



THE CITY OF POUGHKEEPSIE NEW YORK

COMMON COUNCIL MEETING MINUTES

Tuesday, February 6, 2024, 6:30 p.m.

Common Council Chambers

Welcome to the regularly scheduled Meeting of the City of Poughkeepsie Common Council the date is Tuesday, February 6, 2024, and the time is 6:30 pm.

- I. **ROLL CALL: 8 Present, 1 Absent (Councilmember Menist absent)**
- II. **REVIEW OF MINUTES:**

Common Council Public Hearing – January 16, 2024
Common Council Meeting – January 16, 2024

Motion to accept the minutes: Vice Chair Shook, Seconded by Councilmember Grant

CC PH & CCM Minutes of January 16, 2024 - VOICE VOTE						
			Yes/Aye	No/Nay	Abstain	Absent
☒ Accepted ☐ Defeated ☐ Tabled	Councilmember Henry	Voter	☒	☐	☐	☐
	Councilmember Menist	Voter	☐	☐	☐	☒
	Councilmember Brown	Voter	☒	☐	☐	☐
	Councilmember James	Voter	☒	☐	☐	☐
	Councilmember Grant	Voter	☒	☐	☐	☐
	Councilmember Deichler	Voter	☒	☐	☐	☐
	Majority Leader Patterson Thompson	Voter	☒	☐	☐	☐
	Vice Chair Shook	Voter	☒	☐	☐	☐
	Chairman Wilson	Voter	☒	☐	☐	☐

- III. **READING OF ITEMS by the City Chamberlain of any items not listed on the printed agenda.**
- IV. **PRESENTATIONS OF PETITIONS AND COMMUNICATIONS:**
1. **FROM MITCHELL M. MEDINA, ESQ,** a notice of property damage sustained on October 28, 2023
- V. **PUBLIC PARTICIPATION:**
1. **Karen Hochhauser – Homer Pl / Jewish Federation of D.C.**
2. **Dana Bullers – Banter Blvd/Jewish Federation of D.C**

3. Rabbi Renni Altman – Hooker Ave / Vassar Temple
4. Stephen Lipton – Adriance Ave
5. Lynn Lipton -Adriance Ave
6. Melanie Gallooly – Lown Court
7. Michael Butts – Lown Court
8. Fred Nagel – Clay Court
9. Lee Klein – Seaman Rd/Schomre Israel
10. Michael Foster S. Grand Ave/Temple Beth-El
11. Israa Uro – Sutton Pk
12. Shlomo Krasner – Whittier Blvd/Schomre Israel
13. Kane Bowers – Union St/For the Many
14. Nickolas Gannon – Purton Lane/MHVDSA
15. MJ Witenberg -Catharine St/MHVDSA
16. Sam Finnerman- Ivy Terrace
17. Caroline Miller -Virginia Ave
18. Daniel Attona – College Ave/For the Many
19. Warren Jones – N. Clover St
20. J.F. Mulligan – Route 55, Lagrangeville
21. David Feldman – DeRonde Rd, Monsey/Neturei Karza
22. Mark Marinoff – Miller Rd
23. Benji Mathot – Lexington Ave
24. Dahul Kumar – Raymond Ave/Poughkeepsie 4 Palestine
25. Matthew Dodson – Hammersley Ave
26. Terry Horner – S. Hamilton
27. Laurie Sandow – S. Grand Ave*
28. Melissa Hoffmann – Lexington Ave
29. Clay Antonatos – Delano St
30. Jamar Cummings – Maple St
31. Jonah Koen – Lagrange Ave/For the Many-MHVDSA
32. Naomi Brooks – S. Grand Ave*
33. Azzy Reckess
34. Gacos Reckess
35. Kyle Neismender – Garfield Pl
36. Brian Hooper – Academy St*
37. Florence Ann Nielson – Hammersly Ave
38. Brendan Lynch – Hook Rd
39. Kim Breden – Montgomery St *

*** Submitted written comments**

At 6:50pm, **Councilmember Grant** made a motion to suspend the rules to allow more people to speak, which was seconded by **Councilmember Deichler**

Motion to Suspend the Rules to allow additional public participation ROLL CALL VOTE						
☒ Accepted ☐ Defeated ☐ Tabled			Yes/Aye	No/Nay	Abstain	Absent
	Councilmember Henry	Voter	☒	☐	☐	☐
	Councilmember Menist	Voter	☐	☐	☐	☒
	Councilmember Brown	Voter	☐	☒	☐	☐
	Councilmember James	Voter	☒	☐	☐	☐
	Councilmember Grant	Voter	☒	☐	☐	☐
	Councilmember Deichler	Voter	☒	☐	☐	☐
	Majority Leader Patterson Thompson	Voter	☐	☒	☐	☐
	Vice Chair Shook	Voter	☒	☐	☐	☐
	Chairman Wilson	Voter	☒	☐	☐	☐

Laurie Sandow comments,

City of Poughkeepsie Common Council meeting, February 6, 2024

Booker T. Washington, educator, journalist and orator, said:

– “A lie doesn’t become truth, wrong doesn’t become right, and evil doesn’t become good, just because it’s accepted by a majority.”

Ida B. Wells, journalist and anti-lynching crusader, said:

– “The way to right wrongs is to turn the light of truth upon them.”

On January 2nd, I watched every councilmember, our new Mayor included, place their hands on a Bible and solemnly swear to support and uphold the Constitution of the United States, the Constitution of the State of New York, and the Charter of the City of Poughkeepsie. Council incumbents did this fully conscious that during their past term they had violated this city’s Charter at least three times, and that every person sworn into office had violated the Voting Rights Act in order to protect or obtain their current or future elected seats. Becoming the first black Mayor of the City of Poughkeepsie is a laudable achievement. But how ironic that victory was achieved, at least in part, through violation of the Voting Rights Act.

The Council’s Voting Rights Act violation developed from the Council’s willful delays and subsequent rejection of new boundaries recommended by a duly-constituted Redistricting Commission, a plan consistent with all constitutionally and legally accepted principles of representation. Instead, the Council substituted their own citywide gerrymandered boundaries which not only “cracked” what would have been a Hispanic plurality in a newly-drawn 7th ward, but preserved and protected the seats of both incumbents and people they wanted to assure as replacements in the wards of term-limited incumbents.

[“Cracking” is a partisan gerrymandering practice that involves spreading voters of a particular type among many districts in order to deny sufficient voting representation in any given district.]

Despite the City of Poughkeepsie Charter requirement, Councilmembers had ignored and/or refused their obligation to provide their written objections to the Redistricting Commission’s boundaries in writing [“Should the common council fail to approve such plan, it shall return it to the redistricting commission with its specific objections and those of individual members of the council stated in writing.”]. Instead, they only submitted and approved their own map with borders gerrymandered in alternative to the Redistricting

Commission's newly-proposed citywide Ward boundaries. Their alternative boundaries effectively assured that candidates Nedra Thompson and Ondie James would not have to face each other during primaries in the Commission's newly-proposed 5th Ward, and that candidates Nathan Shook and Megan Deichler would not have to face each other during primaries in the Commission's newly-proposed 8th Ward.

At the last Council meeting, brand new Council Chair Da'Ron Wilson defrauded the public when he declared that he changed Common Council meeting dates to avoid conflict with County Legislature meetings—something he and other Councilmembers admitted they'd been discussing since December 2023, even before taking their oaths of office. The Dutchess County Legislature posted their schedule on December 29, 2023, and ratified it on January 3, 2024. That was plenty of time for all Councilmembers to have informed themselves about the existence or absence of conflicting dates, for all Councilmembers to have reached out to constituents about a possible new schedule, and far enough in advance that Open Meetings Law (OML) should never have been violated by Resolution #R-24-11's last-minute addition to the January 16 agenda. Despite this, all but one of the go-along-to-get-along councilmembers colluded in this fraud.

The one dissenting voice, Councilmember Evan Menist, stated that he was both unaware of the last-minute addition and also that he had not agreed to the addition as a consent agenda item. In fact, the general public did not learn of this last-minute addition until only after the Council meeting had gotten underway. The exception was CivicPlus subscribers who did not fare much better, receiving notice of the addition at only 12:24pm on the same day of the meeting.

Since 2012, §103(e) of the Open Meetings Law has required public bodies or agencies that host public bodies to make available to the public, within reasonable limitations, the records scheduled to be discussed during open meetings prior to the meetings. Since October 19, 2021, Chapter 481 of the Laws of 2021 §103(e) of the Law requires that copies of records be made available to the public at least 24 hours before a public meeting, to the extent practicable. Surely it would have been "practicable" for a change that councilmembers had been discussing since December 2023, allegedly approved at a caucus meeting prior to January 16, to have been added at least 24 hours before the Council meeting of January 16, where it first appeared as a consent agenda item, a device the Council continues to use without a written governing policy.

Without the Tuesday change, the Council’s normal Monday schedule had only two conflicts—one after the Martin Luther King Jr. holiday, and one in the summer that would have been easy to change. The Council’s newly-approved Tuesday dates also have two conflicts: the same now-past holiday, and another far worse schedule conflict occurring in October. In addition, the schedule change has caused both the public and at least two of the City’s volunteer boards (Planning and Waterfront Advisory) to scramble their lives and scuttle previously approved schedules—a further Council act of contempt toward the public and this city’s volunteers. Mr. Wilson has also been attaching his name to resolutions as “introduced by”, while the Council’s own rules explicitly require agenda items to identify a Councilmember as its sponsor.

It’s amusing and ironic to watch Corporation Counsel Rebecca Valk manifest her crush on me—or her seriously unhealthy obsession—by instructing people on how and why I should be ejected from the room, while failing to instruct this Council about their violations of oath and law, failing to initiate the removal of Anthony LaRocca from the HDLPC after his attendance rules violations, and failing to seek removal of Chris Petsas from the Planning Board for his documented history instructing evasion of Freedom of Information requests.

From: Petsas, Christopher D.

Sent: [REDACTED]

To: [REDACTED]

Cc: [REDACTED]

Subject: City Emails

Good afternoon,

Email updates:

1) All new council members now have their city emails up and running with their own password set - please remember to use your official city email for official business ONLY - use your gmail or other accounts for all other stuff - stuff that you may not want to be open to the public for their review.

A few more ironies on tonight’s agenda: this Council’s continued use of consent agendas without a written policy—an “innovation” that descends from the reviled Councilmember Sarah Salem and which violates the norms and practices of transparent and responsible organizations to place only non-controversial items on consent agendas. Or Megan Deichler’s R-24-24 resolution tonight which contains the phrase: “explicitly, publicly, and unambiguously clarify” when, week after week, this Council avoids explicitly, publicly, and unambiguously entering their knowledge, their ignorance and their opinions on the record.

Poughkeepsie Common Council Meeting February 6, 2024

Naomi Brooks, S. Grand Avenue

Good evening. As the new administration and new council members settle into your roles, I am sure there are 1,001 issues to understand and to-do lists that seem never-ending. Tonight, I bring up one that impacts the owners of historic properties who are eager to care for their homes using appropriate ways.

Our Historic District and Landmark Preservation Commission operates under a preservation ordinance created by this council, and in it there are requirements for **who** shall serve on the commission, and also for their **attendance** at meetings.

One member of the commission missed four meetings in 2023, and your ordinance states that that attendance record automatically forfeits their appointment and creates a vacancy on the commission. However, that commissioner attended and voted at the January 2024 meeting.

Here is the language in your ordinance.

“Any Commission member missing three consecutive meetings shall automatically forfeit his or her appointment, and as such, a vacancy shall automatically be created. Further, any member missing four meetings in a calendar year, except for major illness, shall forfeit his or her appointment, creating a vacancy.”

In addition, Chair Wilson’s election to this Common Council has created a second vacancy, as he had been serving as a member of the Historic Commission.

Even though there were project applications before the commission, lack of attendance plus insufficient members meant that quorum could not be met, and four of the monthly meetings were cancelled in 2023. The property owners were not able to obtain guidance or permission to move forward with their projects. We’ve again started 2024 without a full roster of qualified commissioners, causing difficulties moving commission business forward. This reflects poorly on our city, and on the seriousness and timeliness with which commissions conduct city business.

The Mayor’s office has previously received a number of applications for this commission from city residents who meet your ordinance’s criteria. Please encourage Mayor Flowers to review those applications and post the position on the city website to encourage others to apply, to make the process transparent, to select new members, and to remove the member who forfeited their appointment.

Thank you for your attention to this matter. This is a law the Common Council created, and I am asking that you make sure it is followed correctly.

From: Brian Hooper brian.c.hooper@gmail.com

Date: Feb 6, 2024 at 6:04:40 PM

To: Brian Hooper brian.c.hooper@gmail.com

Brian Hooper

128 Academy St, Poughkeepsie, NY 12601

Good Evening Commission Members

Congratulations to those of you who are new on the commission and welcome back to those returning.

I appreciate the opportunity to speak tonight.

I am here to share publicly excerpts of a communication I shared earlier with Mayor Flowers, Corporation Council, City Administration and the HDLPC Chair.

I think it's appropriate to share publicly to ensure transparency if actions are taken from comments I shared.

Last month on the HDLPC we had a vote for Vice Chair which resulted in a tie. To understand if the Charter or Code addressed how to address a tie.

While doing research I came across the following in the code.

Any Commission member missing three consecutive meetings shall automatically forfeit his or her appointment, and as such, a vacancy shall automatically be created. Further, any member missing four meetings in a calendar year, except for major illness, shall forfeit his or her appointment, creating a vacancy.

Outside of the official November meeting, we talked about Mr Anthony LaRocca's attendance or specifically his absences; and following the November discussion I understood absences, if pre-communicated, were considered Excused. Looking at the Code I don't see anything about Excused absences. I did a scan of the remainder of the Code and the Charter and didn't find anything about Excused absences.

In 2023, Commissioner LaRocca missed four HDLPC Commission meetings, May 11th, July 13th, Sep 14th and Nov 9th. I can't speak to whether or not he was absent due to major illness as caveated in the Code.

I would like to add, I'm relatively new to reviewing legislation as I take my initial steps into public service roles. I'm familiar with the Code and Charter from our review of the Draft Zoning Code and interactions with the prior administration. I'm not an expert in the legal nuances of or between the Code and Charter and appreciate understanding if I have misinterpreted or missed something.

I appreciate you all taking the time to review; and thank you for your attention to this matter.

From: Kim Breden bredenkim@gmail.com
Subject: Comments from Kim Breden re: HD&LPC
Date: Feb 6, 2024 at 5:44:47 PM
To: Kyle kneiswen@gmail.com, brian.c.hooper@gmail.com

Good evening, Mayor Flowers and Members of the Council. Thank you for the opportunity to share my comments being read on my behalf.

My name is Kim Breden. I am the proud owner of the F.R. Bain House located at 57 Montgomery Street.

I believe it is vitally important that the historic commission be composed of members who are active, engaged, educated and committed to the duties and tasks of the Historic District & Landmark Preservation Commission (HDLPC). It is essential that members show up to meetings, do their research, review projects in detail, engage in necessary conversations and uphold the values and traditions of historic preservation in our community.

I know, first-hand, how important this is.

In 2015, the commissioners, at that time, encouraged and assisted me in landmarking my 1889 Queen Anne Cottage Victorian. Then again in 2018, the Commission approved and supported me in the daunting task of a complete exterior restoration project for my home.

In 2022, my home, the F. R. Bain House, received the New York State Historic Preservation Award. This is truly an honor and I am grateful for the assistance, encouragement and dedication from the Commission.

It is important that these standards of dedication be upheld for our community and the future of historic preservation. Thank you for your time and consideration.

Sincerely

Kim Breden

Proud Owner

The Bain House

VI. CHAIRMAN'S COMMENTS AND PRESENTATIONS:

I would like to first say thank you to everyone that came out to express their concerns and feelings today. [It] definitely shows the different sides of the city and the different views and everyone's exercising. I would like to commend everyone for having some sense of decorum today as they expressed their concerns.

I also just want to make note that myself and other fellow Councilmembers just came back from a NYCOM training which was very good and informative to us, myself specifically. One of the sessions was directly about Open Meetings Law. And just so people can understand moving forward, we have learned some things that we will eventually be changing with the Council and from NYCOM, some information that was provided that had valid facts [about] Open Meetings Law (OML). So, we will be looking at providing some, you know, pamphlets or some readers for people to understand and get the information, because a lot of times some things are misquoted. But just for general purpose, for the public to know that Open Meetings Law states that the public body, which is considered the Common Council, does not have to let – even though we would never do this – does not have to let the public speak. Open Meetings Law state specifically that the Common Council, the public body in front, is there to have their meetings and conduct the meetings and the public is allowed to observe, listen and hear the updates to the laws and regulations. [I'm] not saying that we will be changing that, but I know a lot of times Open Meetings Law violations are quoted and that is not a fact of the thing. That is not a fact at all. Open Meetings Law does not state any of the things that have been stated. Like I said, I will be trying to come up with a little pamphlet or something to give people more information so that they know the correct things that are going on with our government.

As I had stated before, as we are moving forward looking to make sure that we're able to serve the City of Poughkeepsie the best we can. We are constantly learning and trying to make [ourselves] better by getting professional training and professional development and making sure we're writing, making sure we're correcting any of the things that go in place.

That is it for my comments. Now we have the Mayor's comments.

VII. MAYOR'S COMMENTS:

Thank you Chair, [there] are quite a few things to say.

One, I do appreciate everyone that's coming out to, give your concerns and, about what's happening and enlightening us and also educating us, on the matter. It's very heartbreaking to see what's happening. And I know the councilmembers and I will continue to talk about it and how ways that we can continue to try to keep our community united, and deal with the issues that are happening in our in our city. And I'm hoping as we continue to move forward, that many of the individuals, especially if you are resident in the City of Poughkeepsie that you continue to come to our councilmembers, especially on matters that directly affect us. When our children, you know, we still have children, are involved in gun violence. And I know there were many times where during a few years where we were constantly dealing with that and out marching in the streets against the gun violence, because it was our young kids that we see growing up that were being killed in our streets.

And it would be nice if many people that were even here who came to join us, because we are

a community. So we also have people who are dying continuously with the fentanyl overdoses. You know, to the point where it's our police officers are seeing it on a daily basis, you know, and so we need more help with that as well.

So, we do appreciate everyone coming out, but also hope that you also elevate your voice in some of the things that we're seeing on a daily basis that our kids are seeing continuously. And they feel that this community does not care because they're not out here elevating their voices and complaining about that when they walk past us every day when they're going to school. So we all have concerns that it's affecting our community and our children, and I hope we can get to the point that we can work together in trying to deal with that. On a local and on a federal level.

I also wanted to talk about as far as, we did go to NYCOM. There were a few of us and I also went to the U.S. Conference of Mayors that was in Washington. We were able to get information in regards to getting access to funding with as many of you know, we're still a fiscal stressed city and the EPA is putting a rule out. And so far they're telling us that we have to replace the lead service lines within a certain period of time, which is going to be a little difficult within the ten year period. So, there are some individuals and municipalities across the country that are giving their comments in regards to it and hoping that there can be some adjustments to that. So that way we can be in compliance, and also not bankrupt our city. So, we've been looking at ways of how we can access additional funds. I'm happy to say that we were, able to get more resources and information that we can use in our finance department. Dr. Martinez has been taking some of that information that I sent, and they are looking into other ways of accessing more of those federal funds they enrolled in boot camps. And to, be able to utilize the infrastructure hub that we were, that were told to us. So, I appreciate the fact that they acted on that right away. As soon as we came back to bring that information.

As far as the state is concerned, the, the governor have brought up about, with her budgets kind of look like moving forward that is going to impact us. So we need to closely watch what is being proposed. And to ensure that small cities like ourselves, do get the funding and get, the support that we need. And so we're just urge residents to kind of keep an eye on that as well.

I have to say, just on a good note here. I attended a groundbreaking ceremony for Habitat for Humanity. It was nice to know that there are two homes being developed on at South Grand. And I want to congratulate, the two families, Marshall family and the Martin-Nelson family. These are two hard working families that work very hard to get into home. And I appreciate Habitat's work and being able to provide an opportunity for them. So you will see two families who will be in new homes in the next few months on South Grand. So if you see them in the neighborhood, please welcome them.

Also too, I attended a meeting where the county is going to make changes to the transportation, the bus system. And, they said it could be going into effect sometime in June or July. So, I urge our council members to please talk with your residents that have bus routes going in their area. There are some seniors that were very concerned because some of the routes are going to end. Which means that they would not have a way to get to the stores or get to their doctor's appointments. So we will work closely with the county to find other ways and resources that will fill that gap. And pushing the Dial-A-Ride and also finding ways to, assist them, with the payments of these services because they're a little bit more. And so we got to talk with the county to figure out how we can work that out.

Also, for those who are interested in applying for the Youth Grant, the deadline is February 9th, so I urge you to please, submit your applications by that date. And also, if you're interested in the Community Block grant for the organizations, that is also due February 9th. We encourage

residents to please sign up on the city website, because that's where a lot of information is going to go on the website if you want to know about any updates, the upcoming meetings. There are many meetings on besides the Council meetings, there's Zoning meeting and Planning and others. And so the website is going to give a lot of information. We're going to utilize that more. So I ask you to please sign up and you'll get updates that will come to your phone so you'll be more aware what's going on, especially when it comes down to emergencies. Like we had the snow emergency. We're going to utilize the website even more, so you'll understand what is expected of residents during the snowstorms.

Also, I wanted to address, there was an issue came about South Cherry and Main. On the corner there about the garbage and about furniture and mattresses. They are being removed. Continuously. Our DPW has been out there removing it. The owners have been issued violations. But also too is that people are continuing to dump there. So, we're trying to find a way to be able to work more with the owners and with our building and code enforcement. Because, you know, it's not fair to the owner either, when the fact is every time they're moving it, someone's dumping again. So, we are addressing that issue and also working with our police department and with some community partners to be able to kind of help, clear out that area, kind of clean up the area, and also help the individuals into services that are provided by the county.

So we are looking at a crisis center that will be over on Main Street temporarily for a little while to help these individuals, to move into these services that are out there. So hopefully we'll have that in place within the next couple of months.

Also, there was a situation that came up about Virginia Avenue. I totally understand, you know, your - the issues that you're going through, and it's a nightmare to have to deal with that. The gun violence and how to deal with drug activity.

I dealt with it in my ward, in the Fifth Ward for many, many years, and there were ways that we were able to help fight that. And so, I will be working with you, along with Councilmember Grant, to look at different ways of how we can address that. I thought that that situation was pretty much under control, but apparently it is not. And this has been going on for a while, but it goes in waves. So that's something we have to get on top of, because we don't want it to get out of hand, especially when it gets warm. So, we'll be working on that, and working with our, the police department in regards to that as well.

There was a comment that was made about the Historical District Local Preservation Commission. I do appreciate individuals that came forward in regards to the vacancy and also in regards to the absentee of one of the members. I found out about this last week. Apparently, no one had told the previous administration. Not that I know of. This was brought to my attention. We had a meeting with... regarding the boards and commissions, and, looked at all the vacancies for all the boards and commissions. So, I will be putting out on the website, calling for resumes to fill some of those positions. Also too, the Councilmembers have a few appointments. So I'm going to be working with the Chair in conjunction.

And looking at that, because we both have appointments on the same boards. I just want to clarify something that I did receive - resumes that was given to me by a particular Councilmember.

That's not how I operate.

What would happen is it would go out on the website, and then anyone who is interested in applying or want to, to, serve on that board, then they can submit the resume. And the individuals,

if you know of those individuals, all of the resumes I received, please encourage them to apply. To submit those applications, we will be filling those vacancies and it will be addressing, the absentees, that happened last year.

But again, we can't address something that we don't know. So I do appreciate, individuals that came forward. But again, those resumes will be reviewed through a process and not by individuals just handing it to you and saying you should be considering these people. So that's how those resumes came to me. So, I just want to make sure I clarify that.

And what do we have to do moving forward? I think that is it. I had quite a bit going on here.

The other thing I wanted to say is congratulations to the school district that they actually, received the designation of being in good standing for the New York State Education Department. So they're going in the right direction. This is for the elementary schools.

And I also want to say, you know, happy Black History Month and hope that many of you will go to some of the events that are going to be happening throughout the city and as we know about it. We'll try to put that out to too, to let people know. So that way we can come together as a community and celebrate Black History Month.

And I think that's it.

VIII. NEW & UNFINISHED BUSINESS & ANNOUNCEMENTS:

IX. REPORTS OF COMMITTEES AND BOARDS: NONE

*A motion to approve the consent agenda was made by **Councilmember Shook** and seconded by **Councilmember Deichler**.*

CONSENT AGENDA:

X. MOTIONS AND RESOLUTIONS:

1. **R-24-12**, Resolution Supporting the NYS My Brother's Keeper (NYSMBK) Challenge

RESOLUTION R-24-12

A RESOLUTION SUPPORTING THE NEW YORK STATE MY BROTHER'S KEEPER (NYSMBK) CHALLENGE

INTRODUCED BY CHAIRMAN WILSON

WHEREAS, many boys and young men of color contend with disparities in education, exposure to the criminal justice system, low employment rates, and other barriers as they attempt to reach their full potential; and

WHEREAS, in February 2014, President Obama launched the My Brother’s Keeper (MBK) initiative to address persistent opportunity gaps in employment, educational outcomes and career skills and to eliminate barriers preventing boys and young men of color from realizing their potential; and

WHEREAS, MBK focuses on six milestones of achievement:

1. Entering School Ready to Learn;
2. Reading at Grade Level by 3rd Grade;
3. Graduate from High School;
4. Complete Post-secondary Education or Training;
5. All Youth Out of School are Employed; and
6. All Youth Remain Safe from Violent Crime.

WHEREAS, New York State My Brother’s Keeper (NYSMBK) focuses on six additional priorities towards achievement:

1. Ensuring equitable access to high quality schools and programs;
2. Expanding prevention, early warning and intervention services;
3. Using differentiated approaches based on need and culture;
4. Responding to structural and institutional racism;
5. Making comprehensive and coordinated support services widely available; and
6. Engaging families and communities in a trusted and respectful way.

WHEREAS, the City wishes to accept the My Brother’s Keeper Community Challenge.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The “Whereas” clauses set forth above are incorporated herein as if set forth at length; and
2. The Common Council of the City of Poughkeepsie formally declares its support of the MBK Initiative, the NYSMBK Community Challenge and the City’s efforts to work with community leaders, educators, business leaders and youth development experts across sectors to design and implement programs and strategies that expand opportunities for boys and young men of color, and all youth, to realize their full potential.
3. The City Council will work with the Mayor, the City of Poughkeepsie School District and the Poughkeepsie Children’s Cabinet to extend appropriate effort and resources to support the implementation of the MBK Initiative and the NYSMBK Community Challenge.

SECONDED BY COUNCILMEMBER SHOOK

R-24-12 - VOICE VOTE						
☒ Accepted ☐ Defeated ☐ Tabled			Yes/Aye	No/Nay	Abstain	Absent
	Councilmember Henry	Voter	☒	☐	☐	☐
	Councilmember Menist	Voter	☐	☐	☐	☒
	Councilmember Brown	Voter	☒	☐	☐	☐
	Councilmember James	Voter	☒	☐	☐	☐
	Councilmember Grant	Voter	☒	☐	☐	☐
	Councilmember Deichler	Voter	☒	☐	☐	☐
	Majority Leader Patterson Thompson	Voter	☒	☐	☐	☐
	Vice Chair Shook	Voter	☒	☐	☐	☐
	Chairman Wilson	Voter	☒	☐	☐	☐

2. R-24-13, Bond Resolution Authorizing Improvements to Sewage Pump Stations and Wastewater Treatment Plant

RESOLUTION
R-24-13

EXTRACT OF MINUTES
[Supplemental Resolution for Pump Station Renovation,
CSO & WWTP Improvements]

A regular meeting of the Common Council of the City of Poughkeepsie, Dutchess County, New York was convened in public session at the Council Chambers, City Hall, Poughkeepsie, New York on February 6, 2024 at 6:30 o'clock p.m., local time.

The meeting was called to order by Chairman Wilson, and, upon roll being called, the following members were:

PRESENT:

Councilmember at Large Da’Ron Wilson
Councilmember Ernest Henry
Councilmember Terricena Brown
Councilmember Nathan Shook
Councilmember Ondie James
Councilmember Christopher Grant
Councilmember Nedra Patterson Thompson
Councilmember Megan Deichler

ABSENT: Councilmember Evan Menist

The following persons were ALSO PRESENT:

Commissioner of Finance Brian Martinez, PhD

The following resolution was offered by Councilmember Wilson, seconded by Councilmember Shook, to wit;

SUPPLEMENTAL BOND RESOLUTION DATED FEBRUARY 6, 2024

A RESOLUTION AUTHORIZING IMPROVEMENTS TO SEWAGE PUMP STATIONS, IMPROVEMENTS TO THE WASTEWATER TREATMENT PLANT, AND IMPROVEMENTS TO ADDRESS COMBINED SEWER OVERFLOW AT AN INCREASED ESTIMATED MAXIMUM COST OF \$15,275,854

WHEREAS, the City of Poughkeepsie, Dutchess County, New York (the “City”) has previously approved its Bond Resolution No. R15-16 dated February 17, 2015, as supplemented by a Supplemental Bond Resolution No. R15-70 dated September 8, 2015, and as supplemented by a Supplemental Bond Resolution No. 22-21 dated February 22, 2022 regarding Pump Station Renovation, CSO & WWTP Improvements (as supplemented, the “Bond Resolution”), authorizing the issuance of serial bonds for the purposes described therein in an aggregate principal amount not to exceed \$11,256,000; and

WHEREAS, the City has previously issued its EFC Clean Water Facility Note-2017A (Bond Anticipation Note) in the principal amount of \$8,419,500 dated April 27, 2017, renewed by its EFC Clean Water Facility Note—2022 (Bond Anticipation Note) in the principal amount of \$8,350,146 dated April 7, 2022 pursuant to the Bond Resolution; and

WHEREAS, based on updated estimated costs of the improvements to be financed pursuant to the Bond Resolution, including certain costs to be financed with the proceeds of grants awarded to the City and costs in connection with secondary clarifiers, it is necessary to increase the estimated project cost by \$2,905,854, without increasing the authorized amount of obligations;

NOW THEREFORE BE IT RESOLVED, by the Common Council of the City of Poughkeepsie, Dutchess County, New York (the "City") (by the favorable vote of not less than two-thirds of all of the members of the Common Council) as follows:

SECTION 1. Section 1 of the Bond Resolution is hereby amended and supplemented to read as follows:

SECTION 1. The improvement of pump stations including Meyer Avenue Pump Station, Pine Street Pump Station and Cedar Avenue Pump Stations, the improvements to the Wastewater Treatment Plant, the completion of storm sewer line separation to eliminate the Riverview Combined Sewer Overflow, installation of bioretention and porous pavement at Liberty Street lot to reduce stormwater runoff to address combined sewer overflows; and the relining of sewer pipes at various locations in the City to address sanitary sewer overflows to the receiving waters, is hereby authorized at an increased estimated maximum cost of \$15,275,854, and said amount is hereby appropriated therefor. It is hereby determined that said purpose is an object or purpose described in subdivision 4 of paragraph a of Section 11 of the Local Finance Law, and that the period of probable usefulness of said purpose is thirty years.

SECTION 2. Nothing in this resolution shall be deemed to impair the obligations previously issued pursuant to the Bond Resolution.

SECTION 3. It is hereby determined that the above purposes constitute a Type II action as defined under the State Environmental Quality Review Regulations, 6 NYCRR Part 617, which has been determined under SEQR not to have a significant impact on the environment.

SECTION 4. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

(1) Such obligations are authorized for an object or purpose for which the City is not authorized to expend money; or

(2) The provisions of law which should be complied with at the date of the publication of this resolution are not substantially complied with; and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication; or

(3) Such obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 5. The Chamberlain is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of the Local Finance Law, in the Poughkeepsie Journal, being a newspaper having a general circulation in the City and hereby designated as the official newspaper of the City for such publication.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

Councilmember at Large Da’Ron Wilson	VOTING	Aye
Councilmember Ernest Henry	VOTING	Aye
Councilmember Evan Menist		Absent
Councilmember Terricena Brown	VOTING	Aye
Councilmember Nathan Shook	VOTING	Aye
Councilmember Ondie James	VOTING	Aye
Councilmember Christopher Grant	VOTING	Aye
Councilmember Nedra Patterson Thompson	VOTING	Aye
Councilmember Megan Deichler	VOTING	Aye

The foregoing resolution was thereupon declared duly adopted.

CERTIFICATE OF RECORDING OFFICER

The undersigned hereby certifies that:

(1) She is the duly qualified and acting Chamberlain of the City of Poughkeepsie, Dutchess County, New York (hereinafter called the "City") and the custodian of the records of the City, including the minutes of the proceedings of the Common Council, and is duly authorized to execute this certificate.

(2) Attached hereto is a true and correct copy of a resolution duly adopted at a meeting of the Common Council held on the 6th day of February, 2024 and entitled:

SUPPLEMENTAL BOND RESOLUTION DATED FEBRUARY 6, 2024

A RESOLUTION AUTHORIZING IMPROVEMENTS TO SEWAGE PUMP STATIONS, IMPROVEMENTS TO THE WASTEWATER TREATMENT PLANT, AND IMPROVEMENTS TO ADDRESS COMBINED SEWER OVERFLOW AT AN INCREASED ESTIMATED MAXIMUM COST OF \$15,275,854

(3) Said meeting was duly convened and held and said resolution was duly adopted in all respects in accordance with law and the regulations of the City. To the extent required by law or said regulations, due and proper notice of said meeting was given. A legal quorum of members of the Common Council was present throughout said meeting, and a legally sufficient number of members (two-thirds of the Common Council) voted in the proper manner for the adoption of the resolution. All other requirements and proceedings under law, said regulations or otherwise incident to said meeting and the adoption of the resolution, including any publication, if required by law, have been duly fulfilled, carried out and otherwise observed.

(4) The seal appearing below constitutes the official seal of the City and was duly affixed by the undersigned at the time this certificate was signed.

IN WITNESS WHEREOF, the undersigned has hereunto set her hand this 8th day of February, 2024

-SEAL-

Deputy City Chamberlain

Executive Summary–Not a part of the Resolution

This Supplemental Bond Resolution for **Pump Station, CSO & WWTP Improvements** includes:

<u>Purpose</u>	<u>Capital Budget Items</u>	<u>PPU (Max. Period for Financing)</u>	<u>Total Estimated Maximum Cost</u>	<u>Other Funds*</u>	<u>Bonds Authorized</u>
Section 1. Renovation of Meyer Avenue Pump Station, Pine Street Pump Station, and Cedar Avenue Pump Station, WWTP Improvements and Storm Sewer Separation (including Liberty lot) and Sewer Pipe Lining	Pump Station renovation, WWTP improvements CSO Storm Sewer (including Liberty lot GIGP green infrastructure)	30 years	\$7,756,000 2015 original resolution plus \$3,500,000 2015 first supp. Resolution plus \$1,114,000 2022 second supp. Resolution plus \$2,905,854 2024 third supp Resolution for a total project cost of \$15,275,854	\$30,000 CWSRF Engineering Planning Grant \$2,806,500 WIIA \$1,200,000 GIGP	\$7,756,000 2015 resolution plus \$3,500,000 2015 first supp resolution Total borrowing authorized \$11,256,000 [no change in borrowing authorization]
Grand Total			\$15,275,854	\$4,036,500	\$11,256,000

*Estimated Other Funds, Sources:

CWSRF Engineering Planning Grant

WIIA 2015 Round 2 Grant, NYS EFC CWSRF Project C3-7348-03-00 PFA dated as of April 27, 2017

Green Innovation Grant Program Project C3-7348-05-00 GIGP Application 1583 Grant Agreement dated as of October 9, 2019

2. **R-24-14**, Resolution Urging NYS to Fully Invest in Critical Water Infrastructure Improvements.

RESOLUTION
R-24-14

**Resolution Of The Poughkeepsie Common Council Urging New York State To Fully Invest
In Critical Water Infrastructure Improvements**

INTRODUCED BY COUNCILMEMBER DEICHLER:

WHEREAS, the State of New York has appropriated \$500 million for clean water infrastructure projects through the Water Infrastructure Investment Act and Intermunicipal Grant programs in each enacted budget since 2019; and,

WHEREAS, of the nearly 500 grant applications submitted to the Water Infrastructure Investment and Intermunicipal Grant programs in 2023, only 156 were at least partially funded; and,

WHEREAS, the American Society of Civil Engineers estimates that New York State must invest at least \$44.2 billion to repair and improve its drinking water infrastructure over the next 20 years; and,

WHEREAS, Poughkeepsie and Dutchess County have benefited from over \$52 million from Water Infrastructure Investment Act and Intermunicipal Grant projects supporting major water infrastructure upgrades, including new storage and water main upgrades, surface water treatment plant upgrades, the UV disinfection system upgrades, and other critical interventions; and,

WHEREAS, New York State law grants all people the right to clean water; and,

WHEREAS, bond counsels have expressed concerns that bonding for the full replacement of lead service lines may violate New York State's constitution; and,

WHEREAS, the City cannot reasonably replace all of the city's lead service lines in accordance with new and forthcoming US EPA guidelines and mandates without bonding;

NOW, THEREFORE, BE IT RESOLVED, that the Poughkeepsie Common Council urges New York State to appropriate \$600 million for clean water infrastructure projects in the state budget for fiscal year 2025, \$100 million of which must support lead service line replacement programs throughout the state; and,

BE IT FURTHER RESOLVED, that the Poughkeepsie Common Council urges New York State to explicitly, publicly, and unambiguously clarify the constitutionality of local governments bonding for the full replacement of lead service lines.

SECONDED BY COUNCILMEMBER SHOOK

R-24-14 - VOICE VOTE						
☒ Accepted ☐ Defeated ☐ Tabled			Yes/Aye	No/Nay	Abstain	Absent
	Councilmember Henry	Voter	☒	☐	☐	☐
	Councilmember Menist	Voter	☐	☐	☐	☒
	Councilmember Brown	Voter	☒	☐	☐	☐
	Councilmember James	Voter	☒	☐	☐	☐
	Councilmember Grant	Voter	☒	☐	☐	☐
	Councilmember Deichler	Voter	☒	☐	☐	☐
	Majority Leader Patterson Thompson	Voter	☒	☐	☐	☐
	Vice Chair Shook	Voter	☒	☐	☐	☐
	Chairman Wilson	Voter	☒	☐	☐	☐

3. ORDINANCES AND LOCAL LAWS:

ACTION AGENDA:

4. MOTIONS AND RESOLUTIONS:

5. ORDINANCES AND LOCAL LAWS:

1. **LL-24-04**, adopting a Local Law of the City of Poughkeepsie, Dutchess County entitled "CITY OF POUGHKEEPSIE HOTEL AND MOTEL OCCUPANCY TAX LAW"

(LL 24-04)

A LOCAL LAW OF THE CITY OF POUGHKEEPSIE, DUTCHESS COUNTY ENTITLED "CITY OF POUGHKEEPSIE HOTEL AND MOTEL OCCUPANCY TAX LAW"

SPONSORED BY COUNCILMEMBER MENIST:

BE IT ENACTED, by the Common Council of the City of Poughkeepsie as follows:

Section 1. The City Code shall be amended to amend the Administrative Code to add a new Section 14.85 entitled "City of Poughkeepsie Hotel and Motel Occupancy Tax Law."

14.85 City of Poughkeepsie Hotel and Motel Occupancy Tax Law

A. Definitions

For purposes of this Section, the following definitions shall apply:

EFFECTIVE DATE: The date that the local law creating this section 14.85 is filed with the Secretary of State.

HOTEL or MOTEL: Any facility consisting of rentable living space or spaces (units) and providing lodging on an overnight basis and shall include those facilities designated and commonly

known as "Bed-and-Breakfast", "Air B&B," "short term rentals" and "tourist" facilities.

OCCUPANCY: The use or possession, or the right to the use or possession, of any room in a hotel.

OCCUPANT: A natural person who, for a consideration, uses, possesses or has the right to use or possess any room in a hotel under any lease, concession, permit, right of access, license to use or other agreement or otherwise.

OPERATOR: Any person operating a hotel or motel in the City of Poughkeepsie, including, but not limited to, an owner or proprietor of such premises, lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such hotel or motel.

PERMANENT RESIDENT: Any natural person occupying any room or rooms in a hotel for at least 90 consecutive days shall be considered a "Permanent Resident" with regard to the period of such occupancy.

PERSON: An individual, partnership, society, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any combination of the foregoing.

RENT: The per diem rental rate received for occupancy of each room, valued in money, whether received in money or otherwise, for the occupancy of a room in a hotel for any period of time.

RETURN: Any return filed or required to be filed as herein provided.

ROOM: Any room or rooms of any kind in any part or portion of a hotel, which is available for or let out for any purpose other than a place of assembly.

B. Imposition of Tax

On or after the effective date of this Section, there is hereby imposed and there shall be paid a tax of 4% upon the rent for every occupancy of a room or rooms in a hotel or motel in this City, except that the tax shall not be imposed upon a permanent resident, or as otherwise provided herein.

C. Exempt organizations.

Except as otherwise provided in this section, any use or occupancy by any of the following shall not be subject to the tax imposed by this Section:

1. The state of New York, or any public corporation (including a public corporation created pursuant to agreement or compact with another state or the Dominion of Canada), improvement district or other political subdivision of the state;
2. The United States of America, insofar as it is immune from taxation;
3. Any corporation or association, or trust, or community chest, fund or foundation organized and operated exclusively for religious, charitable or educational purposes, or for the prevention of cruelty to children or animals, and no part of the net earnings of which insures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying

on propaganda or otherwise attempting to influence legislation; provided, however, that nothing in this paragraph shall include an organization operated for the primary purpose of carrying on a trade or business for profit, whether or not all of its profits are payable to one or more organizations described in this section;

4. A permanent resident of a hotel or motel.

D. Territorial limits

The tax imposed by this Section shall apply only within the territorial limits of the City of Poughkeepsie.

E. Registration

1. Within 10 days after the effective date of this Section or, in the case of operators commencing business after such effective date, within three days after such commencement or opening, every operator shall file with the Commissioner of Finance a certificate of registration in a form prescribed by the Common Council.
2. The Commissioner of Finance shall, within seven (7) business days after such registration, issue without charge to each operator a certificate of authority empowering such operator to collect the tax from the occupant and a duplicate thereof for each additional hotel of such operator. Each certificate or duplicate shall state the hotel to which it is applicable. Such certificate of authority shall be prominently displayed by the operator in such manner that it may be seen and come to the notice of all occupants and persons seeking occupancy. Such certificate shall be non-assignable and nontransferable and shall be surrendered immediately to the Commissioner of Finance upon the cessation of business at the hotel named or upon its sale or transfer.

F. Administration and collection

1. The tax imposed by this Section shall be administered and collected by the Commissioner of Finance, or such other City employee as he/she may designate, by such means and in such manner as are other taxes which are now collected and administered or as otherwise provided by this Section.
2. The tax to be collected shall be stated and charged separately from the rent and shown separately on any record thereof, at the time when the occupancy is arranged or contracted for and charged for, and upon every evidence of occupancy or any bill or statement of charges made for said occupancy issued or delivered by the operator, and the tax shall be paid by the occupant to the operator as trustee for and on account of the City, and the operator shall be liable for the collection thereof and for the tax. The operator and any officer of any corporate operator shall be personally liable for the tax collected or required to be collected under this Section, and the operator shall have the same right in respect to collecting the tax from the occupant, or in respect to nonpayment of the tax by the occupant, as if the tax were part of the rent for the occupancy payable at the time such tax shall become due and owing, including all rights of eviction, dispossession, repossession and enforcement of any innkeeper's lien that he/she may have in the event of

nonpayment of the rent by the occupant; provided, however, that the Commissioner of Finance or employees or agents duly designated by him/her shall be joined as a party in any action or proceeding brought by the operator to collect or enforce collection of the tax.

3. The Commissioner of Finance may, whenever he/she deems it necessary for the proper enforcement of this Section, provide by regulation that the occupant shall file returns and pay directly to the Commissioner of Finance the tax imposed at such times as returns are required to be filed and payment made over by the operator.

4. The tax imposed by this Section shall be paid upon any occupancy on and after the effective date of this Section, although such occupancy is had pursuant to a contract, lease or other arrangement made prior to such date. Where rent is paid or charged or billed or falls due on either a weekly, monthly or other term basis, the rent so paid, charged, billed or falling due shall be subject to the tax herein imposed to the extent that it covers any portion of the period on and after the effective date of this Section. Where any tax has been paid hereunder upon any rent which has been ascertained to be worthless, the Commissioner of Finance may, by regulation, provide for credit and/or refund of the amount of such tax upon application therefor as provided in Section 14.85(L) of this Section

5. For the purpose of the proper administration of this Section and to prevent evasion of the tax hereby imposed, it shall be presumed that all rents are subject to tax until the contrary is established, and the burden of proving that a rent for occupancy is not taxable hereunder shall be upon the operator or occupant. Where an occupant claims exemption from the tax under the provisions of Section 14.85(C), the rent shall be deemed taxable hereunder unless:

a. The operator shall receive from the occupant claiming such exemption a copy of a New York State sales tax exemption certificate; or

b. Unless the operator shall receive from the occupant claiming such exemption a certificate duly executed by an exempt corporation or association certifying that the occupant is its agent, representative, or employee, together with a certificate executed by the occupant that the occupancy is paid or to be paid by such exempt corporation or association, and is necessary or required in the course of or in connection with the occupant's duties as a representative of such corporation or association.

G. Records to be kept.

Every operator shall keep records of every occupancy and of all rent paid, charged or due thereon and of the tax payable thereon, in such form as the Commissioner of Finance may by regulation require. Such records shall be available for inspection and examination at any time upon demand by the Commissioner of Finance or his/her duly authorized agent or employee and shall be preserved for a period of three years, except that the Commissioner of Finance may consent to their destruction within that period or may require that they be kept together.

H. Returns

1. Every operator shall file with the Commissioner of Finance a return of occupancy and of rents and of the taxes payable thereon for the three-month periods ending the last day of March, June, September and December on and after the effective date of this Section. Such returns shall be filed within 30 days from the expiration of the period covered thereby. The Common Council may permit or require returns to be made for other periods upon such dates as it may specify. If the Common Council deems it necessary in order to ensure the payment of the tax imposed by this Section, it may require returns to be made for shorter periods than those prescribed pursuant to the foregoing provisions of this section and upon such dates as it may specify.
2. The forms of return shall be prescribed by the Common Council and shall contain such information as it may deem necessary for the proper administration of this Section. The Commissioner of Finance may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.
3. If a return required by this Section is not filed, or if a return is incorrectly filed or is insufficient on its face, the Commissioner of Finance shall take such steps as he/she deems necessary to enforce the filing of such return or of a corrected return.

I. Payment of Tax

At the time of filing a return of occupancy and of rents, each operator shall pay to the Commissioner of Finance the taxes imposed by this Section upon the rents required to be included in such return, as well as all other moneys collected by the operator acting or purporting to act under the provisions of this Section; even though it be judicially determined that the tax collected is invalidly required to be filed, it shall be due from the operator and payable to the Commissioner of Finance on the date prescribed herein for the filing of the return for such period, without regard to whether a return is filed or whether the return which is filed correctly shows the amount of rents and taxes due thereon. Where the Commissioner of Finance in his/her discretion deems it necessary to protect revenues to be obtained under this Section, he/she may require any operator required to collect the tax imposed by this Section to file with him/her a bond, issued by a surety company authorized to transact business in this state and approved by the Superintendent of Insurance of this state as to solvency and responsibility, in such amount as the Commissioner of Finance may find to secure the payment of any tax and/or penalties and interest due or which may become due from such operator. In the event that the Commissioner of Finance determines that an operator is to file such bonds, he/she shall give notice to such operator to that effect, specifying the amount of the bond required. The operator shall file such bond within five days after the giving of such notice unless, within such five days, the operator shall request, in writing, a hearing before the Commissioner of Finance at which the necessity, propriety and amount of the bond shall be determined by the Commissioner of Finance. Such determination shall be final and shall be complied with within 15 days after the giving of notices thereof. In lieu of such bond, securities approved by the Commissioner of Finance or cash in such amount as he/she may

prescribe may be deposited with him/her, which shall be kept in the custody of the Commissioner of Finance, who may at any time, without notice of the depositor, apply them to any tax and/or interest or penalties due, and for that purpose the securities may be sold by him/her at public or private sale without notice to the depositor thereof.

J. Determination of Tax

Any final determination of the amount of any tax payable hereunder shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under Article 78 of the Civil Practice Law and Rules if application therefor is made to the Supreme Court within thirty days after the giving of the notice of such final determination; provided, however, that any such proceeding under Article 78 of the Civil Practice Law and Rules shall not be instituted unless:

1. The amount of any tax sought to be reviewed, with such interest and penalties thereon as may be provided for by local law shall be first deposited and there is filed an undertaking, issued by a surety company authorized to transact business in this state and approved by the Superintendent of Insurance of this State as to solvency and responsibility, in such amount as a Justice of the Supreme Court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding; or
2. At the option of the petitioner, such undertaking may be in a sum sufficient to cover the taxes, interests and penalties stated in such determination plus the costs and charges which may accrue against it in the prosecution of the proceeding, in which event the petitioner shall not be required to pay such taxes, interest or penalties as a condition precedent to the application.

K. Disposition of Revenues

All revenue resulting from the imposition of the tax under this Section shall be paid into the treasury of the City and shall be credited to and deposited in the general fund of the City. Such revenues may be used for any lawful purpose.

L. Refunds

1. In the manner provided in this section, the Commissioner of Finance shall refund or credit, without interest, any tax penalty or interest erroneously, illegally or unconstitutionally collected or paid if application to the Commissioner of Finance for such refund shall be made within one year from the payment thereof. Whenever a refund is made by the Commissioner of Finance, he/she shall state his/her reason therefor, in writing. Such application may be made by the occupant, operator or other person who has actually paid the tax. Such application may also be made by an operator who has collected and paid over such tax to the Commissioner of Finance, provided that the application is made within one

year of the payment to the operator, but no actual refund of moneys shall be made to such operator until it shall first establish to the satisfaction of the Commissioner of Finance, under such regulations as the Commissioner of Finance may prescribe, that it has repaid to the occupant, or other person who has actually paid the tax, the amount for which the application for refund is made. The Commissioner of Finance may, in lieu of any refund required to be made, allow credit therefor on payments due or to become due from the applicant.

2. Where any tax imposed hereunder shall have been erroneously, illegally or unconstitutionally collected and application for the refund thereof duly made to the Commissioner of Finance, and such Commissioner of Finance shall have made a determination denying such refund, such determination shall be reviewable by a proceeding under Article 78 of the Civil Practice Law and Rules; provided, however, that such proceeding is instituted within thirty days after the giving of the notice of such denial, that a final determination of tax due was not previously made, and that an undertaking is filed with the Commissioner of Finance in such amount and with such sureties as a Justice of the Supreme Court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.
3. A person shall not be entitled to a revision, refund or credit of a tax, interest or penalty which had been determined to be due pursuant to the provisions of Section 14.85(O) where it has had a hearing or an opportunity for a hearing, as provided in said section, or has failed to avail itself of the remedies therein provided. No refund or credit shall be made of a tax, interest or penalty paid after a determination by the Commissioner of Finance made pursuant to Section 14.85(O) unless it be found that such determination was erroneous, illegal or unconstitutional or otherwise improper by the Commissioner of Finance after a hearing or on his/her own motion or in a proceeding under Article 78 of the Civil Practice Law and Rules, pursuant to the provisions of said section, in which event refund or credit without interest shall be made of the tax, interest or penalty found to have been overpaid.

M. Reserves

In cases where the occupant or operator has applied for a refund and has instituted a proceeding under Article 78 of the Civil Practice Law and Rules to review a determination adverse to him/her on his/her application for refund, the Commissioner of Finance shall have the option of crediting future tax payments to meet the cost of any settlements or judgments or, at his/her option, may, in the first instance, set up appropriate reserves to meet any decision adverse to the City.

N. Remedies Exclusive

The remedies provided by Section 14.85(J) and Section 14.85(L) shall be the exclusive remedies available to any person for the review of tax liability imposed by this Section, and no determination or proposed determination of tax or determination on any application for refund shall be enjoined or reviewed by an action for declaratory judgment, an action for

money had and received or by any action or proceeding other than a proceeding in a nature of a certiorari proceeding under Article 78 of the Civil Practice Law and Rules; provided, however, that a taxpayer may proceed by declaratory judgment if he/she institutes suit within 30 days after a deficiency assessment is made and pays the amount of the deficiency assessment to the Commissioner of Finance prior to the institution of such suit and posts a bond for costs as provided in Section 14.85(I).

O. Penalties and Interest

1. Any person failing to file a return or to pay or pay over any tax to the Commissioner of Finance within the time required by this Section shall be subject to a penalty of 5% of the amount of tax due plus interest at the rate of 1% of such tax for each month of delay excepting the first month after such return was required to be filed or such tax became due. Such penalties and interest shall be paid and disposed of in the same manner as other revenues from this Section. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this Section.
2. Any operator or occupant and any officer of an operator or occupant failing to file a return required by this Section, or filing or causing to be filed or making or causing to be made or giving or causing to be given any return, certificate, affidavit, representation, information, testimony or statement required or authorized by this Section which is willfully false, and any operator and any officer of a corporate operator willfully failing to file a bond required to be filed pursuant to Section 14.85(I), or failing to file a registration certificate and such data in connection therewith as the Commissioner of Finance may by regulation or otherwise require, or failing to display or surrender the certificate of authority as required by this Section or assigning or transferring such certificate of authority; and any operator or any officer of a corporate operator willfully failing to charge separately from the rent the tax herein imposed or willfully failing to state such tax separately on any evidence of occupancy and on any bill or statement or receipt of rent issued or employed by the operator or willfully failing or refusing to collect such tax from the occupant; any operator or any officer of a corporate operator who shall refer or cause reference to be made to this tax in a form or manner other than that required by this Section, and any such person or operator failing to keep records required by this Section, shall, in addition to the penalties herein or elsewhere prescribed, be guilty of a misdemeanor, punishable by a fine of up to \$1,000, imprisonment for not more than one year, or both such fine and imprisonment. Officers of a corporate operator shall be personally liable for the tax collected or required to be collected by such corporation under this Section and penalties and interest thereon and subject to the fines and imprisonment herein authorized.
3. The certificate of the Commissioner of Finance to the effect that a tax has not been paid, that a return, bond or registration certificate has not been filed or that information has not been supplied pursuant to the provisions of this Section shall be presumptive evidence thereof

P. Returns to be Confidential

It shall be unlawful, except in accordance with proper judicial order or as otherwise provided to the fullest extent permitted by law, for the Commissioner of Finance or employee or designee of the Commissioner of Finance to divulge or make known in any manner the rents or other information relating to the business of a taxpayer contained in any return required under this Section. The officers charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Commissioner of Finance in an action or proceeding under the provisions of this Section or on behalf of any party to any action or proceeding under the provisions of this Section when the returns or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of said returns or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the delivery to a taxpayer or his/her duly authorized representative of a certified copy of any return filed in connection with his/her tax nor to prohibit the publication of statistics so classified to prevent the identification of particular returns and items thereof or the inspection by the City's Corporation Counsel or other legal representatives of the City or by the District Attorney of any county of the return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted for the collection of a tax or penalty. Returns shall be preserved for three years and thereafter, until the Commissioner of Finance permits them to be destroyed.

Q. Notices and Limitations of Time

1. Any notice authorized or required under the provisions of this Section may be given to the person to whom it is intended in a postpaid envelope addressed to such person at the address given in the last return filed by him/her pursuant to the provisions of this Section or in any application made by him/her or, if no return has been filed or application made, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to who addressed. Any period of time which is determined according to the provisions of this Section by the giving of notice shall commence five days after the date of mailing of such notice.
2. The provisions of the Civil Practice Law and Rules or any other law relative to limitations of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken by the City to levy, appraise, assess, determine or enforce the collection of any tax or penalty provided by this Section. However, except in the case of a willfully false, fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of filing of a return; provided, however, that where no return has been filed as provided by law, the tax may be assessed at any time.
3. Where, before expiration of the period prescribed herein for the assessment of an additional tax, a taxpayer has consented, in writing, that such period be extended, the amount of such additional tax due may be determined at any time within such extended

period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period.

R. Proceedings to Recover Tax

Whenever any operator, any officer of a corporate operator, any occupant, or other person fails to collect and pay over any tax and/or penalty or interest as imposed by this Section, the City Corporation Counsel shall, at the request of the Common Council, bring or cause to be brought an action to enforce the payment of the same on behalf of the City in any court of the State of New York or of any other state or of the United States. If, however, the Commissioner of Finance believes that any such operator, officer, occupant, or other person is about to cease business, leave the state, or remove or dissipate the assets out of which the tax or penalties might be satisfied, and that any such tax or penalty will not be paid when due, such tax or penalty may be declared to be immediately due and payable, and the Commissioner of Finance may issue a warrant immediate

S. General Powers of Commissioner of Finance

In addition to the powers granted in this Section, the Commissioner of Finance is hereby authorized and empowered to:

1. Extend for cause shown, the time of filing any return for a period not exceeding 30 days; and for cause shown, to remit penalties, but not interest; and to compromise disputed claims in connection with the taxes hereby imposed;
2. Request information from the Tax Commission of the State of New York or the Treasury Department of the United States relative to any person; and to afford information to such Tax Commission or Treasury Department relative to any person, notwithstanding any other provision of this Section;
3. Delegate functions hereunder to any employee of Commissioner of Finance;
4. Prescribe methods for confirming the rents for occupancy and to confirm the accuracy of information on the taxable and nontaxable rents;
5. Require any operator within the City, if it is determined that adequate records are not being maintained, to keep detailed records of the nature and type of hotel maintained; nature and type of service rendered; number of rooms available and occupied; daily leases, occupancy contracts or arrangements; rents received, charged, and accrued; the names and addresses of the occupants; whether or not any occupancy is claimed to be subject to the tax imposed by this Section; and to furnish such information at the request of the Commissioner of Finance;
6. Impose as a penalty upon any operator within the City any necessary costs of auditing services generated by discrepancies discovered upon audit, in the records of the operator; and
7. Make, adopt, and amend such other rules and regulations appropriate to the carrying out of this Section and the purposes thereof as may be approved by the City of Poughkeepsie Common Council.

T. Administration of oaths; compelling testimony

1. The Commissioner of Finance or employees or agent(s) duly designated and authorized shall have the power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of their powers and duties under this Section. The Commissioner of Finance shall have power to subpoena and require the attendance of witnesses and the production of books, papers, and documents to secure information pertinent to the performance of the duties hereunder in the enforcement of this Section, and to examine them in relation thereto. The Commissioner of Finance shall also have the power to issue commissions for the examination of witnesses who are out of the state, unable to attend, or who are excused from attendance.

2. A Supreme Court Justice, either in court or in chambers, shall have the power to summarily enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and documents called for by the subpoena of the Commissioner of Finance under this Section.

3. Any subpoenaed person who refuses to testify or produce books or records, or who testifies falsely in any material matter pending before the Commissioner of Finance under this Section shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than \$1,000 or imprisonment for not more than one year, or both such fine and imprisonment.

4. The officers who serve the summons or subpoena of the Commissioner of Finance and witnesses attending in response thereto shall be entitled to the same fees as are allowed to officers and witnesses in civil cases in courts of record, except as herein provided otherwise. Such officers shall be the City of Poughkeepsie police, or any officers or employees of the Commissioner of Finance's office designated to serve such process.

U. Accounting and Reporting of Tax

From time to time, but no less than quarterly each year, the Commissioner of Finance shall provide a report to the Common Council, for its audit and review, of all actions taken pursuant to this Section. The Commissioner of Finance's report shall contain a list of all certificates of registration filed or issued to any operator in the City of Poughkeepsie, and for each operator shall state the returns filed all operators; the returns that have not been timely filed by any operator; the amount of tax determined to be payable by any operator; the tax paid and collected from any operator; any tax that may be due and owing or past due from any operator, and any enforcement action taken to collect any tax due under this Section.

Section 2. Authority

This Local Law is enacted pursuant to special legislation adopted by the State of New York, authorizing the City of Poughkeepsie to impose a hotel and motel occupancy tax. If any provision of this Local Law, or the application thereof to any person or circumstance, shall be held invalid, the remainder of this Local Law and the application of such provision to other persons or, circumstances shall not be affected thereby.

Section 3. Separability

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Common Council of the City of Poughkeepsie hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 4. Construction and Enforcement

This Local Law shall be construed and enforced in conformity with Articles 28 and 29. of the Tax Law of the State of New York," including, but not limited to New York State Tax Law §1202-nn as added by L.2023, c. 294, §1, which expires and is deemed repealed on August 23, 2026, pursuant to which the same is enacted. **Accordingly, this Local Law shall remain in effect for three (3) years from the date of its enactment.**

Section 5. Rules & Regulations

The Common Council is authorized to adopt rules and regulations, by resolution, to further implement the provisions of this Local Law.

Section 6. Repeal

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

SECONDED BY COUNCILMEMBER SHOOK

LL-24-04 VOICE VOTE						
			Yes/Aye	No/Nay	Abstain	Absent
☒ Accepted ☐ Defeated ☐ Tabled	Councilmember Henry	Voter	☒	☐	☐	☐
	Councilmember Menist	Voter	☐	☐	☐	☒
	Councilmember Brown	Voter	☒	☐	☐	☐
	Councilmember James	Voter	☒	☐	☐	☐
	Councilmember Grant	Voter	☒	☐	☐	☐
	Councilmember Deichler	Voter	☒	☐	☐	☐
	Majority Leader Patterson Thompson	Voter	☒	☐	☐	☐
	Vice Chair Shook	Voter	☒	☐	☐	☐
	Chairman Wilson	Voter	☒	☐	☐	☐

6. ADJOURNMENT:

A motion was made by Majority Leader Patterson Thompson and was seconded by Councilmember Brown to adjourn the meeting at 8:40 pm.

Dated: February 12, 2024

I hereby certify that this true and correct copy of the Minutes of the Common Council Meeting held on Tuesday, February 6, 2024.

Respectfully submitted,

Donna M. DeLuca
Deputy City Chamberlain