



THE CITY OF POUGHKEEPSIE NEW YORK

COMMON COUNCIL MEETING MINUTES

Monday, February 22, 2022, 6:30 p.m.

Virtual

The Council Meeting was conducted using videoconferencing, as permitted by the NYS Open Meetings Law.

Welcome to the regularly scheduled Meeting of the City of Poughkeepsie Common Council the date is February 22, 2022, and the time is 6:32 pm.

I'd like to acknowledge that we are gathered, wherever we are, on the traditional territory of the Lenape people and this territory was a critical resting place along a popular trade route for people of the Lenape Nation and other cultures as is evidenced in the earliest derivation of the name 'Poughkeepsie' with an indigenous string of words, U-puku-ipi-sing, that, when translated, means 'reed-covered lodge by the little water place' or resting place.

Let's all recite the pledge of allegiance.

I. ROLL CALL: (8 present, 1 absent: Councilmember Menist logged on late)

II. REVIEW OF MINUTES:

**Common Council Public Hearing – February 7, 2022
Common Council Meeting – February 7, 2022**

**Motion to Amend the minutes: Councilmember Cherry
2nd: Councilmember Long**

III. READING OF ITEMS by the City Chamberlain of any items not listed on the printed agenda.

NONE

IV. PUBLIC PARTICIPATION

1. Laurie Sandow, S. Grand Ave. (submitted in writing)

At the February 7, 2022, Common Council meeting, I noted that the erosion of democratic norms is growing ever-more entrenched and epidemic in this City's sadly dysfunctional, backroom world. As further evidence of this erosion, Rebecca Valk, the City's new Corporation Counsel, recently instructed the Deputy Chamberlain that my public comments NOT be added to draft minutes from the Council's February 7 meeting, scolding that the draft was already prepared. My comments were also not made part of the Council's posted public packet, which document was neither prepared, nor posted at the time the Chamberlain received my comments. Ms. Valk iced the cake by manufacturing submission deadlines which are unsupported by the City's own Charter. Thank you to the Councilmembers who just voted that the minutes be amended to include my comments.

One of the most disturbing achievements by both Administration and Council has been discouraging public information and participation. As a result, large numbers of this City's most concerned and involved residents have thrown up their hands in disgust and turned away from participation—exactly the disaffection the Administration and Council both want. Tonight's chopped up, two-part waterfront public hearing (January 18 and February 22) is an example, as is the Council's Charter-violating, continuing failure to appoint a Redistricting Commission, as well as the Council's announced meeting schedule which violates the Charter's mandate for Informational Meetings in March and September.

New York State's Freedom of Information Law (FOIL) reads, in part: "The people's right to know the process of government decision making and the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality." NYS FOIL is based upon a presumption of access. The law does not support unnecessary delays in disclosure. Yet, this City's Freedom of Information portal is programmed with a canned statement (and I quote): "The request will be granted or denied, in whole or in part, within approximately thirty (30) days." The canned response does not provide a date certain (specific date) when the request will be granted. It suggests the opposite: "twiddle your thumbs for up to 30 days before you find out whether we'll get back to you or not."

The City website boasts that the Chamberlain's office (quote): "provides quality services to meet the needs of City residents and business owners in an effective, efficient and timely manner." The Freedom of Information law provides that responses shall not be delayed or denied on the basis that an agency lacks sufficient staffing. And yet I get notes defending non-responsiveness and delays that read along the lines of this one from City Administrator Marc Nelson (and I quote): "whether or not documents are near at hand when an [sic] FOI arrives is not dispositive of our timeline for providing them. Many other factors are important as city staff are typically addressing a host of matters on any given day." When the City finally provides documents long past relevance, then the same functionaries complain that I make document requests and don't do anything with them.

Part Two of tonight's Local Waterfront Revitalization Program (LWRP) public hearing, which just concluded, is a good example of delays in response to FOIL. More than 30 days ago, I requested the time-stamped requests made by members of the public who signed up to speak on January 18, 2022. On that date, only a limited number were granted their right to speak, and the rest were inconvenienced to show up and wait in queue again at tonight's Part Two, or—having been obstructed the first time—not show up again at all. Only those documents, very clearly in the hands of the Chamberlain and the Council Chair, will reveal the order that people signed up to speak, as opposed to the order in which they were called upon to speak. Additionally, no councilmember has responded to the part of the same FOI request seeking the individuals and/or organizations who communicated with them about the content of the LWRP public hearing of January 18, 2022. This is the case despite it being known that they received at least one lengthy talking point memo from former Councilmember Sarah Brannen. To date neither Chamberlain, nor Council Chair, nor any councilmember has been responsive to that Freedom of Information request. What a sorry state of affairs the residents of this City find themselves in, with the City Administration, the Corporation Counsel, the Common Council, and the Chamberlain all complicit in misbehavior through silence, delays, non-responsiveness and censorship.

2. Larry Trepel, 15 S. Bridge St

V. CHAIRPERSON'S COMMENTS AND PRESENTATIONS

I'm going to keep it brief tonight, but Corporation Counsel Valk, I don't know if you want to address Mr. Trepel's concerns as far as the culling of the deer by Vassar.

Corporation Counsel Valk: So I will just briefly state that I believe Mr Treppe has mischaracterized my email to the extent that I did not adopt each and every part of Mr. Ackerman's finding, but I did adopt the ultimate conclusion. Specifically, federal law does preempt..actually, I'm sorry, not federal. I believe state law does preempt the issue of regulations with hunting and that is found to be in the jurisdiction of the DEC. The language that Mr. Trepel cites in the permit, there are municipalities throughout New York State to have local permitting requirements. However, I do not believe that the City of Poughkeepsie would be in a position where it could enforce it when the permits are being issued by the DEC.

All right, thanks for that. And then, Larry, we can get you an email with that information this week as well, but thanks for addressing that concern there.

Yes, so in Chairperson's comments, first I want to commend the City of Poughkeepsie and other department firefighters on their work extinguishing the residential property fire that occurred yesterday, Monday on South Clover Street.

Good to hear that there were no serious injuries and it sounds like all of the folks who were no serious injuries and it sounds like all of the folks who were displaced have a place to go and are connected to support services. But it seemed like that fire was taken

under control in a very timely manner and it was surprising to see the blaze. I used to live down in that neighborhood.

It's a little frightening, understanding, you know, those are older buildings and they are more prone to catching fire. I know the source of the fire is still under investigation but it was good to see that kind of response.

COVID and Council Meetings: So, Governor Hochul did extend the COVID state of emergency through March 16th. And what that means for virtual public meetings is that we can continue to meet virtually up until March 16th. Unless there is an extension of any kind, that means that we will be returning back to the Common Council Chambers. We have a little bit of lead time between this meeting and our next Common Council meeting to really meet together as a council and establish some safety and health protocols so that we can welcome folks back into the chambers for meetings in a way that makes sense and makes everybody feel supported and safe at the same time. And, we're going to be discussing that with leadership as well as in caucus understanding that all of the boards and committees that have to come back into the chambers as well.

So there's a lot of moving pieces. We did, also, have an upgrade to the Common Council Chambers and that's thanks to the deconstruction for the HBO filming. And they reconstructed the chambers and we have a few new, you know, tech upgrades there. So, we're going to try and find a time for everyone to get back in there and poke around to make sure we all have a sense of what it feels like to be back there and in person.

The COVID situation as of now is looking positive, which is great, honestly, it's been a long, long two years. However, we don't want to, what's the saying? Count our chickens before they hatch.

And I just do know that for me personally, I find comfort in being able to wear a mask inside when I'm around a lot of people, and I hope other folks are using their best judgment when it comes to that as well.

And then we did learn yesterday of a violent threat that was sent out to, you know, through the Poughkeepsie school district, as well as another district in the area, causing kids to be kept home and prevented from going into school.

And you know, I have to say just incredibly disheartening and horrifying.

I can't. I'm not a parent. I can't imagine what that feels like to be put in a situation where you fear for your child's life repeatedly, repeated threats that have happened over the past however many years, you know, with now kids finally getting back into school after this COVID and keeping folks home.

And then, you know, teachers, faculty, staff, just the collective fear that that could cause.

And I know that there's an investigation still going on to figure out what's what's happening, how viable the threat is.

But you know, those words go a very long way, and I just feel very, you know, it's I feel

sorry for everyone involved and at the school, headed to the schools Councilmember Cherry and other council members who are engaged in the education environment locally and just the students don't deserve this. You know, these kids don't deserve this. And so I really hope that we can get to the bottom of I know the police department is working on it with the school district figuring out where this came from and it's not funny. I don't have to say that. It's just not funny. I feel compelled to say that because I think we all have to understand that threats of violence are not a joke.

And that concludes my comments, and I understand Mayor Rolison unfortunately could not make it tonight.

So we're going to move to new and unfinished business.

VI. MAYOR'S COMMENTS

NOT PRESENT

VII. NEW & UNFINISHED BUSINESS

VIII. REPORTS OF COMMITTEES AND BOARDS:

NONE

CONSENT AGENDA:

IX. MOTIONS AND RESOLUTIONS:

A motion was made by Councilmember Long and seconded by Councilmember Cherry to receive and print.

- 1. R-22-20, Resolution Extending the Rezoning Approval Granted by Ordinance 0-21-01**

**RESOLUTION
(R-22-20)**

INTRODUCED BY COUNCILMEMBER FLOWERS:

WHEREAS, the Common Council of the City of Poughkeepsie, by Ordinance O-21-01 on February 16, 2021, rezoned a nine (9) acre vacant parcel of land located on Milton Street known on the tax maps as Grid No. 6162-73-623227 from R-2 (Medium Low Density Residential District) to Planned Residential Development (PRD); and

WHEREAS, pursuant to City of Poughkeepsie City Code Section 19-3.18(6)(a), a rezoning to PRD is effective for twelve months; and

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WHEREAS, the Common Council is authorized to grant extensions to the approval, the first extension not to exceed an additional six months upon good cause shown by the applicant; and

WHEREAS, LaBella Associates, as representative for the applicant, has submitted a letter dated February 4, 2022, supporting a request for a 6 month extension.

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Poughkeepsie as follows:

Upon good cause shown, Ordinance 0-21-01, rezoning a nine (9) acre vacant parcel of land located on Milton Street known on the tax maps as Grid No. 6162-73-623227 from R-2 (Medium Low Density Residential District) to Planned Residential Development (PRD) is hereby extended for a period of six months effective February 16, 2022.

SECONDED BY COUNCILMEMBER _____:

R-22-20			Yes/Aye	No/Nay	Abstain	Absent
☒ Accepted ☐ Defeated ☐ Tabled	Councilmember Long	Voter	☒	☐	☐	☐
	Councilmember Thompson	Voter	☒	☐	☐	☐
	Councilmember Shook	Voter	☒	☐	☐	☐
	Councilmember Deichler	Voter	☒	☐	☐	☐
	Councilmember Flowers	Voter	☒	☐	☐	☐
	Councilmember Menist	Voter	☒	☐	☐	☐
	Councilmember Johnson	Voter	☒	☐	☐	☐
	Councilmember Cherry	Voter	☒	☐	☐	☐
	Chair Salem	Voter	☒	☐	☐	☐

A motion was made by Councilmember Cherry and seconded by Councilmember Menist to receive and print.

2. R-22-21, Resolution Authorizing Improvements to Sewage Pump Stations and Water Treatment Plant

**RESOLUTION
(R-22-21)**

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 22, 2022 at 6:30 o'clock p.m., local time.

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

PRESENT:

Council Chair Sarah A. Salem
Councilmember Natasha Cherry
Councilmember Megan Deichler
Councilmember Yvonne Flowers
Councilmember Lorraine Johnson
Councilmember Debra Long
Councilmember Evan Menist
Councilmember Nedra Patterson Thompson
Councilmember Nathan Shook

ABSENT:

The following persons were ALSO PRESENT:

Commissioner of Finance Brian Martinez, PhD

The following resolution was offered by Councilmember Salem, seconded by Councilmember Cherry to wit;

SUPPLEMENTAL BOND RESOLUTION DATED FEBRUARY 22, 2022

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 \$12,370,000, AUTHORIZING THE ISSUANCE OF SERIAL BONDS OF THE CITY OF POUGHKEEPSIE, DUTCHESS COUNTY, NEW YORK IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$11,256,000, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE A PORTION OF THE COST THEREOF, AND DELEGATING CERTAIN POWERS IN CONNECTION THEREWITH TO THE COMMISSIONER OF FINANCE

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, 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

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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 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, it is necessary to increase the estimated project cost by \$1,114,000, 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 \$12,370,000, 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. Section 3 of the Bond Resolution is hereby amended and supplemented to read as follows:

SECTION 3. The City plans to finance a portion of the total cost of said purposes by the issuance of serial bonds of the City in an amount not to exceed \$11,256,000, hereby authorized to be issued therefor pursuant to the Local Finance Law. The City plans to pay or reimburse a portion of the total project costs from the proceeds of certain grants including a preliminary engineering grant, a WIIA grant, and a GIGP grant. 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

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(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:

Council Chair Sarah A. Salem	VOTING AYE
Councilmember Natasha Cherry	VOTING AYE
Councilmember Megan Deichler	VOTING AYE
Councilmember Yvonne Flowers	VOTING AYE
Councilmember Lorraine Johnson	VOTING AYE
Councilmember Debra Long	VOTING AYE
Councilmember Evan Menist	VOTING AYE
Councilmember Nedra Patterson Thompson	VOTING AYE
Councilmember Nathan Shook	VOTING AYE

The foregoing resolution was thereupon declared duly adopted.

R-22-21						
			Yes/Aye	No/Nay	Abstain	Absent
☒ Accepted ☐ Defeated ☐ Tabled	Councilmember Long	Voter	☒	☐	☐	☐
	Councilmember Thompson	Voter	☒	☐	☐	☐
	Councilmember Shook	Voter	☒	☐	☐	☐
	Councilmember Deichler	Voter	☒	☐	☐	☐
	Councilmember Flowers	Voter	☒	☐	☐	☐
	Councilmember Menist	Voter	☒	☐	☐	☐
	Councilmember Johnson	Voter	☒	☐	☐	☐
	Councilmember Cherry	Voter	☒	☐	☐	☐
	Chair Salem	Voter	☒	☐	☐	☐

A motion was made by Councilmember Cherry and seconded by Councilmember Long and Councilmember Menist to receive and print.

- 3. R-22- 22, Resolution Reappointing Colleen Kinneary McCabe, Michael Harris, and Gregory Gartland to the Board of Ethics**

**RESOLUTION
(R-22-22)**

INTRODUCED BY CHAIR SALEM:

WHEREAS, in accordance with City Charter §6.08 and Administrative Code §15.05, the Common Council of the City of Poughkeepsie is authorized to make appointments of City residents to serve on the City of Poughkeepsie Board of Ethics; and

WHEREAS, all appointments to the Board of Ethics are currently vacant; and

WHEREAS, three members of the Board of Ethics have expressed their desire for reappointment to serve another two year term.

NOW, THEREFORE,

BE IT RESOLVED, that the Common Council of the City of Poughkeepsie hereby appoints the following individuals to the Board of Ethics for a two (2) year term:

Gregory Gartland
Michael Harris
Colleen Kinneary McCabe

SECONDED BY COUNCILMEMBER LONG

R-22-22						
☒ Accepted ☐ Defeated ☐ Tabled			Yes/Aye	No/Nay	Abstain	Absent
	Councilmember Long	Voter	☒	☐	☐	☐
	Councilmember Thompson	Voter	☒	☐	☐	☐
	Councilmember Shook	Voter	☒	☐	☐	☐
	Councilmember Deichler	Voter	☒	☐	☐	☐
	Councilmember Flowers	Voter	☒	☐	☐	☐
	Councilmember Menist	Voter	☒	☐	☐	☐
	Councilmember Johnson	Voter	☒	☐	☐	☐
	Councilmember Cherry	Voter	☒	☐	☐	☐
	Chair Salem	Voter	☒	☐	☐	☐

A motion was made by Councilmember Cherry and seconded by Councilmember Long and Councilmember Menist to receive and print.

R-22-23, Resolution Reappointing LaLana Hunt Smiling to the Board of Assessment Review

**RESOLUTION
(R-22-23)**

INTRODUCED BY COUNCILMEMBER SALEM:

WHEREAS, the members of the Board of Assessment Review are appointed by the Common Council pursuant to the City Charter 5.02(1) and Section 523 of the New York Real Property Tax Law; and

WHEREAS, member LaLana Hunt Smiling has previously served on the Board of Assessment Review and has expressed an interest in continued service; and

WHEREAS, the Commissioner of Assessment has recommended the reappointment of LaLana Hunt-Smiling as a member of the Board of Assessment Review; and

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Poughkeepsie does hereby re-appoint LaLana Hunt-Smiling to the Board of Assessment Review for a term of five (5) years commencing on October 1, 2021 and expiring on September 30, 2026.

SECONDED BY COUNCILMEMBER _____

R-22-23						
☒ Accepted ☐ Defeated ☐ Tabled			Yes/Aye	No/Nay	Abstain	Absent
	Councilmember Long	Voter	☒	☐	☐	☐
	Councilmember Thompson	Voter	☒	☐	☐	☐
	Councilmember Shook	Voter	☒	☐	☐	☐
	Councilmember Deichler	Voter	☒	☐	☐	☐
	Councilmember Flowers	Voter	☒	☐	☐	☐
	Councilmember Menist	Voter	☒	☐	☐	☐
	Councilmember Johnson	Voter	☒	☐	☐	☐
	Councilmember Cherry	Voter	☒	☐	☐	☐
	Chair Salem	Voter	☒	☐	☐	☐

X. ORDINANCES AND LOCAL LAWS:

A motion was made by Councilmember Cherry and seconded by Councilmember Menist to receive and print.

1. **O-22-01**, an Ordinance amending §13-269 of chapter 13 of the City of Poughkeepsie Code of Ordinances entitled “Motor Vehicles and Traffic”

ORDINANCE AMENDING §13-269

**OF CHAPTER 13 OF THE CITY OF POUGHKEEPSIE
CODE OF ORDINANCES ENTITLED “MOTOR VEHICLES
AND TRAFFIC”**

(O-22-01)

INTRODUCED BY COUNCILMEMBER LONG:

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

SECTION 1: §13-269 is hereby amended by the following addition:

Section 13-269 -Handicapped parking areas designated.

Upon the erection of signs giving due notice thereof, the following areas shall be designated as handicapped parking areas and are to be utilized only for the purpose set forth in this Article:

Mill Street, side, beginning feet of its intersection of and continuing for a distance of feet, for one-parking spaces

SECTION 2: This Ordinance shall take effect immediately.

SECONDED BY COUNCILMEMBER _____ :

ADDITIONS denoted by **Underlining and Bold**

O-22-01						
☒ Accepted ☐ Defeated ☐ Tabled			Yes/Aye	No/Nay	Abstain	Absent
	Councilmember Long	Voter	☒	☐	☐	☐
	Councilmember Thompson	Voter	☒	☐	☐	☐
	Councilmember Shook	Voter	☒	☐	☐	☐
	Councilmember Deichler	Voter	☒	☐	☐	☐
	Councilmember Flowers	Voter	☒	☐	☐	☐
	Councilmember Menist	Voter	☒	☐	☐	☐
	Councilmember Johnson	Voter	☒	☐	☐	☐
	Councilmember Cherry	Voter	☒	☐	☐	☐
	Chair Salem	Voter	☒	☐	☐	☐

A motion was made by Councilmember Cherry and seconded by Councilmember Menist to receive and print.

- 2. LL-22-02, Local Law to Establish a Sustainable Energy Loan Program (Open C-PACE) in the City of Poughkeepsie**

LOCAL LAW NO. LL-22-01

A LOCAL LAW TO ESTABLISH A SUSTAINABLE ENERGY LOAN PROGRAM (OPEN C-PACE) IN THE CITY OF POUGHKEEPSIE

INTRODUCED BY CHAIRPERSON SALEM AND COUNCILMEMBER MENIST:

Be it enacted by the City of Poughkeepsie (the “Municipality”) as follows

Section 1. This local law shall be known as the “Energize NY Open C-PACE Financing Program” and shall read as follows:

ARTICLE I

§1. Legislative findings, intent and purpose, authority.

- A. It is the policy of both the City of Poughkeepsie and the State of New York (the “State”) to achieve energy efficiency and renewable energy improvements, reduce greenhouse gas emissions, mitigate the effect of global climate change, and advance a clean energy economy. The City of Poughkeepsie finds that it can fulfill this policy by providing property assessed clean energy financing to Qualified Property Owners (as defined below) for the installation of renewable energy systems and energy efficiency measures. This local law establishes a program that will allow the Energy Improvement Corporation (as defined below, “EIC”), a local development corporation, acting on behalf of the City of Poughkeepsie pursuant to the municipal agreement (the “Municipal Agreement”) to be entered into between the City of Poughkeepsie and EIC, to make funds available to Qualified Property Owners that will be repaid through charges on the real properties benefited by such funds, thereby fulfilling the purposes of this local law and accomplishing an important public purpose. This local law provides a method of implementing the public policies expressed by, and exercising the authority provided by, Article 5-L of the General Municipal Law (as defined below, the “Enabling Act”).
- B. The City of Poughkeepsie is authorized to execute, deliver and perform the Municipal Agreement and otherwise to implement this Energize NY Open C-PACE Financing Program pursuant to the Constitution and laws of New York, including particularly

Article IX of the Constitution, Section 10 of the Municipal Home Rule Law, the Enabling Act and this local law.

- C. This local law, which is adopted pursuant to Section 10 of the Municipal Home Rule Law and the Enabling Act shall be known and may be cited as the “Energize NY Open C-PACE Local Law”.

§2. Definitions

- A. Capitalized terms used but not defined herein have the meanings assigned in the Enabling Act
- B. For purposes of this local law, and unless otherwise expressly stated or unless the context requires, the following terms shall have the meanings indicated:

Annual Installment Amount – shall have the meaning assigned in Section 8, paragraph B.

Annual Installment Lien – shall have the meaning assigned in Section 8 paragraph B.

Authority – the New York State Energy Research and Development Authority.

Benefit Assessment Lien – shall have the meaning assigned in Section 3, paragraph A.

Benefited Property – Qualified Property for which the Qualified Property Owner has entered into a Finance Agreement for a Qualified Project.

Benefited Property Owner – the owner of record of a Benefited Property.

EIC – the Energy Improvement Corporation, a local development corporation, duly organized under section 1411 of the Not-For-Profit Corporation Law of the State, authorized hereby on behalf of the Municipality to implement the Program by providing funds to Qualified Property Owners and providing for repayment of such funds from money collected by or on behalf of the Municipality as a charge to be levied on the real property.

Eligible Costs – costs incurred by the Benefited Property Owner in connection with a Qualified Project and the related Finance Agreement, including application fees, EIC’s Program administration fee, closing costs and fees, title and appraisal fees, professionals’ fees, permits, fees for design and drawings and any other related fees, expenses and costs, in each case as approved by EIC and the Financing Party under the Finance Agreement

Enabling Act – Article 5-L of the General Municipal Law of the State, or a successor law, as in effect from time to time.

Finance Agreement – the finance agreement described in Section 6A of this local law.

Financing Charges – all charges, fees and expenses related to the loan under the Finance Agreement including accrued interest, capitalized interest, prepayment premiums, and penalties as a result of a default or late payment and costs and reasonable attorneys’ fees incurred by the Financing Party as a result of a foreclosure or other legal proceeding brought against the Benefited Property to enforce any delinquent Annual Installment Liens.

Financing Parties – Third party capital providers approved by EIC to provide financing to Qualified Property Owners or other financial support to the Program which have entered into separate agreements with EIC to administer the Program in the Municipality.

Municipality – the City of Poughkeepsie, a municipality of the State constituting a tax district as defined in Section 1102 of the RPTL of the State.

Municipal Lien – a lien on Qualified Property which secures the obligation to pay real property taxes, municipal charges, or governmentally imposed assessments in respect of services or benefits to a Qualified Property.

Non-Municipal Lien – a lien on Qualified Property which secures any obligation other than the obligation to pay real property taxes, municipal charges, or governmentally-imposed assessments in respect of services or benefits to a Qualified Property Owner or Qualified Property.

Program – the Energize NY Open C-PACE Financing Program authorized hereby.

Qualified Project – the acquisition, construction, reconstruction or equipping of Energy Efficiency Improvements or Renewable Energy Systems or other projects authorized under the Enabling Act on a Qualified Property, together with a related Energy Audit, Renewable Energy System Feasibility Study and/or other requirements under or pursuant to the Enabling Act, with funds provided in whole or in part by Financing Parties under the Program to achieve the purposes of the Enabling Act.

Qualified Property – Any real property other than a residential building containing less than three dwelling units, which is within the boundaries of the Municipality that has been determined to be eligible to participate in the Program under the procedures for eligibility set forth under this local law and the Enabling Act and has become the site of a Qualified Project.

Qualified Property Owner – the owner of record of Qualified Property which has been determined by EIC to meet the requirements for participation in the Program as an owner, and any transferee owner of such Qualified Property.

RPTL – the Real Property Tax Law of the State, as amended from time to time.

Secured Amount – as of any date, the aggregate amount of principal loaned to the Qualified Property Owner for a Qualified Project, together with Eligible Costs and Financing Charges, as provided herein or in the Finance Agreement, as reduced pursuant to Section 8, paragraph C.

State – the State of New York.

§3. Establishment of an Energize NY Open C-PACE Financing Program

- A. An Energize NY Open C-PACE Financing Program is hereby established by the Municipality, whereby EIC acting on its behalf pursuant to the Municipal Agreement, may arrange for the provision of funds by Financing Parties to Qualified Property Owners in accordance with the Enabling Act and the procedures set forth under this local law, to finance the acquisition, construction, reconstruction, and installation of Qualified Projects and Eligible Costs and Financing Charges approved by EIC and by

the Financing Party under the Finance Agreement. EIC, on behalf of the Municipality, and with the consent of the Benefited Property Owner, will record a Benefit Assessment Lien on the Benefited Property in the Secured Amount (the "Benefit Assessment Lien") on the land records for the Municipality. Such recording shall be exempt from any charge, mortgage recording tax or other fee in the same manner as if recorded by the Municipality.

- B. Before a Qualified Property Owner and a Financing Party enter into a Finance Agreement which results in a loan to finance a Qualified Project, repayment of which is secured by a Benefit Assessment Lien, a written consent from each existing mortgage holder of the Qualified Property shall be obtained, permitting the Benefit Assessment Lien and each Annual Installment Lien to take priority over all existing mortgages.

§4. Procedures for eligibility

- A. Any property owner in the Municipality may submit an application to EIC on such forms as have been prepared by EIC and made available to property owners on the website of EIC and at the Municipality's offices.
- B. Every application submitted by a property owner shall be reviewed by EIC, acting on behalf of the Municipality, which shall make a positive or negative determination on such application based upon the criteria enumerated in the Enabling Act and § 0 of this local law. EIC may also request further information from the property owner where necessary to aid in its determination.
- C. If a positive determination on an application is made by EIC, acting on behalf of the Municipality, the property owner shall be deemed a Qualified Property Owner and shall be eligible to participate in the Program in accordance with § 0 of this local law.

§5. Application criteria

Upon the submission of an application, EIC, acting on behalf of the Municipality, shall make a positive or negative determination on such application based upon the following criteria for the making of a financing:

- A. The property owner may not be in bankruptcy and the property may not constitute property subject to any pending bankruptcy proceeding;
- B. The amount financed under the Program shall be repaid over a term not to exceed the weighted average of the useful life of Renewable Energy Systems and Energy Efficiency Improvements to be installed on the property as determined by EIC;
- C. Sufficient funds are available from Financing Parties to provide financing to the property owner;
- D. The property owner is current in payments on any existing mortgage on the Qualified Property;

- E. The property owner is current in payments on any real property taxes on the Qualified Property; and
- F. Such additional criteria, not inconsistent with the criteria set forth above, as the State, the Municipality, or EIC acting on its behalf, or other Financing Parties may set from time to time.

§6. Energize NY Finance Agreement

- A. A Qualified Property Owner may participate in the Program through the execution of a finance agreement made by and between the Qualified Property Owner and a Financing Party, to which EIC, on behalf of the Municipality, shall be a third-party beneficiary (the “Finance Agreement”). Upon execution and delivery of the Finance Agreement, the property that is the subject of the Finance Agreement shall be deemed a “Benefited Property”).
- B. Upon execution and delivery of the Finance Agreement, the Benefited Property Owner shall be eligible to receive funds from the Financing Party for the acquisition, construction, and installation of a Qualified Project, together with Eligible Costs and Financing Charges approved by EIC and by the Financing Party, provided the requirements of the Enabling Act, the Municipal Agreement and this local law have been met.
- C. The Finance Agreement shall include the terms and conditions of repayment of the Secured Amount and the Annual Installment Amounts.
- D. EIC may charge fees to offset the costs of administering the Program and such fees, if not paid by the Financing Party, shall be added to the Secured Amount.

§7. Terms and conditions of repayment

The Finance Agreement shall set forth the terms and conditions of repayment in accordance with the following:

- A. The principal amount of the funds loaned to the Benefited Property Owner for the Qualified Project, together with Eligible Costs and Financing Charges approved by EIC and by the Financing Party, shall be specially assessed against the Benefited Property and will be evidenced by a Benefit Assessment Lien recorded against the Benefited Property on the land records on which liens are recorded for properties within the Municipality. The special benefit assessment shall constitute a “charge” within the meaning of the Enabling Act and shall be collected in annual installments in the amounts certified by the Financing Party in a schedule provided at closing and made part of the Benefit Assessment Lien. Said amount shall be annually levied, billed and collected by EIC, on behalf of the Municipality, and shall be paid to the Financing Party as provided in the Finance Agreement.
- B. The term of such repayment shall be determined at the time the Finance Agreement is

executed by the Benefited Property Owner and the Financing Party, not to exceed the weighted average of the useful life of the systems and improvements as determined by EIC, acting on behalf of the Municipality.

- C. The rate of interest for the Secured Amount shall be fixed by the Financing Party in conjunction with EIC, acting on behalf of the Municipality, as provided in the Finance Agreement.

§8. Levy of Annual Installment Amount and Creation of Annual Installment Lien

- A. Upon the making of the loan pursuant to the Finance Agreement, the Secured Amount shall become a special Benefit Assessment Lien on the Benefited Property in favor of the Municipality. The amount of the Benefit Assessment Lien shall be the Secured Amount. Evidence of the Benefit Assessment Lien shall be recorded by EIC, on behalf of the Municipality, in the land records for properties in the Municipality. Such recording shall be exempt from any charge, mortgage recording tax or other fee in the same manner as if recorded by the Municipality. The Benefit Assessment Lien shall not be foreclosed upon by or otherwise enforced by the Municipality.
- B. The Finance Agreement shall provide for the repayment of the Secured Amount in installments made at least annually, as provided in a schedule attached to the Benefit Assessment Lien (the “Annual Installment Amount”). The Annual Installment Amount shall be levied by EIC, on behalf of the Municipality, on the Benefited Property in the same manner as levies for municipal charges, shall become a lien on the Benefited Property as of the first day of January of the fiscal year for which levied (the “Annual Installment Lien”) and shall remain a lien until paid. The creation or any recording of the Annual Installment Lien shall be exempt from any charge, mortgage recording tax or other fee in the same manner as if recorded by the Municipality. Payment to the Financing Party shall be considered payment for this purpose. Such payment shall partly or wholly discharge the Annual Installment Lien. Delinquent Annual Installment Amounts may accrue Financing Charges as may be provided in the Finance Agreement. Any additional Financing Charges imposed by the Financing Party pursuant to the Finance Agreement shall increase the Annual Installment Amount and the Annual Installment Lien for the year in which such overdue payments were first due.
- C. The Benefit Assessment Lien shall be reduced annually by the amount of each Annual Installment Lien when each Annual Installment Lien becomes a lien. Each Annual Installment Lien shall be subordinate to all Municipal Liens, whether created by Section 902 of the RPTL or by any other State or local law. No portion of a Secured Amount shall be recovered by the Municipality, EIC, or an assignee upon foreclosure, sale or other disposition of the Benefited Property unless and until all Municipal Liens are fully discharged. Each Annual Installment Lien, however, shall have priority over all Non-Municipal Liens, irrespective of when created, except as otherwise required by law.
- D. Neither the Benefit Assessment Lien nor any Annual Installment Lien shall be

extinguished or accelerated in the event of a default or bankruptcy of the Benefited Property Owner. Each Annual Installment Amount shall be considered a charge upon the Benefited Property and shall be collected by EIC, on behalf of the Municipality, at the same time and in the same manner as real property taxes or municipal charges. Each Annual Installment Lien shall remain a lien until paid. Amounts collected in respect of an Annual Installment Lien shall be remitted to EIC, on behalf of the Municipality, or the Financing Party, as may be provided in the Finance Agreement.

- E. EIC shall act as the Municipality's agent in collection of the Annual Installment Amounts. If any Benefited Property Owner fails to pay an Annual Installment Amount, the Financing Party may redeem the Benefited Property by paying the amount of all unpaid Municipal Liens thereon, and thereafter shall have the right to collect any amounts in respect of an Annual Installment Lien by foreclosure or any other remedy available at law. Any foreclosure shall not affect any subsequent Annual Installment Liens.
- F. EIC, on behalf of the Municipality, may sell or assign for consideration any and all Benefit Assessment Liens and Annual Installment Liens to Financing Parties that provide financing to Qualified Properties pursuant to Finance Agreements. The Financing Parties may sell or assign for consideration any and all Benefit Assessment Liens and Annual Installment Liens received from EIC, on behalf of the Municipality, subject to certain conditions provided in the administration agreement between EIC and the Financing Party. The assignee or assignees of such Benefit Assessment Liens and Annual Installment Liens shall have and possess the same powers and rights at law or in equity as the Municipality would have had if the Benefit Assessment Lien and the Annual Installment Liens had not been assigned with regard to the precedence and priority of such lien, the accrual of interest and the fees and expenses of collection.

§9. Verification and report

EIC, on behalf of the Municipality, shall verify and report on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by the Program in such form and manner as the Authority may establish.

§10. Separability.

If any clause, sentence, paragraph, section, or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof involved in the controversy in which such judgment shall have been rendered.

Section 2. It is the intention of the City of Poughkeepsie Common Council and it is hereby enacted that the provisions of this Local Law shall be included in the Code of Ordinances of the City of Poughkeepsie; that the sections and subsections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the words "Local Law" shall be changed to "Chapter," "Section," or other appropriate word as required for codification; and that any

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such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

Section 3. This local law shall take effect upon filing with the Secretary of State.

SECONDED BY COUNCILMEMBER_____.

L-22-01			Yes/Aye	No/Nay	Abstain	Absent
☒ Accepted ☐ Defeated ☐ Tabled	Councilmember Long	Voter	☒	☐	☐	☐
	Councilmember Thompson	Voter	☒	☐	☐	☐
	Councilmember Shook	Voter	☒	☐	☐	☐
	Councilmember Deichler	Voter	☒	☐	☐	☐
	Councilmember Flowers	Voter	☒	☐	☐	☐
	Councilmember Menist	Voter	☒	☐	☐	☐
	Councilmember Johnson	Voter	☒	☐	☐	☐
	Councilmember Cherry	Voter	☒	☐	☐	☐
	Chair Salem	Voter	☒	☐	☐	☐

ACTION AGENDA:

XI. MOTIONS AND RESOLUTIONS:

A motion was made by Councilmember Cherry and seconded by Councilmember Long to receive and print.

- 1. R-22-24, Resolution accepting a donation from the Dyson Foundation to the City of Poughkeepsie to be used to upgrade, improve and maintain the condition of various City of Poughkeepsie parks.**

**RESOLUTION
(R-22-24)**

INTRODUCED BY CHAIR SALEM:

WHEREAS, the Dyson Foundation has agreed to donate \$319,000 to the City of Poughkeepsie to be used to upgrade, improve and maintain the condition of various City of Poughkeepsie parks; and

WHEREAS, pursuant to section 2.05(j) of the Administrative Code of the City of Poughkeepsie the Common Council is authorized to accept gifts on behalf of the City of Poughkeepsie; and

WHEREAS, the Common Council is desirous of accepting such donation to be used to upgrade the infrastructure of city parks as detailed in Exhibit “A” attached; and

NOW, THEREFORE,

BE IT RESOLVED, that the Common Council of the City of Poughkeepsie hereby accepts a donation from the Dyson Foundation in the amount of \$319,000 which funds shall be used as detailed in the attached Exhibit “A”; and

BE IT FURTHER RESOLVED, that the Mayor, City Administrator and Finance Commissioner shall be authorized to execute any agreements necessary to give full force and effect to this resolution.

SECONDED BY _____

A motion was made by Councilmember Menist and seconded by Councilmember Flowers to amend Schedule A to correct a typographical error from “Tyson” to “Dyson”

R-22-24						
☒ Accepted ☐ Defeated ☐ Tabled	Councilmember Long	Voter	☒	☐	☐	☐
	Councilmember Thompson	Voter	☒	☐	☐	☐
	Councilmember Shook	Voter	☒	☐	☐	☐
	Councilmember Deichler	Voter	☒	☐	☐	☐
	Councilmember Flowers	Voter	☒	☐	☐	☐
	Councilmember Menist	Voter	☒	☐	☐	☐
	Councilmember Johnson	Voter	☒	☐	☐	☐
	Councilmember Cherry	Voter	☒	☐	☐	☐
	Chair Salem	Voter	☒	☐	☐	☐

XII. ORDINANCES AND LOCAL LAWS:

XIII. PRESENTATIONS OF PETITIONS AND COMMUNICATIONS:

A motion was made by Councilmember Cherry and seconded by Councilmember Long to defer the remaining petition to Corporation Counsel.

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1. **NANCY TOMASZEWSKI**, a notice of personal injury sustained on January 20, 2022.

XIV. ANNOUNCEMENTS:

XV. ADJOURNMENT:

A motion was made by Councilmember Cherry and seconded by Councilmember Long to adjourn the meeting at 7:44pm.

Dated: Monday March 7, 2022.

I hereby certify that this true and correct copy of the Minutes of the Common Council Organizational Meeting held on Tuesday, February 22, 2022.

Respectfully submitted,

Donna M. DeLuca
Deputy City Chamberlain

