

Legislative Affairs Meeting Minutes

July 13, 2021

The meeting was called to order at approximately 7:32pm.

Present were Legislative Committee members Councilors Walsh (Chair), Couture, Schultz, Van Hazinga, and Zarrella.

Present also were City Solicitor Vincent Pusateri, Councilors DiNatale, Hughes, and Beauchemin.

Public Comment:

Petition 046-21

Councilor DiNatale gave remarks in support of his petition (see attached).

Thomas Hughes spoke in favor. He stated that Councilor Clark's name is the only name that has been put forward and therefore, no others should be considered.

Sherry Clark, widow of Councilor David Clark, read a letter from the three daughters of Sherry and David Clark, outlining the lengthy service to the City of Fitchburg as a member of the School Committee and the City Council, his history of volunteering in the city, his work with FATV on its board and broadcasting sporting events, and his willingness to lend a hand to those who needed it.

Mark Clark, 51 Bear Hill Road, Gardner, brother of David Clark, spoke in support of the petition.

Agenda:

046-21. Councillor Marcus DiNatale, to petition that the new Fitchburg City Hall Legislative Building be named the "David Clark Legislative Building" in honor of former School Committee Member, City Councillor, WEIM/WPKZ radio and FATV Sports Broadcaster David Clark for his many decades of public service to the City of Fitchburg.

136-21. Vincent P. Pusateri, II, City Solicitor, to appoint certain Special Counsel as Special Municipal Employees including Joseph Baldiga and the firm Mirick, O'Connell, DeMallie & Bougee, LLP., as outlined in the enclosed Petition (Amended June 22, 2021). (Legislative Affairs Committee)

Petition 136-21

City Solicitor Pusateri read the Amended Petition (attached). He explained that the city receives bankruptcy petitions occasionally, usually involving minor amounts, but sometimes involving larger amounts. Bankruptcy is an area of law that requires a specific expertise. Mr. Pusateri allowed that the appointment of Mr. Baldiga of Mirick, O'Connell, DeMallie, & Bougee, LLP, in the position of Special Counsel as Special Municipal Employee, provides flexibility and the ability of the city to deal with bankruptcy issues as they arise.

Council Vice-President Walsh stated she and the other attorneys on the Committee would most likely agree that Bankruptcy is a particular area of expertise that requires an attorney well-versed in Bankruptcy law. Councilors Couture and Zarrella agreed.

President Zarrella stated that the effect is to enable the person serving in this role to do so without disqualifying him or her or his or her firm, from dealing with other city issues and avoids conflict of interest.

Based on a question from Councilor Schultz, City Solicitor Pusateri stated that there is a budgeted amount for Special Counsel and that the city would pay the Special Counsel as he or she is engaged for specific cases.

Motion made by Councilor Zarrella to approve; seconded by Councilor Couture. The motion passed 5-0, by unanimous consent.

Petition 046-21

Councilor DiNatale read a statement in support of his petition (attached).

Present in support of this petition were Sherry Clark, three of David Clark's daughters, Councilor Clark's brother, Mark Clark, and 3-4 neighbors and/or friends of David Clark.

Vice-President Walsh stated that she had spoken with School Committee member and Chair of School Committee Building Needs Sub-Committee, Peter Stephens, who explained that the Resolution adopted by the City Council on April 13, 2021, to name the broadcast booth at Crocker Field for Councilor Clark, had been held until the 2021-2022 academic year, but that initial discussions of the resolution centered on the many worthy persons after whom the broadcast booth could be named, and that by singling out Mr. Clark, other worthy persons automatically would be excluded. Mr. Stephens stated that suggestions had been made to honor Mr. Clark and others with plaques at Crocker Field.

Councilors DiNatale, Schultz, Couture, and Hughes stated that the naming of the Legislative Building in honor of Councilor David Clark should not be based on how deserving Mr. Clark would be as compared to others, but rather, whether Mr. Clark is worthy of being honored. Councilor DiNatale also pointed out that Mr. Clark had a direct connection to the new Legislative Building, that the petition is an evaluation of Mr. Clark's worthiness to be honored by naming the building for him, that the timing of this is important, and that there are no reasons that justify not naming the building for Mr. Clark. Councilor Couture stated that no alternative name had been put forward. Councilor Schultz pointed out that buildings are usually named in honor of persons of wealth, who provided funding, and this would be an opportunity to name the building for Mr. Clark's devotion to the city.

Councilors Van Hazinga, Walsh, and Zarrella stated that they believed that Councilor Clark had served the city well and that they did not know of anyone who had anything negative to say about Councilor Clark, however, they did not want this to be a referendum on Councilor Clark and his service to the City of Fitchburg, but rather, the discussion should focus on whether the building should be named for anyone at all. They also agreed that Councilor Clark should be honored, but that there are other ways to honor him than to name the Legislative Building for him.

Motion made by Councilor Zarrella to approve; seconded by Councilor Couture. The motion failed by a 2-3 vote, with Councilors Couture and Schultz voting yes; Vice-President Walsh, Council President Zarrella, and Councilor Van Hazinga, voting no.

The meeting was adjourned at approximately 8:33pm.

Jun 22 2021 1:12 pm

TO THE HONORABLE CITY COUNCIL OF THE CITY OF FITCHBURG

The undersigned Petitions your Honorable Body to appoint certain Special Counsel as Special Municipal Employees including Bankruptcy Council

For reason says, the best practice is to identify position as special municipal counsel to allow individuals and their firms flexibility in the representation of clients while still being able to zealously advocate for the City's interest.

For further reason says, it is common that firms require this as a condition precedent before being engaged by the city.

For further reason says, the City would benefit from a relationship with competent Bankruptcy Council to review bankruptcy petitions served upon the City from time to time. The City has already appropriated funds for the purposes of hiring special counsel.

Vincent P. Pusateri, II, Esquire
City Solicitor

Jul 15 2021 8:56 am

Member of the Legislative Affairs Committee,

Thank you for once again allowing me to speak before you this evening regarding my petition to name this new Legislative Building at 700 Main Street after former city councilor and school committee member David Clark, who passed away earlier this year. Councilor Clark's more than 40 years of dedicated public service to the citizens of Fitchburg more than warrants him being considered for this honor.

Since I filed this petition four months ago, there has yet to be a single resident or councilor who has provided a single solitary reason for why Councilor Clark does NOT deserve this honor. Everyone agrees he is worthy of consideration. The hesitation for some rests with the argument that there are many other people who have passed that are just as worthy of consideration. In my opinion, this argument is very weak in that you can make that argument for any situation that involves the naming of any municipal facility or landmark. Of course there are scores of people worthy of consideration for an honor like this. I stipulate that as it is obvious. But to use this argument as a basis for voting in opposition to my petition would suggest to me that you would then be opposed to any future matter before you that calls for naming a structure or landmark after someone. Furthermore, I have heard many on the fence stating that "Councilor Clark was a great public servant, friend, and I liked him a lot, but..." But what? Name me one reason based on the merits of the man put forward on this petition why he should not be named on this facility.

More often than not, a specific structure or landmark to be named after someone has a direct connection to that person. On April 13th when I was last before you, I stated why I believe Councilor Clark deserves this honor more than anyone else. Put simply, if it were not for Councilor Clark's consistent legislative actions, this building you sit in this evening would not exist. Councilor Clark was on this city council in 2012 when we evacuated 718 Main Street. He consistently and routinely voiced support for bringing City Hall back to Main Street because he believed strongly that in doing so it would serve as a catalyst for the downtown revitalization. Councilor Clark cast the deciding vote in January of 2018 to procure the loan that would make this facility a reality. These all represent his direct connection to this facility that, mind you, has never before existed in city's history.

Jul 15 2021 9:05 am

I know some councilors have spoken publicly about setting up a commission to study the matter. As the petitioner, and a voting member for the City Council, I oppose such a commission. I find it unnecessary, cumbersome, and would lead to a free-for-all. I put before you a candidate for this honor. No one else has. Your vote should be based on the merits of the individual named and not who else should be considered.

On April 13th and April 20th, in public session, Councilor Beauchemin testified that it would be an “injustice” to name this building after David Clark because of the argument I mentioned earlier. It would be “unfair” to others who are just as deserving. Councilor Squailia agreed with Councilor Beauchemin’s view, taking it a step further on April 20th stating that this new building should not be named after any politician. I strongly disagree with both. Councilor Clark was much more than a politician and it certainly would not be an injustice if you support this.

Councilors, when I put this petition forward I did so with the most heartfelt of intentions. Councilor Clark has selflessly given so much to the city of Fitchburg, and this would be a fitting tribute to his contributions and belief in what this building represents. I know weeks after filing my petition Councilor Green filed a separate resolution to name the press box at Crocker Field after Councilor Clark. The Council unanimously passed the resolution and it is now before the School Committee which has jurisdiction. I want to stress that that resolution should not supersede this petition before you. I am convinced that resolution was filed as a “compromise”. It should not be. You can support both, and supporting both points to how great of a figure Councilor Clark was on so many levels within this city. Thank you for your time and attention to this petition this evening and I respectfully ask for your vote of support.