is attached for review and consideration. Matt has admitted into the United States and Pennsylvania Supreme Court Bars, Eastern District of Pennsylvania and a member of the Pennsylvania Bar Association and Lehigh County Bar Association. He is no stranger to government, law work, and to this city. He served as Assistant Solicitor for the City of Bethlehem, County Solicitor in Berks County before coming to the City of Allentown in December 2017. Matt has also served as a Law Clerk for the Lehigh County Court, Commonwealth Court, and the US District Court. He earned his JD from Dickinson School of Law of Pennsylvania State University and was awarded a Master's in Law from Temple University Beasley School of Law. He stated that he is very confident that Matt will be a tremendous leader of the office and will work well with City Council and the administration as we move Allentown forward. He stated that he welcomes Council prompt consideration of the nomination. He stated at this time, he presents Matthew Kloiber.

Mr. Matthew Kloiber thanked Mayor O'Connell for the nomination, thank you Council President MacLean and Council for the opportunity to speak with you. He stated that he wanted to give them a sense of who he is. He worked with them for the last year and a half. He stated that he has the background, the temperament, and the love of the city that makes him the right choice for Solicitor. He stated that he has been a full-time Solicitor for three different governments. That has given him an understanding of the issues that government law departments have to deal with daily. He stated that he has worked closely with Solicitor's and staff at Bethlehem and Berks County and gained much insight from the all. He stated that he has been fortunate, honored and privileged to work with the excellent attorneys and staff we have in the Allentown Solicitor's office. He stated that he

learned much from all of them. Particularly, Attorney Fruhwirth's knowledge. He stated that he worked for five judges and interned for a sixth. Working for a judge you are a legal confidant. The person the judge hashes out a case with. You debate and think through all the different arguments and consequences of the decisions that are made. He stated that the training, knowledge and insights that he gained from these judges is invaluable. He stated that he worked on cases for every level of government and nearly every issue you can think of that government would be involved with. At the federal district court he was able to work on some civil rights cases. With the Commonwealth Court he was fortunate to research and help draft precedential law, law here in the state for the entire state and a number of areas Solicitor's office deal with. As a Solicitor he was able to do when doing research on particular issues he was able to pull out cases that he had a hand in working on and preparing. He stated that he managed attorneys and staff in his jobs at the court as the head of Clerk for Judge Cohn Jubelirer in the Commonwealth Court and also as an attorney in the different places that he has worked. In law school, he was an Articles Editor. He stated that he was third in command for the Law Journal. There were future attorneys there. He stated that through his time at the Solicitor's office with the courts he has a sense of the attorneys and firms that practice in the area. Both through his own observation and also through the insights and comments to the judges have made to him that he has worked with. Those comments he will of course, keep to himself, but it will help in assessing Council that we have to work with towards or go against. He stated that he has a blue collar work ethic. He stated that he comes from a family of hard working blue collar union workers who worked difficult jobs at the Steel, on the railroad just two blocks from here, and at Bell Labs. They sacrificed for the good of their families and he endeavors to follow their example. He thanked his mother for all the sacrifice she made to give the best opportunities. He stated that she is here and he has some of his family members with blue collar backgrounds here. He stated thank you mom and thank you all for coming. Temperament: he stated that he strives to be fair, respectful and principled. As a fourth grader at Moser Elementary School studying our nations founding documents, he was captivated by the notion of all men, all people being equal. He stated that he wanted to be one of those people protecting the Constitution and helping move our country to fulfill its obligation and its promise for equality for all. The many judges he worked for who were each different all share some common traits. One: they made sure all their legal opinions were based entirely on the law and not on politics. They made sure that all litigants were treated fairly and had their day in court. And, they made sure that all sides and arguments were fully considered. He stated that these concepts go to his core. Whether dealing with citizens that have concerns or sorting out issues between city personnel, he is committed to making sure that all sides are heard fully and fairly and an appropriate action is

taken that is principled in law, not in politics. He stated that he is collaborative. His first job out of law school was working for Judge Black, whom himself was a former Allentown City Solicitor. He stated on his first day on the job he told him not to hesitate challenging his decisions and he meant it. He stated that he carried that through to all places that he worked. He stated that he seeks out the input of all and welcomed and encourage different opinions so that we can analysis legal issues from every angle because in the end what we are trying to do is make the correct decisions. Doing that properly requires that we fully analysis the legal issues before us. That input must come from all levels. He stated that he is forthright. He stated that his grandmother was a feisty tiny, but mighty Irish woman who was not afraid to tell anyone what she thought. She was not going to sellout on what she believed for anything. He stated that she instilled those principles in him. As an attorney he takes seriously his responsibility to be forthright and honest with the clients that he represents. To give the good news and the bad. To tell what the law says and not necessarily what the client might want to hear. He stated that he calls things as he sees them. He stated that he stands by the law. Love of the city: He stated that he was born in Allentown and grew up a few blocks from here on Sixth Street. He stated that he is a Center City kid. He stated that his wife was born and raised on the eastside. We have some of the eastside represented back here now. He stated that his relative are from the eastside and the southside. He stated that he and his wife met in Allentown, dated in Allentown, married in Allentown and have been raising our family in Allentown. He stated that they send their kids to school in Allentown. Why, because we love this city. We are committed to it to make it better. He stated that he is fortunate to work with the Mayor and his administration and with each of you. He stated that it is clear to him that each of them are doing what you think is best for the city. There may be differences and debates, but those public deliberations are part of what makes this country great. He stated that lastly, he could address the people out here, the client of this office is the city of Allentown, you, us. It is very apparent in his mind now and would remain so. In summary, Mr. Mayor, Council and the Controller is not here, but Mr. Controller as well. It is humbling for him to be considered for this position which at its core is all about helping you make sure that government of the people, by the people, for the people flourish in our city. He stated that he will use his background, his temperament and the love of this city in the endeavor to do his best. Thank you for your consideration.

Mr. Roger MacLean thanked Mr. Kloiber and stated that he will open up for questions from Council. He stated that he does not have any questions that would be new since Mr. Kloiber was hired before.

Mr. Julio Guridy thanked Mr. Kloiber and stated that even though his name

is not in the Ordinance he does support him. He did not call Michael on time to get it on the agenda. He stated that Mr. Kloiber has been here for a while and has been fair. He stated that Council is expecting him to be fair for both and represent both of us.

Mr. Matthew Kloiber stated absolutely. The Solicitor's function as a Solicitor in a position, but also as an office is not to choose winners and not to pick policy. The judicial background that he has it to make sure that the process is followed. It is to help Council to achieving its end which might be opposing the Mayor on a particular point. It is helping the mayor to achieve his end which might be opposing Council on a particular point and at the same time keeping both those conversations distinct and separate. He stated that he is not interested in the outcome of things, unless it is clearly illegal. We would stop that. The outcome doesn't matter. What matters is the process and is critically important to him that the process is followed and it is not to choose winners on any policies or not to choose winners between Council and/or the Mayor, but it is to make sure that the process is followed and by doing that the public gets the benefit and hope time steer the debates. It is not a bad thing, it is a good thing to have to the extend that we could facilitate that and help you and the administration create the best policy then that is what he looks to do.

Mr. Julio Guridy stated that he appreciates that Mr. Kloiber understands that it is a thin rope because usually the Solicitor is nominated by the Mayor and accepted by Council. You almost have to please both at one point. It is not necessary what's best for the mayor or Council. It is what is better for the public.

Mr. Matthew Kloiber stated the City of Allentown at the end the is our client. We are the Watch Dog for the city.

Mr. Daryl Hendricks stated that his background being a police officer for almost 40 years he looks for most importantly honesty and ethical behavior. He stated that in the short time Council worked with Mr. Kloiber he found him to be extremely knowledge, articulate and very ethical. He knows himself, his colleagues and all the citizens of Allentown should be very happy to have you and the willingness serve in a full-time capacity. he welcomes Mr. Kloiber and appreciated his willingness to serve.

Ms. Candida Affa stated that she not only supports Mr. Kloiber she stated that she depends on him rather if she saw him in the hall this past year and a half. She stated that she stopped any questioned him. She stated that he has always been there for her whether if he is summoned to Mike's office. She stated that he has helped her personally and knows that he has helped everyone else on Council to understand the law. She stated that Mr.

Kloiber not only has her support, but her confidence.

Mr. Ed Zucal stated that before he was on Council and worked for the city he mostly worked with Ms. Fruhwirth who he thinks is an outstanding attorney, but Mr. Kloiber you have impressed me to the max when you were here to represent the city. There is no question you are very knowledgeable about what you do and about your job. He stated that he and Mr. Hendricks were part of the Sponsors here. He stated that he worked at Jefferson and you went to Jefferson and he went to Moser. Maybe we should reconsider. Congratulations, sir.

Ms. Cynthia Mota stated that everything was said and she shares the same sentiment. She congratulated Mr. Kloiber. Welcome. You have been with the city for a year and a half. You are a part of all this.

Mr. Courtney Robinson stated that he is very happy wit this nomination from the mayor. He stated that he has worked with him for the last year and a half and believe that with the unique situation and having the Solicitor's office serve many masters that you have an original perspective on that and of most people that he has come across that he has very little doubt that he can handle dealing with that situation. In disputes between the administration and Council or the administration and the Controller's office or Council and the Controller's office would you say more that the Solicitor's office serves as an arbiter to try to come up with a middle ground solution between those parties perhaps.

Mr. Matthew Kloiber stated that there are opportunities where that could happen. We are kind of process driven and I compare it to the courts and the judges, but part of what judges try to do is to reach a resolution. We maintain the confidentiality of the respective branches from each other, but it can be a means of facilitating common ground and certain circumstances. In line with how judges reach resolutions at a trial to bring a case.

Mr. Courtney Robinson stated serving as a neutral arbiter for negotiations perhaps. If there are two reasonable options either of which could be acceptable.

Mr. Matthew Kloiber stated that he thinks that is fair.

Mr. Roger MacLean asked if there were any comments from the public.

Mr. David Melman, 1050 N. 19th Street, stated that he was not planning on talking about this, but feels it is his duty to the city and to Attorney Kloiber. He stated that he did not know Mr. Kloiber was nominated until he saw him

on the agenda and stated that his face lit up with a smile. He stated that he was overjoyed. He stated that Attorney Kloiber in his 10 years of practicing he knows him to be the upmost in ethical, intelligent and caring. He stated knowing Attorney Kloiber goes back 14 years ago when he was a law student and had the honor of being accepted into a summer clerkship with Commonwealth Judge Renee Cohn Jubelirer for which Attorney Kloiber was the Chief Law Clerk. He stated that Attorney Kloiber took him in as the first mentor that he ever really had in the legal profession. He taught me how to write opinions, how to research and how to do things ethically. How to interact with the court. Lessons that he has taken forward throughout his entire legal career have helped shaped him to be the attorney that he is now. He stated that he owes Attorney Kloiber for that. He stated that he believes that he is about the best choice that the city could make. Coming off of the ethical problems that the city had in the past there is nobody that will be more ethical and more compassionate to the people of the city, more procedurally correct in the way he follows the law and represents the city and stated he can't think of a better candidate for this position. He stated that he gives the city his wholehearted endorsement to the highest possible level to Attorney Kloiber for the position of City Solicitor.

Mr. Roger MacLean thanked Mr. David Melman and stated that Council appreciates his position and is sure Mr. Kloiber does too. He asked if there were any other comments from the public.

Jack Kloiber stated that daddy Kloiber is the best dad ever because he devotes his life to his mom, his wife, and his kids Jack, Katie, Bridgett, and Anneliese. He shows his care and respect for this city. He deserves the right to be Solicitor because if he becomes Solicitor he will do all he can for the city.

Mr. Ed Zucal asked what's your name, young fellow. Make sure dad gives you a little extra allowance this week.

Jack Kloiber stated Jack. OK.

[15-3011](#)

R54

Appointment of City Solicitor - Matthew Kloiber

Sponsors: Hendricks, Mr. Zucal, Affa, Mr. Robinson, Mota, MacLean and Gurdy

Attachments: [R54 Solicitor Appointment](#)

[Matt Kloiber Resume](#)

[Memorandum from Mayor Ray O'Connell regarding Nomination of Attorney Matthew Kloiber](#)

Mr. Michael Hanlon stated that it is said you can vote on it now, if you prefer.

Mr. Ed Zucal stated yes.

Mr. Scott Holbert stated that it was advertised for both. The right process has been followed. We had it opened for Public Comment.

Mr. Roger MacLean stated why should we keep him in suspense.

Mr. Scott Holbert stated exactly.

Mayor Ray O'Connell stated R54.

Mr. Michael Hanlon stated that you have a Bill and a Resolution. He asked which one do they prefer to vote on first.

Mr. Scott Holbert stated right now the only thing you are able to vote on is the Resolution. That was one thing you had doing it at this meeting. You had two issues to vote on. While the Resolution will be OK to vote on at this meeting, the Bill has to be during the normal Council meeting. That is the reason it was put on for both. you can vote now or wait.

Mr. Roger MacLean stated that Council will vote at the regular meeting.

Mayor Ray O'Connell asked if Council will vote at the Council meeting.

Mr. Scott Holbert stated yes.

Yes: 7 - Candida Affa, Roger MacLean, Courtney Robinson, Cynthia Mota, Daryl Hendricks, Julio Guridy, and Ed Zucal

Enactment No: 29824

[15-2988](#)

Bill 37

Amending the 2019 General Fund budget to allow for a change in the Solicitor's Office changing the part-time City Solicitor position to a full time position.

Attachments: [Bill 37 Solicitor's Office](#)

[Bill 37 Amended](#)

Mr. Roger MacLean stated that they have to do the Bill.

Mr. Scott Holbert stated that the Bill was advertised for this meeting as similar to your committee meetings.

Mr. Roger MacLean asked Mr. Hanlon to read Bill 37 and asked Mayor O'Connell if he wanted to weigh in on anything.

Mayor Ray O'Connell stated that Matt is the nomination for the administration. Going full-time is the right thing to do. We have a Solicitor which is part-time and depending on the one you had part-time some of them spent almost every day here. Some has spent 15 hours. Some has spent 30 hours and that was a constant back and forth. By making Matt the full-time Solicitor, he will be here every day probably will be on duty 24/7. It is a change for the better for all the residents of Allentown. At the least it is cost-neutral and at the best we will save some money. He stated that he himself, and Joe McMahon, the Managing Director full support for Matthew Kloiber to be the full-time Solicitor.

Mr. Roger MacLean asked if there were any comments from Council.

Mr. Courtney Robinson stated that this will still be making the position full-time. In January per the Charter the position will have to be reappointed by the Mayor to Council, correct.

Mr. Matthew Kloiber stated that they had an LSR that addressed that. He stated that he doesn't think it does.

Mr. Courtney Robinson stated that the section in the Charter states that at the end or the beginning of every term the Solicitor must be reappointed. He stated that he wants to confirm that this doesn't put the city in conflict.

Mr. Matthew Kloiber stated that he doesn't think it does, but will go back to look at the LSR. He stated that he thinks it would have been the four year term of the Mayor. The four year window would have been what it would have been filling in for. He stated that is his understanding on how they looked at it in the past. He stated that he doesn't think it is, but will double check it.

Mr. Courtney Robinson stated that if you could, please. He stated that his reading of the definition of the term will be the appointed or elected term since the Charter spells out what an appointment is, what a special election term is. The terms would be those periods. He stated that he wants to make sure they are not running into a problem if they start going into January without a reappointment and we might look at some potential legal quandary because we are making the position full-time.

Mr. Matthew Kloiber stated absolutely, the Solicitor's office will look into that.

Mr. Courtney Robinson asked Mr. Kloiber since this position is going to be full-time that would then create a situation where we will have another full-time position that would be vacated. The position you currently hold and

we have a part-time position. He asked Mr. Kloiber's idea on how the office will be structured.

Mr. Matthew Kloiber stated that he hasn't been presumptuous in assuming that it would be this. We have a very collaborative office where we talk a lot and had a lot of input. Everyone has been involved in the office in discussions on how we might set things up. At the same time as mentioned he has not be presumptuous about it. Part of it will be driven by communications we have to have with departments to see what kinds of legal needs different department have had. He stated that he doesn't know if that has been done recently to see. With Code and DCED, are there needs for a Solicitor. What has the Solicitor's office done in the past that maybe in recent years we haven't. One of the things coming out the gate should he be approved would be to talk quickly with departments because with the budget season coming up soon and trying to get something together to form that. He stated that he doesn't have a definite answer because part of it is that they need to do a needs assessment of what they need within the department. This would probably be the first time in a bit where budget season comes around, the Solicitor's budget will be something that we look at very carefully in collaboration with the other departments to see what the needs are of the city. There is a ongoing desire to bring as much work in house as we can, but we also want to do it in a way that makes sense. We are still protecting the city's interest to the fullest. This is something that has been talked about in the past. Again, if approved one of the things our office can do is to set guidelines in place and get all attorneys that will be working with outside Counsel with the city on the same page as to what they can build and what they cannot and bring some standardization to that. And, actually having firms compete for business. Using an RFP sort of process. Not that we would have to, but the idea is to let's try to find the best bargains that we can for the city again, while still making sure that its interests are fully protected and all of that. While being mindful of the desired goal of trying to bring as much in-house as we can. In the next few weeks, given the opportunity we will start coordinating with departments to get that info and put together some sort of framework. He stated that he does not have an answer for you right now, but is something that he would in the next few weeks as we gather that info and we could give you a pretty good sense and tell you exactly what it is that we are looking to structure and what each position would be, not just for this year, but try to do it for a multi-year plan so we can have a short-term goal and a long-term goal as well so that it is a cohesive plan moving forward.

Mr. Courtney Robinson thanked Mr. Kloiber and stated that he did not expect him to have a solid answer on that where you had everything lined up. He stated that he was hoping to get a sense of what ways you wanted

to be proactive about the structure in the office and you gave me exactly what I wanted to hear. He stated that he appreciates that.

Mr. Roger MacLean stated thank you very much and asked if there were any other comments from Council or the public on Bill 37.

Julio Guridy made a motion and seconded by Ed Zucal to forward it favorably to full Council.

Yes: 7 - Candida Affa, Roger MacLean, Courtney Robinson, Cynthia Mota, Daryl Hendricks, Julio Guridy, and Ed Zucal

Enactment No: 15541

ADJOURNED: 6:59 PM