

City Council of the Mayor and Council of New Castle
Special Meeting: Town Hall – 201 Delaware Street – New Castle
Thursday – January 27, 2010 – 6:00 p.m.

Present:

Council President William Barthel
Councilperson John Cochran
Councilperson John Gaworski
Councilperson Ted Megginson
Councilperson Teel Petty

Also present: Mayor Jack Klingmeyer, City Administrator Cathryn Thomas, Interim City Solicitor Daniel Losco

New Business: Consideration of process and procedure, including resume distribution, for selection of new City Solicitor

President Barthel explained that the purpose of the meeting was to discuss the process for selection of a new City Solicitor. City Council received a complaint from Mayor Klingmeyer alleging possible FOIA violations at the December 14, 2010 City Council meeting. The Mayor has made a public issue of it, including issuing a press release in what appears to be an effort to embarrass Council.

President Barthel said the City is uncertain whether any violation took place. If a violation took place, he feels it was of a minor and inadvertent nature. It is the Council's desire to fully comply with State law regarding open public meetings. Therefore, Council is recreating the Executive Session discussion of the December 14, 2010, meeting at this meeting.

President Barthel pointed out that prior to making its search for a new Solicitor, City Administrator Thomas contacted the previous City Solicitor to determine the selection process. Mrs. Thomas was told that the Council, not the Mayor, determines the selection of the City Solicitor. The Council did invite the Mayor to participate in the candidate interview process. The Mayor declined. Unfortunately, President Barthel added, the Mayor presumes he has, or wishes he had, more authority than he actually does. It is also unfortunate his actions are costing the City precious funds during the ongoing economic crunch.

President Barthel said the Mayor could have told Council about its concerns and provided an opportunity to correct any potential issue. He said the Mayor chose confrontation over cooperation and the Council will not be bullied. City Council will select the City Solicitor, he emphasized.

President Barthel said that prior to the December 14, 2010, meeting he and Administrator Thomas prescreened candidates. One was Daniel Losco and one was Stephen Robinson. Dominic Balascio had contacted Council about the position about a year earlier. Resumes for Mr. Losco and Mr. Balascio were given out at that meeting; a resume for Mr. Robinson was provided the following day.

All three resumes were again provided to Council for this meeting so they could take the material home and review it.

President Barthel said it made no sense to re-interview the two candidates who were already informed they would not be selected. He suggested re-interviewing Mr. Losco by City Council at an open public meeting scheduled for February 3, 2011. It has already been noticed to the public. This will ensure both the spirit and the letter of the FOIA law are being followed.

Mayor Klingmeyer said he had provided Council a letter prior to its last Council meeting, which was not read as correspondence. He said the letter outlined his position that City Government consists of two agencies—the Mayor and Council. The Mayor has the duty of executive officer and Council is the legislative body. His role is different from Council. The Solicitor represents the City of New Castle which includes both of those agencies. He is challenging President Barthel's statement that the Mayor does not have a role in choosing the Solicitor and that only the Council does. He added that since the Solicitor represents both bodies, both bodies should have a voice in the matter. Normal procedure in a matter such as this would be for the Mayor to make an appointment, subject to the approval of the Council. The process would go on until a candidate was found mutually acceptable to both agencies.

The role of the Mayor demands the Mayor has an equal role in this matter, Mayor Klingmeyer added. It should not be 1 of 6 but 1 to 1.

Mayor Klingmeyer said that prior to the original meeting he asked what the executive session was about and he was told it was about a personnel matter. That meeting was not planned to discuss specific candidates, therefore it did not qualify as personnel. He said not informing the Mayor was an insult to the Mayor and the Mayor should be informed about the selection of the City Solicitor. Even in the reconstruction of the meeting the Mayor is not going to be able play a role, except in passing, he said.

Councilperson Megginson made a motion to adjourn the meeting. Councilperson Cochran seconded the motion. The motion passed unanimously.

The meeting adjourned at 6:10 p.m.

Respectfully submitted,

Michael Dickinson
New Castle City Clerk