

Mayor

CITY OF NORTH ADAMS
City Clerk's Office
January 17, 2013

I hereby notify you that at twelve o'clock noon today the following items of business have been filed with this office and will be acted upon at the meeting in the City Council Chambers at City Hall, Tuesday evening January 22, 2013 at seven-thirty o'clock according to Section 8, Rules and Orders of the City Council.

Marilyn Gomeau
City Clerk

REGULAR MEETING OF THE CITY COUNCIL
January 22, 2013

Roll Call
Moment of silent prayer
The Pledge

Hearing of Visitors

Approval of the minutes of Organization of Government held on January 8th.
Approval of the minutes of regular meeting held on January 8th.

- 11,211 Communication submitted by Councilor Bullett regarding handicap parking in the down town area, which was referred to the Public Safety Committee and postponed at the meeting of November 13, 2012.
- 11,279 Communication submitted by Councilor Harpin on behalf of Mark Trottier requesting a Public Hearing with the Traffic Commission on parking issues, which was referred to the Public Safety Committee and postponed at the meeting of November 27, 2012.
- 11,209-2 Communication submitted by Council President regarding amending Council Rules of Order for 2012, which was postponed at the meeting of December 26, 2012.
- 11,209-2a Report of the General Government Committee regarding Council Rules of Order.
- 11,291 Acceptance of Council Rules of Order that were presented at the Organizational Meeting of Government for 2013.
- 10,990-2 Mayor's communication #9 recommending a borrowing Order for the renovations of Conte School.
- 10,990-2 An Order appropriating the sum of \$29,692,594 for the renovations of Conte School and to meet this appropriation the Treasurer with the approval of the Mayor may borrow from time to time under MGL Chapter 44.
- 11,292 Communication submitted by Council President recommending the re-appointment of Marilyn Gomeau as the City Clerk for a three year term to expire January 2016.

CORRESPONDENCE

COUNCILLOR'S & MAYOR'S CONCERNS

OPEN FORUM

1/17/2013

General Government Comm Report.

The General Government Committee is recommending filing the request for changes to the 2012 city council meeting rules and will make recommendation for the 2013 rules when the new rules come up for vote.

The general government committee met twice Dec 20, and January 16, to discuss changes to the city council meeting rules.

General Government Meeting Dec 20, 6:30pm

Present: Harpin, Bona; Absent: Breen

Others: Bloom, Bullett, City Solicitor DeRosa, members of the media and public

Solicitor DeRosa said he spoke with the ACLU representative and they agreed on not allowing signs as long as the rule was equal to everyone and not targeting individuals. He did not have a formal written rule change at this meeting.

Mr. Cardimino argued his right to be able to have signs and express his concerns.

Mr. Trottier wanted the solicitor to list case laws that back up the requested rule changes.

Bullett was disappointed in how much time the city council spends on petty arguments and dealing with personal attacks.

Mr Goodell said those elected into city council should expect to be physically abused, and then corrected that by saying verbally abused.

Harpin made the motion to have the Solicitor come back with a written rule change that is legally acceptable. Bona 2nd, All accepted.

Discussion on Rule #1 about times city council committee meetings should take place.

Mr. Trottier mentioned that the rules read the city council are supposed to be having their committee meetings on specific times and days.

Bona suggested eliminating the time and day from Rule 1 – Meetings as the city council hasn't followed that as long as he can remember.

Harpin made the motion to recommend removing "shall be regularly held on the Tuesday following the first or third Monday of each month, in so far as possible, in the City Council Conference Room at 7pm" from Rule1 - Meetings Bona 2nd, All accepted.

DEROSA DOHONEY LLP

ATTORNEYS AT LAW

John B. DeRosa
Richard M. Dohoney
Thomas Manuel*
Robert D. Sullivan, Jr.
Elizabeth A. Marshall **

Morton Freedman
Retired

Farrah S. Wax **
Of Counsel

January 14, 2013

* Also admitted VT
** Also admitted NY

Keith Bona, Chairman
General Government Committee
North Adams City Council
North Adams, MA 01247

Re: Proposed Amendment to City Council Rule 10-A

Dear Chairman Bona:

You have submitted, for my review, a proposed amendment to City Council Rule 10-A. The text of the proposed amendment is as follows:

“No member or official or visitor shall be allowed to publicly display any form of messaging, whether lettered or graphic, on a sign, electronic device or printed article of personal clothing at a city council meeting.

Objects used for the purpose of conveying a message are also forbidden.”

Based on my review of the pertinent statutes and case law regarding the bringing of signs to City Council meetings, and the communication of messages at meetings of legislative bodies, like the City Council, I conclude that language of the proposed amendment is constitutionally infirm.

A more narrowly drawn amendment, however, would be constitutionally permissible so long as it only excludes from the Council chambers all signs, placards, banners or like items.

I. Wearing of Clothing Imparting General Political Messages is Permissible

The most problematic aspect of the proposed amendment is its prohibition on the public display of any type of messages at a City Council meeting. This language casts too wide a net, and

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constitutional right to participate directly in government policymaking would work a revolution in existing government practices.⁴

Although there is no constitutional right for the public to address a legislative body, the City Council is a "limited public forum" because it invites members of the public to speak at its meetings, and is required to open its meetings to the public under the Open Meeting Law.⁵ That said, the Council has the right to regulate its meetings so that it may conduct the public's business in an orderly fashion. To that end, the Council may adopt rules that constitute reasonable restrictions on the time, place, and manner of expression at its meetings. These restrictions, however, must be content neutral because the Council cannot prohibit visitors from simply expressing their viewpoint on an agenda item, unless those visitors become disruptive in doing so.⁶

Furthermore, there are numerous alternative means for visitors to influence local decision making. First, members of the public may speak to agenda items through the existing Rules of Order. Second, members of the public are free to lobby individual councilors about their concerns on issues affecting the City. Third, and less formally, members of the public are free to write letters to the editor of their paper, to hold public rallies and demonstrations, and otherwise attempt to influence public opinion.

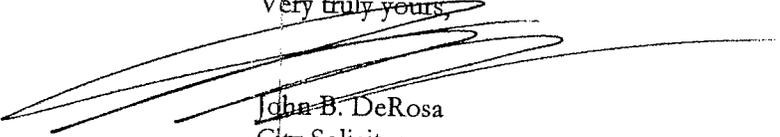
Therefore, because the Council is a "limited public forum," and there exists numerous alternative means for members of the public to express their views, the Council may amend its Rules of Order and adopt a rule prohibiting visitors from displaying all manner of signs, banners, placards and the like in the Council Chamber. Language for such a Rule could read as follows:

Signs, placards, banners or similar items shall not be permitted at any time in the Council Chamber.

III. Conclusion

Based on my review of the proposed amendment, and in light of the applicable statutes and case law, my opinion is that the proposed amendment is constitutionally infirm. A narrower rule, prohibiting the display of signs and placards in the Council Chamber is, in my view, constitutionally permissible.

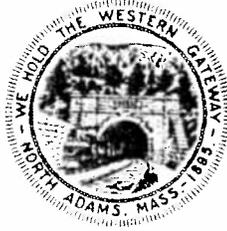
Very truly yours,


John B. DeRosa
City Solicitor

⁴ Curnin v. Town of Egremont, 510 F.3d 24, 29-30 (1st Cir. 2007), quoting Minn. St. Bd. Comm. Colls. V. Knight, 465 U.S. 271, 283-84 (1984).

⁵ See Curnin, at p. 30-31 (describing differences between types of public forum); Citizens to End Animal Suffering v. Faneuil Hall Marketplace, 745 F. Supp 65 (D. Mass. 1990) (defining "limited public forum"); see also Ridley v. Mass. Bay Transportation Auth., 390 F. 3d 65, 76-77 (1st Cir. 2004) (setting forth forum analysis criteria).

⁶ See Citizens, at pgs. 74-75 (describing content neutral time, place, and manner restrictions).



CITY OF NORTH ADAMS, MASSACHUSETTS

Office of the Mayor
Richard J. Alcombright

January 22, 2013
#9

The Honorable City Council
North Adams, Massachusetts

Re: Conte School Renovation Borrowing Order

Dear Honorable Councilors:

The Order before you in the amount of \$29,692,594 represents the borrowing necessary to fund our Conte School Renovation project. Council approval of this Order created by bond council and reviewed by Massachusetts School Building Authority (MSBA), is the final step that will enable the City and our School Department to move forward to completion.

As you know this project began in 2007 with a vote of the City Council to fund a study that would look at the needs of our school system. Since that time, comprehensive study and analysis has been undertaken through the efforts of the North Adams School Building Committee (SBC), the School Committee, the administration and a team of architects and project managers. Additionally, this process has been very closely overseen by the MSBA.

The SBC has voted on two separate occasions to renovate Conte School, a project that would breathe life back into a beautiful historic structure both academically and socially. In addition, the School Committee, the North Adams Historical Commission and the Massachusetts Historical Commission have endorsed the renovation of Conte School as the preferred option for our school system and the students it serves. The MSBA unanimously approved this project on all of its merits through a vote of their Board.

This project will help our school system in two ways:

1. There is a very evident need to address the lack of educational space within our elementary schools. The past 20 years have seen significant changes in the way we deliver services (both mandated and designed). Programs that utilize a great deal of space such as rooms for special needs students, full day kindergarten, pre-K education, remediation rooms and our 6th and 7th grades are now in buildings previously used only to facilitate K-5 education.
2. It is most evident that the infrastructure at two of our elementary schools is outdated and in need of significant repair and attention. This project will go a very long way in addressing our building needs and it is much more appealing to be funding a new building than to be funding extensive and recurring repairs.

This project, slated to cost \$29.7 million dollars, will result in a City share of \$6.5 million dollars. We have fully analyzed our debt schedule and I am confident that the City budget will be able to absorb the additional debt. We would in actuality, "ease" into scheduled principal and interest payments in FY2016 through two years of interest only payments as the projects reaches completion. I have included in your documentation a spreadsheet showing the impact on our debt schedule through FY2020 along with a sheet showing City and MSBA shared project costs.

The absolute reality is that each year this City builds a budget and I would argue that the only investment dollars in that budget are the dollars that we put into education. Whether that is in programming or infrastructure, providing resources to educate our children is an investment like no other.

Many people have worked very hard over the past couple of years and I truly believe that we have come up with a great project. I respectfully request Council adopt the Order as presented.

Respectfully submitted,

Richard J. Alcombright
Mayor

RJA:ll



City of North Adams

In City Council

January 22, 2013

Ordered:

That the City of North Adams (the "City") appropriate the amount of Twenty Nine Million Six Hundred and Ninety Two Thousand Five Hundred and Ninety Four (\$29,692,594) Dollars for the purpose of paying costs of an addition and renovation at the Silvio O. Conte Middle School located at 24 Church Street, North Adams, including, but not limited to, restructuring the current middle school building into a K-7 grade school with the addition of classrooms and student facilities within, and the payment of all costs incidental or related thereto (the "Project"), which school facility shall have an anticipated useful life as an educational facility for the instruction of school children for at least 50 years, and for which the City may be eligible for a grant from the Massachusetts School Building Authority ("MSBA"), said amount to be expended under the direction of the City's School Building Committee. To meet this appropriation the City Treasurer, with the approval of the Mayor, is authorized to borrow said amount under Chapter 44 of the General Laws, or pursuant to any other enabling authority, and to issue from time to time bonds, notes or certificates of indebtedness of the City up to said amount, provided that the appropriation authorized through this Order be expended only on the Project. The City acknowledges that the MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any project costs the City incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the City; provided further that any grant that City may receive from the MSBA for the Project shall not exceed the lesser of (1) eighty percent (80%) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA; and that the amount of borrowing authorized pursuant to this vote shall be reduced by any grant amount set forth in the Project Funding Agreement that may be executed between the City and the MSBA.

That the City Treasurer is authorized to file an application with the appropriate officials of The Commonwealth of Massachusetts (the "Commonwealth") to qualify under Chapter 44A of the General Laws any and all bonds of the City to be issued pursuant to this Order, and to provide such information and execute such documents as such officials of the Commonwealth may require.

North Adams and MSBA Shared Project Costs

○ Construction Cost	\$21.9 million
○ Soft Costs (furniture, fees, expenses)	\$4.6 million
○ <u>Contingency</u>	<u>\$3.2 million</u>
• Total Project Budget	\$29.7 million
○ MSBA ineligible Costs (HazMat Abatement, Administrative Costs, Legal)	\$0.7 million
• Basis of Grant including Contingency	\$29.0 million
○ <u>MSBA Reimbursement Rate</u>	<u>80.00%</u>
• State Grant	\$23.2 million
• Remaining North Adams Cost (\$29.7m-\$23.2m)	\$6.5 million

Debt Schedule

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020*
Interest	\$379,106.00	\$295,681.00	\$249,327.00	\$201,536.00	\$152,387.00	\$102,852.00	\$54,149.00	\$26,422.00
Debt	\$1,190,348.00	\$1,228,860.00	\$1,106,534.00	\$1,135,603.00	\$1,184,460.00	\$1,197,977.00	\$1,181,841.00	\$186,645.00
BAN's to Long Term Debt		\$110,000.00	\$110,000.00	\$110,000.00	\$110,000.00	\$110,000.00	\$110,000.00	\$110,000.00
Conte Debt		\$102,500.00	\$102,500.00	\$370,000.00	\$370,000.00	\$370,000.00	\$370,000.00	\$370,000.00
TOTAL	\$1,569,454.00	\$1,737,041.00	\$1,568,361.00	\$1,817,139.00	\$1,816,847.00	\$1,780,829.00	\$1,715,990.00	\$693,067.00
		\$167,587.00	-\$168,680.00	\$248,778.00	-\$292.00	-\$36,018.00	-\$64,839.00	-\$1,022,923.00

* In FY 2019 the Water Filtration Upgrades(745,000), Landfill Closing (108,000) and Public Way Refunding (145,000) reach maturity



Office of the City Council

City of North Adams

10 Main Street Room 109
North Adams, Massachusetts 01247
(413) 662-3015

January 22, 2013

Fellow Councilors,

It is the duty of the City Council to appoint a City Clerk to a term of three years. Marilyn Gomeau has served the council and community well over the past nine years and I respectfully ask that we re-appoint her to a new term as the North Adams City Clerk.

Respectfully,

Michael C. Bloom
City Council President