

CITY OF NORTH ADAMS, MASSACHUSETTS
Office of the City Clerk

**Meeting of the North Adams City Council
Tuesday, November 23, 2021
7:30 PM**

I hereby notify that at twelve noon today, November 17, 2021, the following items of business have been filed with this office and will be acted upon at the Regular Meeting of the City Council in the City Council Chambers at City Hall, Tuesday evening November 23, 2021 at seven-thirty o'clock according to Section 8, Rules and Orders of the City Council.

This meeting can be viewed live on the Northern Berkshire Community Television station and will be posted to their website as soon as possible.

Cathleen M. King
City Clerk

AGENDA

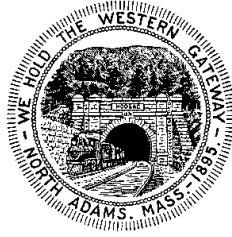
**REGULAR MEETING OF THE CITY COUNCIL
November 23, 2021**

Roll Call
Moment of Silent Remembrance
Pledge of Allegiance
Approval of the Minutes of November 9, 2021
Hearing of Visitors on Agenda

- | | |
|---------|--|
| 12,019 | An Ordinance to establish a commission to be known as the "Inclusion, Diversity, Equity and Access Commission." |
| 9625-5a | An Ordinance amending the Revised Ordinances of the City of North Adams, Sec. 21-12 Snow and Ice Removal from Sidewalks, by replacing existing language with language provided herein. |

- 11,790 Communication submitted by Councilor Bona regarding short term rentals and the requirements of the City.
- 12,024 Mayor's communication #62, a proclamation in recognition of Transgender Day of Remembrance.
- 12,025 Mayor's communication #63 appointing Daniel Caplinger to the North Adams Airport Commission.
- 12,026 Mayor's communication #64 appointing Bonnie Howland to the North Adams Airport Commission.
- 12,027 Mayor's communication #65 appointing Heidi Shartrand-Newell to the Human Services Commission.
- 12,028 Mayor's communication #66 appointing Piper Jacobs to the North Adams Youth Commission.
- 12,029 Mayor's communication #67 appointing Hope Motta to the North Adams Youth Commission.
- 12,030 Mayor's communication #68 appointing Jessica Sweeney to the North Adams Youth Commission.
- 12,034 Mayor's communication #70 appointing Alexa Macdonald to the North Adams Youth Commission.
- 11,569-c Mayor's communication #69 appropriating funds from the Sale of City Owned Property Reserve Account in conjunction with the Safe Routes to School project at Brayton Elementary School.
- 11,569-c An Order appropriating funds from the Sale of City Owned Property Reserve Account in conjunction with the Safe Routes to School project at Brayton Elementary School.
- 12,031 Communication from Councilor Bona requesting permission from the City Council to speak with the City Solicitor regarding the sale of the Mohawk Theater.
- 12,032 Communication from Councilor Bona requesting time for North Adams resident Gail Grandchamp to address the Council regarding the sale of the Mohawk Theater.
- 12,033 Communication from Councilor Bona requesting time for signees of a petition to speak to the Council regarding the sale of the Mohawk Theater.

Open Forum
Mayor's Concerns
Committee Reports and Minutes
Liaison Updates and Councilor Concerns
Correspondence
Adjournment



CITY OF NORTH ADAMS, MASSACHUSETTS
Office of the City Clerk

Meeting of the North Adams City Council
Tuesday, November 9, 2021
7:30 PM

MINUTES

A meeting of the North Adams City Council was held at 7:30 p.m. in Council chambers.

COUNCILORS PRESENT: Councilors Blackmer, Bona, Lamb, Oleskiewicz, Sapienza, Sweeney, and Wilkinson; a quorum was present.

Following the Pledge of Allegiance, the President called for approval of the minutes for the October 26, 2021 meeting. On the motion of Councilor Oleskiewicz, seconded by Councilor Sapienza, the minutes were approved.

The President called for the hearing of visitors.

Robert Smith, 163 North Street, stated that he was happy to see the Council come to a full 9 members, stating the importance for the citizens.

- 12,002-1 Communication from President Blackmer requesting the nomination of, voting on, and swearing in of the two non-incumbent candidates receiving the highest vote total on November 2, 2021, to fill empty Council seats.

The President filed the communication, and called for nominations. Councilor Lamb nominated Michael Obasohan and Marie Harpin to fill the empty Council seats, seconded by Councilor Oleskiewicz. Seeing no further nominations, the President called for a vote. With a unanimous yea vote, Obasohan and Harpin were sworn in by the Clerk. They took their seats at the tables, with voting privileges for the remainder of the session.

- 12,023 Mayor's communication #59 to allow for a brief presentation to Council from Main Street Hospitality Group and Peregrine Group.

The President filed the communication. The Mayor introduced Colin Kane of Peregrine Group, investor to the hotel currently named as Holiday Inn, and Sarah Eustace of the Main Street Hospitality Group, investor to the restaurant within that building.

Kane and Eustace outlined plans for the building, including internal and external improvement, signage, and staffing. The building will be renamed Hotel Downstreet. Work is expected to begin after Thanksgiving and continue for at least the next year. They expect to offer affordable lodging and food, and to activate the store fronts.

Councilor Wilkinson inquired about the building's current tenants, and Kane said they will receive relocation assistance. Councilors Bona, Oleskiewicz, and Sapienza welcomed the Group and expressed gratitude that the area would be renovated..

12,014-1 Mayor's communication #57 to reschedule the date for the Tax Classification Public Hearing.

The President filed the communication. The Mayor stated that the DLS timeline did not allow him to get information to the Council in a timely fashion, and therefore he requested that a special meeting be scheduled for November 16, 2021 at 7:30 pm to hold the public hearing on the FY22 tax classification.

12,022 Mayor's communication #58 appointing Rye Howard to the Planning Board for a term to expire February 1, 2026.

The President filed the communication. On the motion of Councilor Lamb, seconded by Councilor Oleskiewicz, it was VOTED to accept the appointment by unanimous yeas.

12,017 Communication from Councilor Lamb introducing a mobile meeting camera system for use in live broadcast of public meetings held in City Hall.

The President filed the communication. Councilor Lamb read the communication into the record. The camera was active during the meeting, live streaming through the City's Facebook page. Councilor Oleskiewicz inquired about multicasting, which is still under investigation. Councilor Bona inquired about costs; the Mayor assured all that it was within the tech budget. Councilor Lamb noted that the expectation would be that committees would incorporate the camera into their meetings, given proper training.

12,109 An ordinance to establish a commission to be known as the "Inclusion, Diversity, Equity and Access Commission."

On the motion of Councilor Lamb, seconded by Councilor Sweeney, a motion was made to pass the ordinance to a 2nd reading and publish as required by law. Following the motion, Councilor Lamb read the ordinance into the record. Councilor Lamb further stated that IDEA has been a working group for 1.5 years, established by this Council. It has conducted training and held regular meetings, and codification is needed for this body to make it a fully functional

commission. Councilor Lamb stated that this ordinance was based upon wording from other similar ordinances, and has been through General Government and the IDEA meetings several times for clarification.

The President sought an amendment to the language, changing Councilors to Councilor in the fourth paragraph. On the motion of Councilor Lamb, seconded by Councilor Harpin, it was VOTED to adopt the amended language.

Following the amendment to language, the Council VOTED unanimously by yea and nay vote to pass to a second reading and publish as required by law.

8431-10 Ordinance submitted by the City Clerk amending Chapter 1 of the Revised Ordinances, Section 1-15 entitled Ward Lines, relative to Wards 1 and 2, per the 2020 Federal Census.

On the motion of Councilor Sapienza, seconded by Councilor Wilkinson, it was VOTED by unanimous yea vote to adopted the amendment.

11.970-1a An ordinance amending the City of North Adams FY22 Compensation Plan to establish a single rate compensation schedule for the Public Safety Dispatch Staff (Grade X-A).

On the motion of Councilor Oleskiewicz, seconded by Councilor Sapienza, it was VOTED by unanimous yea vote to adopt the amendment.

11,992 Communication submitted by Councilor Sweeney regarding the “Not in My County Pledge” for a county-wide campaign coordinated by BRIDGE.

The President filed the communication. On the motion of Councilor Sweeney, seconded by Councilor Lamb, it was VOTED to postpone to the meeting of December 14, 2021.

12,020 Communication from President Blackmer requesting consideration of a Declination of a Right of First Refusal for 1454 South State Road, North Adams.

The President filed the communication. Discussion ensued for clarification of the location of the building; it was determined to be part of the Crane building. Councilor Wilkinson stated he would like to see this back on the tax rolls. On the motion of Councilor Lamb, seconded by Councilor Oleskiewicz, it was VOTED unanimously to accept the declination.

9625-5a An ordinance amending the Revised Ordinances of the City of North Adams, Sec. 21-12 Snow and Ice Removal from Sidewalks, by replacing existing language with language provided herein.

President Blackmer clarified that on section 21-12 was up for consideration. Discussion ensued, with Councilor Lamb stating that the amendment would allow for an enforceable ordinance and one that the City could also be compliant with. It would allow 24 hours, instead of 12, for the

clearing of sidewalks. Councilor Bona inquired about how notification and enforcement would take place. Response from Councilor Lamb indicated it would be at the decision and discretion of the police department. Several Councilors inquired about a need for approval from the solicitor. Councilor Lamb noted that the new policy could be communicated to the public via the Code Red emergency notification system. On the motion of Councilor Lamb, seconded by Councilor Sweeney, it was VOTED unanimously to remove the word DRAFT from the ordinance. On the motion of Councilor Lamb, seconded by Councilor Sapienza, it was VOTED to pass the amended amendment to a 2nd reading and publish as required by law, with a return to Council on November 23, 2021. The vote was a unanimous yea vote.

12,021 Mayor's communication #60 providing an update on the Mohawk Theater disposition.

The President filed the communication. The Mayor spoke, offering a synopsis of the purchase history of the theater, noting the many iterations of purchase proposals, Theater valuations, and work estimates. The City has invested 1.7 million dollars 13 years ago, yet the Theater remains unused/unusable. In December 2020 and RFP yielded two proposals in January 2021; neither was accepted. The RFP was reviewed and resubmitted in September 2021, and yielded one bid. That is the bid currently under consideration.

The Mayor stated that the bidder already owns the Dowling Building, and that the process to create a multipurpose location will be phased in over several years. Following purchase and closing, it will begin with the restoration of the marquee, with a full redevelopment within 2-4 years. The purchase price on the bid was roughly \$21,000 for an asking price of just over \$400,000. The Mayor provided written opinion from the solicitor stating that the Mayor could proceed with the bid without Council approval (MGL 30B, Sec. 16). To that end, the Mayor stated that he plans to award to the bid and continue with the purchase and sale.

President Blackmer asked for clarification that should the purchaser not meet the benchmarks established that the property would return to the City's possession. Councilor Wilkinson asked if the deal would be completed before the end of the Mayor's term, citing that the Mayor-elect may have other plans; the Mayor is hopeful for that outcome. Councilor Bona indicated his disappointment that this was the first the Council was hearing of the details, and precedent has always shown under-appraisal bids have been brought to Council for approval. Despite the solicitor's opinion to the contrary, Councilor Bona felt that administration should have brought the bid to Council for consideration, and that Council was being pushed to the side.

Councilor Harpin stated she was happy to see the proposal, but she felt that the proposal was being rushed at the end of term. She agreed with Councilor Bona that low bids have always come to Council, and that it seemed that the proposal was worded in way to allow another 4-5 years before progress would be shown.

Councilor Lamb inquired about when the precedent had been set. Councilor Bona stated he was unclear of the date, but then inquired if the law cited by the solicitor was one that could have been used all along. The Mayor responded in the affirmative. Councilor Bona stated that had he known about the law, perhaps the RFP might have been written differently.

The President called for Open Forum.

Larry Morrissey, 93 Meadow Street, stated that the sidewalks in his neighborhood are in terrible condition. He feels they have been overlooked and are not safe, and wonders what can be done to rectify the situation.

The President called for Mayor's Concerns.

The Mayor offered his congratulations to Mayor-elect Macksey, and wished for her a successful transition. He further congratulated Lynette Bond on a race well run. He congratulated the Councilors-elect, and Councilors Obasohan and Harpin on being sworn in. The Mayor acknowledged the Clerk's office for the work behind the successful election.

The Mayor stated that all the fire hydrants had been installed. He mentioned two that had been bagged, and noted that they had issues with water lines, which were/are under repair. He further stated that a bagged hydrant near the Beaver Mill was privately owned.

The Mayor stated that state support had been applied for with regard to the ordinance on dispatcher compensation.

The Mayor provided events on the following upcoming dates:

- Thursday, November 11 – Veteran's Day parade at 10:40, ceremony at 11
- Friday, November 12 – Terra Nova - NBCC regarding transportation in Norther Berkshire County is the topic
- Friday, November 12 – noon-3:00 pm – Nonprofit Center of the Berkshires will hold a virtual volunteer fair
- Friday, November 19 - job fair at Terra Nova
- Wednesday, November 24 – Holiday Tree Lighting at 6 pm (rain date is Nov. 26). Tree donors include Mark and Ruth Miller, and Hope and Shaun Bencher. The Mayor thanked all City employees who make this event happen.

Finally, the Mayor asked everyone to remember to shop and support local businesses during the holiday season.

The President called for Committee Reports and Minutes. Seeing none, she called for Liaison Updates and Councilor Concerns. Councilor Oleskiewicz stated that on Saturday, November 19, volunteers are needed to help remove flags from gravesites. People can meet at 10:00 am behind the Veteran's Skating Rink.

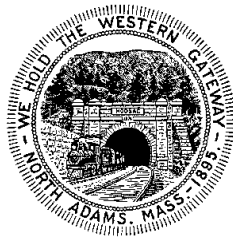
Councilor Lamb reminded residents to dispose of flags respectfully and appropriately. He stated that there is a bin for this outside the fire department.

Councilor Blackmer offered congratulations to all the newly elected officials, and to the Clerk's office for a successful election. She inquired about the plan for the City's menorah; the Mayor said he would confirm the dates.

Seeing that there was no correspondence to address, the meeting was adjourned at 9:02 pm on the motion of Councilor Lamb, seconded by Councilor Sweeney.

A True Record
Attest,

s/Cathleen M. King
City Clerk



CITY OF NORTH ADAMS, MASSACHUSETTS

Office of the Mayor
Thomas W. Bernard

Communication #	Subject	Date
62	Proclamation in Recognition of Transgender Day of Remembrance	November 23, 2021

Honorable Members of the City Council
North Adams, Massachusetts

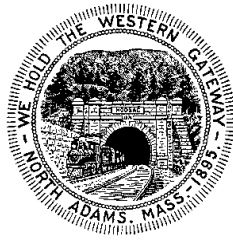
Dear Honorable Councilors:

I request time on the November 23, 2021, City Council meeting agenda to present a proclamation in recognition of Transgender Day of Remembrance, which was observed November 20, 2021.

Respectfully submitted,

Thomas W. Bernard
Mayor

TWB



CITY OF NORTH ADAMS, MASSACHUSETTS

Office of the Mayor
Thomas W. Bernard

Communication #	Subject	Date
63	Appointment to the North Adams Airport Commission	November 23, 2021

Honorable Members of the City Council
North Adams, Massachusetts

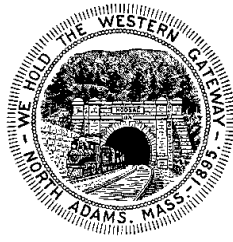
Dear Honorable Councilors:

I am pleased to recommend Daniel Caplinger to serve as a member of the North Adams Airport Commission for a term to expire March 1, 2023. Mr. Caplinger brings aviation as well as practical experience to the board and will be an effective member of the Commission. **This recommendation is presented for Council approval.**

I request Council confirmation of this appointment recommendation, retroactive to August 24, 2021.

Respectfully submitted,

Thomas W. Bernard
Mayor



CITY OF NORTH ADAMS, MASSACHUSETTS

Office of the Mayor
Thomas W. Bernard

Communication #	Subject	Date
64	Appointment to the North Adams Airport Commission	November 23, 2021

Honorable Members of the City Council
North Adams, Massachusetts

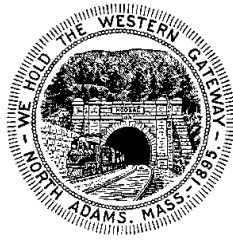
Dear Honorable Councilors:

I am pleased to recommend Bonnie Howland to serve as a member of the North Adams Airport Commission for a term to expire March 1, 2024. Ms. Howland brings fiscal management as well as practical experience to the board and will be an effective member of the Commission. **This recommendation is presented for Council approval.**

I request Council confirmation of this appointment recommendation, retroactive to October 13, 2021.

Respectfully submitted,

Thomas W. Bernard
Mayor



CITY OF NORTH ADAMS, MASSACHUSETTS

Office of the Mayor
Thomas W. Bernard

Communication #	Subject	Date
65	Appointment to the North Adams Human Services Commission	November 23, 2021

Honorable Members of the City Council
North Adams, Massachusetts

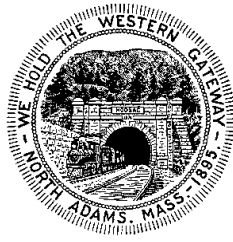
Dear Honorable Councilors:

I am pleased to recommend Heidi Shartrand-Newell to serve as a member of the North Adams Human Services Commission for a term to expire February 1, 2024, to complete the balance of the unexpired term of Ashley Shade following Ms. Shade's resignation from the Commission. **This recommendation is presented for Council approval.**

I request Council confirmation of this appointment recommendation.

Respectfully submitted,

Thomas W. Bernard
Mayor



CITY OF NORTH ADAMS, MASSACHUSETTS

Office of the Mayor
Thomas W. Bernard

Communication #	Subject	Date
66	Appointment to the North Adams Youth Commission	November 23, 2021

Honorable Members of the City Council
North Adams, Massachusetts

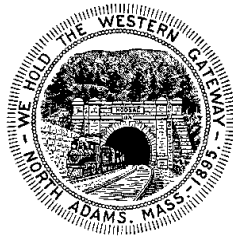
Dear Honorable Councilors:

I am pleased to recommend Piper Jacobs to serve as a member of the North Adams Youth Commission for a term to expire December 1, 2024. **This recommendation is presented for Council approval.**

I request Council confirmation of this appointment recommendation.

Respectfully submitted,

Thomas W. Bernard
Mayor



CITY OF NORTH ADAMS, MASSACHUSETTS

Office of the Mayor
Thomas W. Bernard

Communication #	Subject	Date
67	Appointment to the North Adams Youth Commission	November 23, 2021

Honorable Members of the City Council
North Adams, Massachusetts

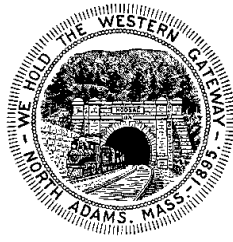
Dear Honorable Councilors:

I am pleased to recommend Hope Motta to serve as a member of the North Adams Youth Commission for a term to expire December 1, 2024. **This recommendation is presented for Council approval.**

I request Council confirmation of this appointment recommendation.

Respectfully submitted,

Thomas W. Bernard
Mayor



CITY OF NORTH ADAMS, MASSACHUSETTS

Office of the Mayor
Thomas W. Bernard

Communication #	Subject	Date
68	Appointment to the North Adams Youth Commission	November 23, 2021

Honorable Members of the City Council
North Adams, Massachusetts

Dear Honorable Councilors:

I am pleased to recommend Jessica Sweeney to serve as a member of the North Adams Youth Commission for a term to expire December 1, 2024. **This recommendation is presented for Council approval.**

I request Council confirmation of this appointment recommendation.

Respectfully submitted,

Thomas W. Bernard
Mayor



CITY OF NORTH ADAMS, MASSACHUSETTS

Office of the Mayor
Thomas W. Bernard

Communication #	Subject	Date
70	Appointment to the North Adams Youth Commission	November 23, 2021

Honorable Members of the City Council
North Adams, Massachusetts

Dear Honorable Councilors:

I am pleased to recommend Alexa Macdonald to serve as a member of the North Adams Youth Commission for a term to expire December 1, 2023. **This recommendation is presented for Council approval.**

I request Council confirmation of this appointment recommendation.

Respectfully submitted,

Thomas W. Bernard
Mayor



CITY OF NORTH ADAMS, MASSACHUSETTS

Office of the Mayor
Thomas W. Bernard

Communication #	Subject	Date
69	An Order Appropriating Funds from the Sale of City Owned Property Reserve Account in Conjunction with the Safe Routes to School project at Brayton Elementary School	November 23, 2021

Honorable Members of the City Council
North Adams, Massachusetts

Dear Honorable Councilors:

Enclosed with this Communication is an Order to appropriate \$40,000.00 from the Sale of City Owned Property reserve account and appropriate said funds to Public Services Engineering/Purchased Services account for the acquisition of right-of-way for the Safe Routes to School project in the vicinity of Brayton Elementary School (the Project).

Pursuant to G.L. c.44 s.63 the proceeds of the sale or other disposal of real estate may be used by a city, town, or district for “any purpose or purposes for the which the city, town or district is authorized to incur debt for a period of five years or more.” Additionally, pursuant to clause 1 of G.L. c.44 s.7, cities and towns may incur debt for “the cost of engineering, architectural or other services for feasibility studies, plans or specifications as part of any acquisition or project; provided that the interest in land, asset acquired or project shall have a useful life of five years.”

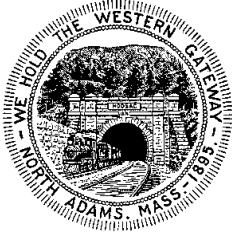
The project requires three permanent and seven temporary easements. A total five properties, three of which are under municipal ownership, will be affected in part by this project. No properties will be affected in whole.

Because the Project is funded by the Safe Routes to School grant program, the City of North Adams is required to acquire all rights-of-way necessary to complete the Project. Acquisition of right-of-way, which must be conducted in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, is a non-participating cost under the terms of the grant program. As such, the City of North Adams is responsible for the above referenced costs.

I request that the City Council approve the Order as submitted.

Respectfully submitted,

Thomas W. Bernard
Mayor



City of North Adams

In City Council

November 23, 2021

Ordered:

Whereas, the City of North Adams received a grant award from the Safe Routes to School grant program in the amount of \$598,255.00 (the Grant) to make road and sidewalk improvements to Brayton Hill Terrace and Brickyard Court in the vicinity of Brayton Elementary to enhance pedestrian safety (the Project); and

Whereas, the North Adams City Council accepted the Grant at its meeting of December 10, 2019; and

Whereas, completion of the Project requires municipal acquisition of right-of-way; and

Whereas, acquisition of right-of-way for the Project is not funded by the Grant;

Now, Therefore, it is Ordered, that the sum of **FORTY THOUSAND DOLLARS** (\$40,000.00) be and is hereby transferred from the Sale of City Owned Property reserve account and is hereby appropriated as follows:

3. Public Services

Engineering

Expenses

Contracted Services

Account #001-4110-5381

\$40,000.00



NORTH ADAMS CITY COUNCIL

RE: Mohawk Theatre RFP/Sale (9 pages)

11/17/2021

Dear Honorable Councilors,

Due to Council Rule #27, I am requesting members to allow me to ask questions to our solicitor/legal counsel about their decision on removing the city council from the Mohawk Theatre bid process. I would request for a committee to do similar, but time is of the essence as this sale is moving forward as we speak unless we can be assured it will not happen until our questions are answered.

I have watched three lengthy council meetings and reviewed minutes from the Community Development Committee meetings when the Mohawk Theatre was discussed, along with viewing documents following this letter. It was clear the city council always felt any bids under the assessed value would come back. The hesitation on the council giving approval was about not having any participation and lack of transparency if a full bid came in and preserving the marquee. Mayor Bernard is recorded stating bids coming at or above the assessed value of the Mohawk Theatre would not need council approval. He never said below assessed. I stated during the recorded Mohawk Theatre meetings all bids under the assessed value would come back, and the mayor did not argue or question that. Our RFP criteria states council must approve bids at any price below the assessed value (p. 6). Councilor Lamb posted a graphic about this last RFP which noted bids under the assessed value would come back to the city council (p. 7). In prior minutes on other RFPs Mayor Bernard is quoted when asked if council is part of any negotiations of the bid process, he states "Only if the amounts came below assessed value." (p. 7) I strongly believe all city council members approved selling the theater knowing it would come back with bids under the assessed value. There is nothing on video or in the minutes that would dispute that. So, I want to know how the solicitor believes otherwise. I want to know why the mayor is going against what the city council clearly stated we wanted to be part of no matter what the bid was, and what we have been part of in the past. Not only did this take away council input, but it removed public input. Does the solicitor know most members on the current city council have always been part of the approval process for bids under the assessed value and there was no reason they should have thought it changed after they voted on the Mohawk Theatre? Does the solicitor know everything that was discussed and understood by this council before approving the theater to be sold? I don't believe they do and by removing the city council from the process may make the sale illegal. The solicitor's opinion states the property and reasons for selling it under assessed value need to be listed with the Central Register (p. 8). The only thing I found on the Mohawk Theatre property on the state's Central Register was from 2002 when the

city wanted to purchase unit B. I couldn't locate anything from the current or past RFPs on that property but saw most other properties including Sullivan and Johnson School (p 9). The solicitor opinion states "If the governmental body decides to dispose of property at a price less than the value..." Who is the governmental body? Does that include the city council, which never approved to dispose of the property at a price less than value? Some of the questions I wish to ask the solicitor. Some of these answers may be easy, but unfortunately, it's not a simple process for a city councilor to ask our solicitor.

All our last agenda stated is we were going to get an update on the theater. There was no hint the low bid was accepted, the sale was moving forward, or anything pertaining about the buyer or their plan. The public wouldn't know specifics in advance to be able to speak against or in favor during Hearing of Visitors because no one knew that surprise was coming at us later in the meeting. We received a lengthy presentation on a private hotel we have no authority over, yet got nothing on what the plans for the Mohawk Theatre which we should have been involved in. How was this transparent?

I do not want to make this a pro one administration or anti another. The bid price, the buyer, and the project are not what I am disputing. My main objective is questioning the process and what our job has been on city council until now. What made the mayor request this opinion from the solicitor now when it has not been used once during any other properties that have come in front of us this administration? Why remove the city council? I want to make sure this is not being rushed through before all our questions can be answered by our solicitor or other offices if it deems necessary. Why did we spend five meetings discussing what we (city council) wanted for the sale of the theater if none of it mattered? We wanted transparency, information, being able to review the bid and have a public hearing, all which has been taken away from us with a last-minute questionable opinion eighteen months after our vote. Are you willing to set a new precedence for future administrations to remove the little authority we have when it comes to disposing and selling city properties, along with eliminating public hearing and input? Do you feel we've done due diligence of checks and balances with this? I am not ready to give that up so easy and I would be saying this no matter who was mayor, who the bidders are, and what the property or project was in front of us.

My concern is this may get rushed through and finalized before we have answers, and unless we can be assured nothing final will happen without our official input, I am looking to use City Council Rule #22 and reconsider our vote. It has been over one year since the city council voted and as a member on the prevailing side, I can bring forward a motion of reconsideration. I am asking the council to reconsider our vote for paper #11,767 an order authorizing the mayor to execute a purchase and sale agreement for the Mohawk Theater. Unless anyone else can suggest something to satisfy the needs of the public and make this more transparent before finalized, I don't see any other options? I would love to see the property sold, but I want it done correctly, and vetted appropriately.

Regards,

Keith Bona
North Adams City Councilor

Attached: Feb 26, 2019 opinion from Solicitor from Mayor to City Council; clip of minutes from #11,683; social media graphic publish by council member; Solicitor opinion 10/28/21; List front Mass. Central Register of North Adams Real Property

Debbie Pedercini

From: Mayor Bernard
Sent: Tuesday, February 26, 2019 12:09 PM
To: City Council
Subject: Clairification to Questions and responses
Attachments: 2019.02.25_REVISED response to Mohawk Theater questions.pdf

Councilors,

In speaking with the solicitor, I have amended the document circulated yesterday. In the section related to adoption of the disposition order I made the following change relative to the vote margin required:

Original: Per the City solicitor it takes a simple majority vote of the Council to adopt the disposition order.

Revised: Per the City solicitor it takes a 2/3 vote of the Council to adopt the disposition order.

This is the only content change, but I am circulating a revised copy for your reference.

TWB

Thomas W. Bernard
Mayor
City of North Adams, Massachusetts
10 Main Street
North Adams, MA 01247
(413) 662-3000 x3001
mayorbernard@northadams-ma.gov

Please note that e-mails to and from municipal officials are considered public records by the Secretary of Commonwealth. Confidentiality should not be expected.

From: Mayor Bernard
Sent: Monday, February 25, 2019 3:37 PM
To: City Council
Subject: RE: Questions and responses

Good afternoon, Councilors. Please see the attached response to the questions submitted with regard to the Mohawk Theater.

TWB

Thomas W. Bernard
Mayor
City of North Adams, Massachusetts
10 Main Street
North Adams, MA 01247
(413) 662-3000 x3001
mayorbernard@northadams-ma.gov

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CITY OF NORTH ADAMS, MASSACHUSETTS

Office of the Mayor
Thomas W. Bernard

February 25, 2019

To: North Adams City Councilors

From: Thomas W. Bernard, Mayor

Re: Information regarding the Mohawk Theater

This memorandum addresses the questions submitted by Councilors regarding the Mohawk Theater as related to the disposition order submitted at the February 19, 2019, meeting of the City Council.

Prior investment

Over the past 20 years, the city has invested over \$2.65 million in federal, state, and local funds to support study and stabilization efforts related to the Mohawk Theater.

Year	Funder	Amount	Use
1998	U.S. Department of Agriculture	\$20,000	Feasibility study led by Downtown Development, Inc.
1998	MA Department of Housing and Community Development	\$72,835	Marquee restoration
1999	MA Development Finance Agency	\$800,000	Architectural and engineering plans
2008-2009	MA Office of Travel & Tourism (2005 MOTT)	\$500,000	Restoration and stabilization
	MA Office of Travel & Tourism (2006 MOTT)	\$300,000	
	Local Funds	\$300,000	
	U.S. Economic Development Admin. (FY 2005 EDI)	\$200,000	
	U.S. Economic Development Admin. (FY 2008 EDI)	\$196,000	
	U.S. Economic Development Admin. (FY 2009 EDI)	\$190,000	
2010-2011	U.S. Economic Development Admin. (FY 2010 EDI)	\$39,000	MCLA partnership/ programming study
2017		\$8,600	Roof repairs
2012-2013	Massachusetts Cultural Council	\$30,000	Pro-forma analysis and updated cost estimates for acquisition feasibility to connect to Dowlin building
Total		\$2,656,435	

Historic status and use restrictions

According to the National Park Service, "Under Federal Law, the listing of a property in the National Register places no restrictions on what a non-federal owner may do with their property up to and including destruction, unless the property is involved in a project that receives Federal assistance, usually funding or licensing/permitting." However, while the city's Monument Square district, which includes the Mohawk Theater footprint, is listed within the National Register of Historic Places, the theater itself is not specifically registered as a historic property.

On the state side, the city received two awards from the Massachusetts Historical Commission's State Historic Rehabilitation Tax Credit Program, including \$750,000 in fiscal year 2007, and \$341,000 in fiscal year 2008, for a total of \$1,091,000. The North Adams Partnership was awarded an additional \$100,000 in state rehabilitation tax credits in fiscal year 2013.

Credits are transferrable under certain conditions. In order to be eligible for these credits, a project must meet several criteria, most notably that it must produce income and be owned by a for-profit entity that is subject to Massachusetts state income tax liability; and must meet federal standards for rehabilitation. Note that this is not a restriction on use but on whether a renovation project would be eligible to access rehabilitation tax credits.

Process

Adoption of disposition order

Per the City solicitor it takes a simple majority vote of the Council to adopt the disposition order. The Council has the authority to amend any order, including by placing restrictions on the disposition of the Mohawk Theater property.

Under Rule 22 (Reconsideration) of the *North Adams City Council Rules of Order 2019*, should the disposition order fail to pass the order would not be eligible for reconsideration for one year without a Council vote to reconsider the motion:

Rule 22— Reconsideration

Any matter or question voted on by the City Council shall not be again considered or again voted upon by said City Council within one (1) year from the date of final disposition unless a majority of all members of said City Council vote to reconsider the same. The motion to reconsider being made by a City Council member who voted on the prevailing side.

Request for Proposals (RFP) schedule

Should the disposition order pass, the specific schedule for issuance, response, and notification will be delineated clearly in the RFP document, a copy of which will be circulated to the Council for informational purposes.

RFP criteria and developer selection

The goal in issuing the RFP is to determine whether there is a viable private development plan for the theater, independent of the city. Using past RFPs as a model, developers will be asked to describe the use, investments and improvements, development timeline, and anticipated benefit to the city stemming from the proposed project. Evaluation criteria will include factors including (but not limited to) price, intended use, and feasibility of redevelopment, funding, and operating plans.

The administration will appoint a committee of city staff to review proposals and make recommendations to the mayor who will make the final determination of the developer with whom to enter into purchase and sale negotiations

Purchase and sale authorization and negotiation

As contracting authority for the City of North Adams the mayor has the responsibility to negotiate any purchase and sale agreement in conjunction with legal counsel for both parties. This is subject to approval by the City Council on any proposal at a price below the assessed value; however the mayor is authorized to enter negotiation on any proposal at or above the assessed value without further action on the part of the Council. It is important to note that no city owned property recommended for sale in recent years has come in at the assessed value.

The purchase and sale agreement will include provisions to avoid a situation in which the property remains under contract for an extended period of time and then is not renovated or maintained. While specific terms and conditions would depend on the nature of the proposal to be negotiated, the agreement will include clearly defined benchmarks and timeframes, including a guaranteed down payment at the time the agreement is executed as well as a timeline for completing due diligence and closing the sale. Once this timeline is developed the details will be communicated to the City Council.

As with other agreements, either party has the right to cancel a purchase and sale agreement prior to closing. The agreement also may include provisions to enable the city to terminate the agreement or retake possession of the property if the developer fails to meet benchmarks.

Finally, subject to the nature of the proposal and the interest of the developer, the city may support project planning, design, permitting, and fundraising efforts related to any approved redevelopment project.

11,683

The President presented Mayor's communication #46 regarding RFP timeline for sale of City owned properties.

The Mayor gave a brief update and timeline for the Ashland Street/Salt Yard, Notre Dame Church and School, Pownal Land, and Sullivan School properties that will be out for RFP on July 11, 2018.

President Bona inquired as to whether the Council would be made part of any negotiations,

Mayor Bernard stated, only if the amounts came below the assessed value.

MOHAWK THEATER RFP


A brief summary of key RFP aspects for interested parties (this is not an official document)

THE FULL SUBMISSION PACKET CAN BE OBTAINED BY
EMAILING ABOUTIN@NORTHADAMS-MA.GOV

\$436,800 **ASSESSED
VALUE**

any offer below assessed value will need to be reviewed, considered and voted on by the City Council


**OCTOBER 25TH
11AM DEADLINE**

 all completed submissions must be made by this date/time to
Angie Ellison, Chief
Administrative Officer, 10 Main
St, North Adams, MA 01247

MARQUEE **MUST BE
MAINTAINED**

the historic integrity of the marquee must be preserved in perpetuity in all cases. **NAMA**

REQUIRED \$10,000

 all submissions must include a \$10,000 bond or certified check to be considered complete.

INTERESTING PROPERTY ASPECTS

- Located in a Federal Opportunity Zone
- Located in a newly designated 40R Smart Growth Zoning District
- Is a "condominium" due to original mode of purchase by the City

The full RFP packet is 23 Pages.

\$436,800

any offer below assessed value will need to be reviewed, considered and voted on by the City Council

From: [Lee S. Smith](#)
To: [Mayor Bernard](#)
Cc: [Joel Bard](#)
Subject: Mohawk Theater
Date: Thursday, October 28, 2021 2:19:44 PM
Attachments: [theater_20211026131427.pdf](#)

Warning! This message was sent from outside your organization and we were unable to verify the sender.

[Allow sender](#) | [Block sender](#)

Mayor Bernard,

You have asked whether City Council approval is required to approve the sale of the Mohawk Theater where the only response to a request for proposals for the disposition of the property included an offered purchase price that is less than the assessed value of the property. In my opinion, there is no requirement that further authorization by the City Council is required.

I have reviewed G.L. c. 30B s. 16, the City's Charter, Ordinances, and prior vote of the City Council. Ordinance Section Article XXIII-B, Section 2-128B provides:

"The Mayor shall seek authorization of the City Council pursuant to General Laws, Chapter 40, Section 3 to sell or dispose of any real estate owned by the City of North Adams. No order authorizing the sale or disposition of real estate shall be passed finally on the date on which it is introduced, except in cases of special emergency involving the health or safety of the people or their property as declared in a preamble thereto separately voted on and receiving the affirmative vote of 2/3 of the members of the City Council. Every such order, except emergency orders as hereinbefore defined, shall be published once in full in a local newspaper with a daily circulation, prior to final passage by the City Council. Written notice of intent to sell or dispose of such real estate shall be given to the owners of real estate directly abutting and/or within a one-hundred-foot radius of the real estate to be sold or disposed of prior to the Mayor seeking authorization of the City Council, except in cases of emergency as hereinbefore defined."

By Order No. 11,767 dated February 12, 2019 (copy attached), the City Council declared the Mohawk Theater property "to be no longer needed for municipal purposes, and available for disposition; and shall maintain the historic integrity of the marquee in perpetuity" [sic], and ordered that the Mayor is authorized to dispose of the property in accordance with the requirements and provisions of G.L. c. 30B, s. 16 "to include executing a purchase and sale agreement for the property."

In my opinion, said City Council Order gives broad authority to the Mayor to dispose of the property without further authorization, provided that the disposition complies with G.L. c. 30B.

G.L. c. 30B, s. 16(g) provides, "If the governmental body decides to dispose of property at a price less than the value as determined pursuant to paragraph (b) [determining the value through procedures customarily accepted by the appraising profession as valid], the governmental body shall publish notice of its decision in the central register, explaining the reasons for its decision and disclosing the difference between such value and the price to be received."

You have stated that the purchase price offered pursuant to the Request for Proposals is significantly less than the assessed value of the property which I assume was properly determined as required by G.L. c. 30B, s. 16(b).

As such, notice of the sale for less than fair market value must be published in the Central Register explaining the reasons for the decision to sell at such price and disclosing the difference between the property value and the price to be received. Such notice must further include a valid public purpose, including without limitation, promotion of the public welfare. The link to the Central Register form to be filed is included below. Please let me know if you need my assistance

List of all Real Properties listed by North Adams on the State's Central Register. Where is the Mohawk Theatre?

10/19/2016	North Adams, City of 10 Main St. North Adams, MA 01247	DPW Facility. Sale and reuse of 12.5 acres of real property located at 151 Kemp Ave., Lot 1, including the former Sullivan Elementary School.	9/25/2019	North Adams, City of Office of Community Development City Hall, 10 Main Street, Rm. 107 North Adams, MA 01247	Sale/Reuse of approx. 216 acres of raw woodland in the Town of Pownal, VT that was once part of the City's water distribution system, known as Pownal Map # 8, Span 495-156-11264.
2/22/2017	North Adams, City of 10 Main Street North Adams, MA 01247	Sale and reuse of real property located at 151 Kemp Avenue, Lot 1, including the former Sullivan Elementary School.	9/25/2019	North Adams, City of Office of Community Development City Hall, 10 Main Street, Rm. 107 North Adams, MA 01247	Sale/Reuse of real property for a 4-bedroom single-family home at 367 Houghton Street with about 1,416 SF of finished floor space.
3/22/2017	North Adams, City of 10 Main Street North Adams, MA 01247	Sale and reuse of DPW Building, 22 acres of land w repair garage building.	9/25/2019	North Adams, City of Office of Community Development City Hall, 10 Main Street, Rm. 107 North Adams, MA 01247	Sale/Reuse of real property for the former Johnson School located at 21 Williams St. (Map 81, Lots 71, 72 & 78). A 2-level masonry building with about 36,395 SF of gross building area.
3/22/2017	North Adams, City of 10 Main Street North Adams, MA 01247	Sale and reuse of the Notre Dame Church and former school building.	9/25/2019	North Adams, City of Office of Community Development City Hall, 10 Main Street, Rm. 107 North Adams, MA 01247	Sale/Reuse of real property for the former Sullivan Elementary School located at 151 Kemp Ave. (Map 169, Lot 1). A 4-level masonry bldg. with about 55,216 SF.
3/22/2017	North Adams, City of 10 Main Street North Adams, MA 01247	Sale and reuse of 2.55 acres of land, former salt shed.	11/27/2019	North Adams, City of Office of Community Development - City Hall 10 Main Street, Room 107 North Adams, MA 01247	Sale/Reuse of real property on a four-bedroom single-family dwelling home at 367 Houghton Street with approximately 1,416 sq. ft. of finished floor space.
6/7/2017	North Adams, City of 10 Main Street North Adams, MA 01247	Sale and reuse of property consisting of a mixed-use former mill building containing 157,807 sf of gross building area.	12/25/2019	North Adams, City of Office of Community Development City Hall - 10 Main Street (Rm. 107) North Adams, MA 01247	North Adams Airport Commission is seeking a qualified proposer for the operation of a restaurant in the airport's administration building. The restaurant will have the opportunity to cater to the general public and aviation community by utilizing space leased in the administration building as well as an outdoor patio adjacent to, and immediately to the west of the building.
9/13/2017	North Adams, City of 10 Main Street North Adams, MA 01247	Sale and reuse of real property located at 151 Kemp Avenue, Lot 1, including the former Sullivan Elementary School.	7/22/2020	North Adams, City of Office of Community Development City Hall 10 Main St. (Rm. 107) North Adams, MA 01247	Sale of real property for a 4-bedroom single-family home at 367 Houghton Street with about 1,416 SF of finished floor space.
11/29/2017	North Adams, City of Office of Procurement (Rm. 219) City Hall - 10 Main Street North Adams, MA 01247	Sale of municipal surplus land as located in Pownal, VT, that used to be part of the city's water distribution system, approx. 216 ± acres.	9/9/2020	North Adams, City of Office of Community Development - City Hall Main Street, Room 107 North Adams, MA 01247	Sale and reuse of property located at 214 & 222 East Main St., with total acreage at about 1.2 acres. Both Map 125 on former church being Lot 55, and former school bldg. being Lot 56. Church about 17,414 SF & school bldg. about 33,336 SF.
7/11/2018	North Adams, City of Office of Procurement, Rm. 219 City Hall - 10 Main Street North Adams, MA 01247	Sale and reuse of city's former watershed area, approx. 216.6 acres as located on 21 White Oaks Road, Pownal, VT (local Map 8, SPAN # 495-156-11264).	9/9/2020	North Adams, City of Office of Community Development - City Hall Main Street, Room 107 North Adams, MA 01247	Sale and reuse of real property for the former Sullivan Elementary School located at 151 Kemp Ave. (Map 169, Lot 1); a 4-level masonry bldg. with about 55,216 SF.
7/11/2018	North Adams, City of Office of Procurement, Rm. 219 City Hall - 10 Main Street North Adams, MA 01247	Sale and reuse of property located at 214 & 222 East Main St. w/ total acreage at about 1.2. Both Map 125 with former church being Lot 55, and former school bldg. being Lot 56. Church about 17,414 SF & school bldg. about 33,336 SF.			
7/11/2018	North Adams, City of Office of Procurement, Rm. 219 City Hall - 10 Main Street North Adams, MA 01247	Sale and reuse of real property with buildings thereon as located on Ashland Street (local Map 245-Lot6) for about 2.55 acres and presently used as the municipal Salt Shed.			
7/11/2018	North Adams, City of Office of Procurement, Rm. 219 City Hall - 10 Main Street North Adams, MA 01247	Sale and reuse of the former Sullivan School located at 151 Kemp Ave. (local Assessor's Map 169-Lot 1) for about 12.5 acres with a 4-story masonry school bldg.; with about 55,216 SF.			



Office of the City Council
City of North Adams
10 Main Street Room 104
North Adams, Massachusetts 01247
(413) 662-3000, Ext. 1

Honorable Members of the City Council
North Adams, MA

Dear Honorable Councilors,

I request time on the agenda of the November 23, 2021 City Council meeting for Gail Grandchamp, 82 Hall Street, North Adams, MA 01247 to speak regarding the sale of the Mohawk Theater. Please see Ms. Grandchamp's letter, attached.

Respectfully submitted,

Keith Bona
City Councilor

attach.

November 15, 2021

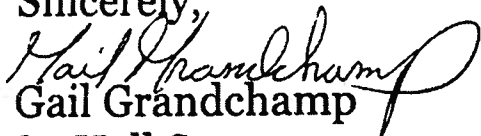
Dear Councilor Bona,

Please be advised that I am extremely upset about the sale of the Mohawk Theater for approximately \$20,000 without any community input on this matter. I would like the opportunity to speak to the City Council at your next meeting which I believe to be Tuesday, November 23, 2021, at 7:30PM. I respectfully ask that you and the entire City Council revisit this topic/process and do whatever is necessary to stop this transaction as I do not feel it is in the best interest of the community, especially with no input from the residents or public review.

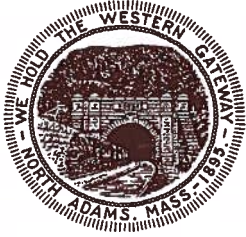
Please contact me at 413-652-2919 to confirm that this will be added to the agenda and that I will have an opportunity to speak about this topic.

Thank you in advance for your consideration.

Sincerely,


Gail Grandchamp

82 Hall Street
North Adams, MA 01247
413-652-2919



Office of the City Council
City of North Adams
10 Main Street Room 104
North Adams, Massachusetts 01247
(413) 662-3000, Ext. 1

Honorable Members of the City Council
North Adams, MA

Dear Honorable Councilors,

I request time on the agenda of the November 23, 2021 City Council meeting to allow for any of the signees of the attached petition to speak regarding the sale of the Mohawk Theater.

Respectfully submitted,

Keith Bona
City Councilor

attach.

November 16, 2021

City Council
c/o Office of City Clerk
10 Main Street
North Adams, MA 01247

Dear City Council,

We, the concerned citizens of North Adams, MA, petition the City Council to hear public discussion on Mayor Thomas Bernard's proposal to bypass the City Council and sell the Mohawk Theater for \$21,000. Please add this proposed sale to the agenda at your 23 November meeting.

Further, we request that the Mayor provide all information regarding the proposed buyer, to include any and all silent or undisclosed partners or sources of funding other than his own.

We state that the petitioners are residents of North Adams, MA:

Signature.	Printed Name.	Address.
------------	---------------	----------

1. Diane Morrissey Diane MORRISSEY
93 Meadow St. N.A.

2. Laurence Morrissey LAURENCE MORRISSEY
93 Meadow ST N.A.

3. Jean LaVigne Jean M. LaVigne
96 Cherry St N.A.

4. Ann Moriarty Ann Moriarty
46 Johnson St N.A.

5. Paul J Moriarty PAUL J. MORIARTY
46 Johnson St. North ADAMS

6. Paul M. Gaudreau Paul N. Gaudreau
2 Duane Ave. North Adams

7. Sheryl LeFave Cheryl LeFave
12 Rich St N.A.

8. Barbara E. Murray Barbara E. Murray
803 East Main St. N. Adams, MA 01244

9. Glen Murray Glen E. Murray
803 East Main St. N.A.

10. Carol M Boucher Carol M Boucher
429 East Main St North Adams, MA 01241

11. Michael H Boucher Michael H Boucher
429 East Main St North Adams, MA

12. Kathryn Boucher Kathryn Boucher
429 East Main St. North Adams MA