

STATE OF NEW YORK     )  
  ) ss.:  
COUNTY OF Dutchess )

**JAMES F. SHAUGHNESSY, JR., being duly sworn, deposes and says:**

1. I am the President of the City of Kingston School District Board of Education, but I make this affidavit in my capacity as a resident of the City of Kingston. I submit this affidavit in support of Petitioners-Plaintiffs’ (“Petitioners”) motion for a temporary restraining order and preliminary injunction restraining Respondents-Defendants (“Respondents”) City of Kingston Common Council, from voting on a proposed resolution to authorize the abandonment of Fair Street Extension in the City of Kingston (the “Street”).

2. Upon information and belief, on December 7, 2021, the City of Kingston Common Council will be considering proposed Resolution 251 of 2021 entitled, “Resolution of the Common Council of the City of Kingston, New York, Requesting Authorization of the Partial Abandonment of Fair Street Extension and Authorizing the Mayor to Execute Any and All Documents Necessary” (“Resolution 251”). A copy of Resolution 251 is attached hereto as Exhibit “A.”

3. Resolution 251 authorizes the “partial abandonment” of an unspecified portion of the Street and authorizes the Mayor to execute any and all documents related to said abandonment.

4. The City seeks to abandon the Street in order to accommodate a mixed-use development proposed at 9-17 & 21 N. Front Street and Fair Street Extension, commonly referred to as the Kingstonian (the “Project”).

5. The Project is proposed to be built on and include the Street. As the Street is a public highway, pursuant to General City Law § 29 and City of Kingston Code § 355-62, such an abandonment requires that a public hearing be held by the Common Council Laws and Rules Committee.

6. On December 2, 2021, the City attempted to hold such a public hearing (the "Hearing"), which took place at a hybrid remote/in-person meeting pursuant to the modifications to the Open Meetings Law (the "OML") by NYS Chapter 417 of the Laws of 2021 (the "Chapter 417"). It is my understanding that three of the Councilmembers attended in person, while three attended remotely via the videoconferencing application Zoom.

7. I attended the Hearing in person and spoke before the Common Council at the Hearing.

8. The Hearing was fraught with technological errors and did not start at the advertised time. As such, it failed to provide me or other members of the public an adequate opportunity to participate.

9. When the Hearing finally re-commenced, the Council first called on in-person public speakers and then heard those participating via Zoom.

10. Throughout the entire evening, the Council had to stop having commenters speak at various times and had to pause the conduct of the Hearing while the City's IT professionals came in to attempt to resolve apparent technical issues with the Zoom call portion of the meeting.

11. As a result of the technical malfunctions, I was only able to speak at about 8:15 - 8:30, despite the fact that only a fraction of those who had signed up to speak had yet to participate.

12. When I was able to finally, speak, I provided my opinion on the Kingstonian Project and the removal of public resources that will occur in order to accommodate the Project. A copy of my notes for the public comment are attached hereto as Exhibit "B."

13. After I tried to participate in the Hearing by providing my comments at the in-person portion of the meeting, I sent a text message to my daughter, Larissa Shaughnessy, who observed the Hearing remotely.

14. She stated that she was surprised to learn that I had spoken at the Hearing, as she had not heard me offer comment or even that I was called upon to do so.

15. I had text conversations with others that were attending the Hearing remotely and learned that they too did not see or hear me participate in the Hearing.

16. This is particularly concerning, because it is my understanding that three of the City of Kingston Councilmembers holding the public meeting at which the Hearing took place, were doing so remotely. That is, they called into the meeting via Zoom and, upon information and belief, had no means of observing the Hearing other than watching the live broadcast, which had, by Councilperson Scott-Reynolds' own admission, been failing intermittently throughout the evening.

17. It therefore appears that, not only did many other members of the public not hear my comments on the abandonment of the Street, but that several members of the Common Council themselves did not hear my comments.

18. As a result, my comments could not have properly informed the discussion and/or influenced other commenters that took part in the rest of the Hearing, because only a fraction of those attending the Hearing (those in the City Hall with me) heard what I had to say on the abandonment of the Street.

19. To the extent that my comments were not broadcast to a large portion of the attendees of the Hearing, especially to the members of the Common Council participating remotely, my comments were effectively not made part of the record of the Hearing.

20. I am very concerned that my voice has therefore not been truly heard regarding this matter and that the Common Council will proceed with a vote on Resolution 251 despite the fact that several of them never heard my public comment.

21. I attended the Hearing to speak live because that is my right and because I firmly believe that an in-person, spoken comment in front of members of the public body are a meaningful way to participate in the democratic process. Allowing me to merely submit comments in writing after the fact does not provide me an adequate substitute from having the tone and emphasis of my words presented to councilmembers live.

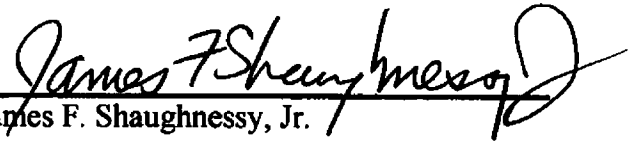
22. After I learned my comment was not broadcast as part of the Hearing, I left City Hall and attempted to rejoin the Hearing via Zoom in order to make sure that my comments were heard by all, especially the other members of the Common Council.

23. I joined the Zoom call and my daughter asked the City Clerk whether I would have an opportunity to speak. Every time I attempted to speak, I was muted by the City Clerk. Apparently, because I spoke in person, I could not speak again, despite the fact that the obvious and numerable technological errors with the Hearing prevented me from having been heard.

24. As a result of the foregoing, I was unable to make a public comment that was heard by all in attendance at the Hearing, including several members of the Common Council themselves. I was therefore denied a meaningful opportunity to participate in the statutorily required public hearing for the abandonment of the Street. When I attempted to resolve this issue by speaking a second time in order to provide my testimony to all members of the

Common Council present, I was denied the opportunity to do so by the City. Instead, I was offered the chance to submit comments in writing, outside the Hearing. This is a poor and inadequate substitute for public comment directed at the Common Council and I am very concerned that my voice has not been heard on this issue and that the Common Council's public hearing has been irrevocably tainted.

25. In the absence of the injunctive relief sought by Petitioners, me, and many other members of the public that attempted to speak at the Hearing will suffer immediate and irreparable harms due to the City proceeding to abandon a public road despite not holding a proper public hearing to hear our thoughts on the issue.

  
James F. Shaughnessy, Jr.

Sworn to before me this  
6 day of December, 2021

  
NOTARY PUBLIC

SHANE NISSEN  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01NI6304478  
Qualified in Ulster County  
My Commission Expires May 27, 2022