



**PONTIAC CITY COUNCIL
FORMAL MEETING**

March 9, 2017

6:00 p.m.

176th Session of the 9th Council

It is this Council's mission "To serve the citizens of Pontiac by committing to help provide an enhanced quality of life for its residents, fostering the vision of a family-friendly community that is a great place to live, work and play."

Call to order

Invocation

Pledge of Allegiance

Roll Call

Authorization for excused absences for councilmembers

Amendments to and approve of the agenda

Approval of the Minutes

1. February 23, 2017 and March 2, 2017.

Special Presentation

2. Trustee Brenda Carter
3. Deb Brinson Oakland Integrated Healthcare Network

Deputy Mayor Report or Department Head Reports

Recognition of Elected Officials

Agenda Address

Public Hearings

4. Public Hearing on the waiving the bid procedure for lot 1AP.
5. Public Hearing approving the sale of Lot 1AP.

AGENDA ITEMS FOR CITY COUNCIL CONSIDERATION

6. Request for approval of the project and construction management of Structural Demolitions.
7. Request for approval on waiving the bid procedure for lot 1AP.
8. Request for approval the sale of the LOT 1AP.
9. Request for a 2nd reading of an ordinance to create an administrative hearings bureau.
10. Request for approval to conduct a DPW feasibility study.
11. Request for approval to conduct a DPW Cost Analysis.

Public Comment

Mayor, Clerk, City Attorney, Council Closing Comments

Adjournment

February 23, 2017

**Official Proceedings
Pontiac City Council
174th Session of the Ninth Council**

A Regular Meeting of the City Council of Pontiac, Michigan was called to order in City Hall, Thursday, February 23, 2017 at 6:00 P.M. by President Patrice Waterman.

Call to Order at 6:00 p.m.

Roll Call

Members Present: Carter, Pietila, Taylor-Burks, Waterman and Woodward.

Members Absent: Holland and Williams.

Mayor Waterman was present.

Clerk announced a quorum.

17-56 **Excuse Councilperson Mark Holland and Kermit Williams for personal reasons.**
Moved by Councilperson Taylor-Burks and supported by Councilperson Pietila.

Ayes: Pietila, Taylor-Burks, Waterman, Woodward and Carter

No: None

Motion Carried.

Councilman Mark Holland arrived at 6:06 p.m.

17-57 **Approve the Agenda with an ad-on resolution for Deacon Kennedy and Lot 1 AP resolution for public hearing.** Moved by Councilperson Taylor-Burks and supported by Councilperson Pietila.

Ayes: Pietila, Taylor-Burks and Carter

No: Waterman, Woodward and Holland

Motion Failed.

17-58 **Approval of the Agenda with agenda item ad-on resolution for Deacon Kennedy.**
Moved by Councilperson Woodward and supported by Councilperson Taylor-Burks.

Ayes: Taylor-Burks, Waterman, Woodward, Carter, Holland and Pietila

No: None

Motion Carried.

17-59 **Journal of February 9, 2017 and February 16, 2017.** Moved by Councilperson Pietila and supported by Councilperson Woodward.

Ayes: Waterman, Woodward, Carter, Holland, Pietila and Taylor-Burks

No: None

Motion Carried.

17-60 **Closed Session Minutes of February 16, 2017.** Moved by Councilperson Pietila and supported by Councilman Taylor-Burks.

SECTION 2. Preamble.

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its low income persons and families and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the Act. The City is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses, not to exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing for low income persons and families is a public necessity, and as the City will be benefited and improved by such housing, the encouragement of the same by providing real estate tax exemption for such housing is a valid public purpose. It is further acknowledged that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of all *ad valorem* taxes during the period contemplated in this Ordinance are essential to the determination of economic feasibility of the housing projects that is constructed or rehabilitated with financing extended in reliance on such tax exemption.

The City acknowledges that the Sponsor (as defined below) has previously received an allocation under the LIHTC Program by the Michigan State Housing Development Authority, to acquire and rehabilitate, own and operate a housing project identified as Colonial Meadows Apartments on certain property located at 1246 E. Walton Blvd. in the City of Pontiac to serve low income persons and families, and that the Sponsor has been paying to the City on account of this housing project an annual service charge for public services in lieu of all *ad valorem* property taxes is outlined in Ordinance No 1995 and the agreement titled Payment in Lieu of Taxes Agreement between the City of Pontiac Colonial Meadows Limited Dividend Housing Association Limited Partnership (hereinafter "PILOT Agreement") dated March 9, 2005.

SECTION 3. Definitions.

- A. Authority means the Michigan State Housing Development Authority.
- B. Annual Shelter Rent means the total collections during an agreed annual period from or paid on behalf of all occupants of a housing project representing rent or occupancy charges, exclusive of Utilities.
- C. LIHTC Program means the Low-Income Housing Tax Credit program administered by the Authority under Section 42 of the Internal Revenue Code of 1986, as amended.
- D. Low Income Persons and Families means persons and families eligible to move into a housing project.
- E. Mortgage Loan means a loan that is Federally-Aided (as defined in Section 11 of the Act) or a loan or grant made or to be made by the Authority to the Sponsor for the construction, rehabilitation, acquisition and/or permanent financing of a housing project, and secured by a mortgage on the housing project.
- F. Sponsor means Colonial Meadows Limited Dividend Housing Association, Limited Partnership and any entity that receives or assumes a Mortgage Loan.
- G. Utilities means charges for gas, electric, water, sanitary sewer and other utilities furnished to the occupants that are paid by the housing project.

Ayes: Woodward, Carter, Holland, Pietila, Taylor-Burka and Waterman
No: None
Motion Carried.

17-61 **Resolution to go into Closed Session.** Moved by Councilperson Woodward and supported by Councilperson Taylor-Burks.

Whereas, the City attorney has presented the city a letter concerning a legal written opinion; and, Whereas section 8 (h) to consider material exempt from discussion or disclosure by state or federal statute.

Whereas, the Pontiac City Council believes that an open meeting would have a detrimental financial effect on the litigating or settlement position of the City:

Therefore, Be It Resolved that the Pontiac City Council recesses into closed session for the purpose of consulting with its attorney regarding a legal written opinion.

Ayes: Woodward, Carter, Holland, Pietila, Taylor-Burks and Waterman
No: None
Resolution Passed.

Deputy Mayor Report or Departmental Head Report – Jane Bais-DiSessa

Recognition of Elected Officials – Dubrae Newman

President Patrice Waterman opened first public hearing regarding the city of Pontiac Tax Exemption Ordinance for Colonial Meadows Apartments at 7:14 p.m.

There were 2 individuals who addressed the body during this public hearing.

1. Charles Johnson, 375 S. Boulevard E. He stated he has visited the site, and then reference it was the wrong property.
2. Billie Swazer, 1619 Marshbank. She says the pilot being extended.

President Patrice Waterman closed this public hearing at 7:16 p.m.

17-62 **An Ordinance for the City of Pontiac Tax Exemption for Colonial Meadows Apartments.** Moved by Councilperson Woodward and supported by councilperson Taylor-Burks.

TAX EXEMPTION ORDINANCE 2342

An Ordinance to provide for a service charge in lieu of taxes for a housing project for low income persons and families to be financed with a federally-aided Mortgage Loan pursuant to the provisions of the State Housing Development Authority Act of 1966 (1966 PA 346, as amended; MCL 125.1401, *et seq*) (the "Act").

THE CITY OF PONTIAC ORDAINS:

SECTION 1. This Ordinance shall be known and cited as the "*City of Pontiac Tax Exemption Ordinance-Colonial Meadows Apartments.*"

SECTION 4. Class of Housing Projects.

It is determined that the class of housing projects to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing projects for Low Income Persons and Families that are financed with a Mortgage Loan. It is further determined that Colonial Meadows Apartments is of this class.

SECTION 5. Establishment of Annual Service Charge.

The housing project identified as *Colonial Meadows Apartments* and the property on which it is located is currently exempt from all *ad valorem* property taxes pursuant to Ordinance 1995 and PILOT Agreement. The City acknowledges that the Sponsor and the Authority have established the economic feasibility of the housing project in reliance upon the enactment and continuing effect of this Ordinance, and the qualification of the housing project for exemption from all *ad valorem* property taxes and a payment in lieu of taxes as established in this Ordinance. Therefore, in consideration of the Sponsor's operation of the housing project, the City agrees to accept payment of an annual service charge for public services in lieu of all *ad valorem* property taxes. Effective immediately the annual service charge shall be equal to 10% of the Contract Rents actually collected by the housing project during each operating year. This Ordinance will replace the PILOT Agreement. If for any reason this Ordinance is found to be invalid then the PILOT Agreement would continue to remain in effect.

SECTION 6. Contractual Effect of Ordinance.

Notwithstanding the provisions of section 15(a)(5) of the Act to the contrary, a contract between the City and the Sponsor with the Authority as third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this Ordinance.

SECTION 7. Limitation on the Payment of Annual Service Charge.

Notwithstanding Section 5, the service charge to be paid each year in lieu of taxes for the part of the housing project that is tax exempt but which is occupied by other than low income persons or families shall be equal to the full amount of the taxes which would be paid on that portion of the housing project if the housing project were not tax exempt.

SECTION 8. Payment of Service Charge.

The annual service charge in lieu of taxes as determined under this Ordinance shall be payable in the same manner as general property taxes are payable to the City/Township and distributed to the several units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year. The annual payment for each operating year shall be paid on or before May 31st of the following year. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.1, *et seq*).

SECTION 9. Duration.

This Ordinance shall remain in effect and shall not terminate so long as a Mortgage Loan remains outstanding and unpaid and the housing project remains subject to income and rent restrictions under the LIHTC Program.

SECTION 10. Severability.

The various sections and provisions of this Ordinance shall be deemed to be severable, and should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of this Ordinance as a whole or any section or provision of this Ordinance, other than the section or provision so declared to be unconstitutional or invalid.

SECTION 11. Inconsistent Ordinances.

All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such inconsistency or conflict.

Section 12. Effective Date.

This Ordinance shall become effective on March 8, 2017, as provided in the City Charter.

Ayes: Carter, Holland, Pietila, Taylor-Burks, Waterman and Woodward

No: None

Ordinance Passed.

President Patrice Waterman opened second public hearing regarding the city of Pontiac Tax Exemption Ordinance for Newman Court Apartments at 7:19 p.m.

There were 3 individuals who addressed the body during this public hearing.

1. Charles Johnson, 375 S. Boulevard E. He is hopeful; they will look at the sanitary conditions and help with the blighted conditions. Look at the garbage and the dumpsters.
2. Robert Bass, 499 Highland. He supports the project if it is going to be rehabbed. The property should not demise there have been broken doors and screens. He has seen the property go down.
3. Billie Swazer, 1619 Marshbank. She is for the pilot. She is sure the blighted issues will be taken care of.

President Patrice Waterman closed this public hearing at 7:22 p.m.

17-63 **An Ordinance for the City of Pontiac Tax Exemption for Newman Court Apartments.** Moved by Councilperson Pietila and supported by councilperson Taylor-Burks.

TAX EXEMPTION ORDINANCE 2343

An Ordinance to provide for a service charge in lieu of taxes for a housing project for low income persons and families to be financed with a federally-aided Mortgage Loan pursuant to the provisions of the State Housing Development Authority Act of 1966 (1966 PA 346, as amended; MCL 125.1401, *et seq*) (the "Act").

THE CITY OF PONTIAC ORDAINS:

SECTION 1. This Ordinance shall be known and cited as the "*City of Pontiac Tax Exemption*

Ordinance-Newman Court Apartments."

SECTION 2. Preamble.

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its low income persons and families and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the Act. The City is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses, not to exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing for low income persons and families is a public necessity, and as the City will be benefited and improved by such housing, the encouragement of the same by providing real estate tax exemption for such housing is a valid public purpose. It is further acknowledged that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of all *ad valorem* taxes during the period contemplated in this Ordinance are essential to the determination of economic feasibility of the housing projects that is constructed or rehabilitated with financing extended in reliance on such tax exemption.

The City acknowledges that the Sponsor (as defined below) has offered, subject to receipt of an allocation under the LIHTC Program by the Michigan State Housing Development Authority, to acquire and rehabilitate, own and operate a housing project identified as Newman Court Apartments on certain property located at 630 Kettering in the City of Pontiac to serve low income persons and families, and that the Sponsor has offered to pay the City on account of this housing project an annual service charge for public services in lieu of all *ad valorem* property taxes.

SECTION 3. Definitions.

- A. Authority means the Michigan State Housing Development Authority.
- B. Contract Rents means the total Contract Rents (as defined by the U.S. Department of Housing and Urban Development in regulations promulgated pursuant to Section 8 of the U.S. Housing Act of 1937, as amended) received in connection with the operation of a housing project during an agreed annual period, exclusive of Utilities.
- C. **LIHTC Program means the Low-income Housing Tax Credit program administered by the Authority under Section 42 of the Internal Revenue Code of 1986, as amended.**
- D. Low Income Persons and Families means persons and families eligible to move into a housing project.
- E. Mortgage Loan means a loan that is Federally-Aided (as defined in Section 11 of the Act) or a loan or grant made or to be made by the Authority to the Sponsor for the construction, rehabilitation, acquisition and/or permanent financing of a housing project including LIHTC's, and secured by a mortgage on the housing project.
- F. Managing Member means an entity owned or controlled by MHT Housing, Inc.
- G. Sponsor means Newman Court Apartments II Limited Dividend Housing Association, LLC and any entity that receives or assumes a Mortgage Loan.

H. Utilities means charges for gas, electric, water, sanitary sewer and other utilities furnished to the occupants that are paid by the housing project.

SECTION 4. Class of Housing Projects.

It is determined that the class of housing projects to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing projects for Low Income Persons and Families that are financed with a Mortgage Loan. It is further determined that Newman Court Apartments is of this class.

SECTION 5. Establishment of Annual Service Charge.

The housing project identified as Newman Court Apartments and the property on which it is located shall be exempt from all *ad valorem* property taxes from and after the commencement of construction or rehabilitation. The City acknowledges that the Sponsor and the Authority have established the economic feasibility of the housing project in reliance upon the enactment and continuing effect of this Ordinance, and the qualification of the housing project for exemption from all *ad valorem* property taxes and a payment in lieu of taxes as established in this Ordinance. Therefore, in consideration of the Sponsor's offer to rehabilitate and operate the housing project, the City agrees to accept payment of an annual service charge for public services in lieu of all *ad valorem* property taxes. Subject to receipt of a Mortgage Loan, the annual service charge shall be equal to 7% of the Contract Rents actually collected by the housing project during each operating year.

SECTION 6. Contractual Effect of Ordinance.

Notwithstanding the provisions of section 15(a)(5) of the Act to the contrary, a contract between the City and the Sponsor with the Authority as third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this Ordinance.

SECTION 7. Limitation on the Payment of Annual Service Charge.

Notwithstanding Section 5, the service charge to be paid each year in lieu of taxes for the part of the housing project that is tax exempt but which is occupied by other than low income persons or families shall be equal to the full amount of the taxes which would be paid on that portion of the housing project if the housing project were not tax exempt.

SECTION 8. Payment of Service Charge.

The annual service charge in lieu of taxes as determined under this Ordinance shall be payable in the same manner as general property taxes are payable to the City/Township and distributed to the several units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year. The annual payment for each operating year shall be paid on or before May 31st of the following year. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.1, *et seq*).

SECTION 9. Duration.

This Ordinance shall remain in effect and shall not terminate so long as a Mortgage Loan remains outstanding and unpaid or the housing project remains subject to income and rent restrictions

under the LIHTC Program. In addition, the Ordinance shall expire if the following conditions are not met or corrected within 90 days of written notice of default:

- a. Managing Member sells or ceases to control the property.
- b. Payment of yearly City registration fees of \$25.00 per unit
- c. Biennial inspection of the property
- d. Creation of a Resident Council

SECTION 10. Severability.

The various sections and provisions of this Ordinance shall be deemed to be severable, and should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of this Ordinance as a whole or any section or provision of this Ordinance, other than the section or provision so declared to be unconstitutional or invalid.

SECTION 11. Inconsistent Ordinances.

All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such inconsistency or conflict.

Section 12. Effective Date.

This Ordinance shall become effective on March 8, 2017 as provided in the City Charter.

Ayes: Holland, Pietila, Taylor-Burks, Waterman, Woodward and Carter

No: None

Ordinance Passed.

President Patrice Waterman opened third public hearing regarding a proposal to remove from the boundaries of the Tax Increment Finance Authority (TIFA) parcels 19-04-226-001, 19-04-226-003 and 19-04-226-013 at 7:30 p.m.

There were 5 individuals who addressed the body during this public hearing.

1. Charles Johnson, 375 S. Boulevard E. He visits John. He doesn't disapprove of the project. He hopes it's completed. Don't let the picture fool you.
2. Robert Bass, 499 Highland. He said he is not complaining, he is just asking about it. What will be put in the back of the project? What kind of trucks will be coming in and out?
3. Darryl Fowlkes, 500 California. He stated the building on the end has been used for just about everything. What will happen to the grounds?
4. Damany Head, 432 Kuhn St. Broker vs. a scrap yard. How do we start to develop a corridor of consistency? Look at the plan we set forth.
5. Christopher Northcross, 168 Astorwood. There were man stipulations that the planning commission put into place.

President Patrice Waterman closed this public hearing at 7:36 p.m.

17-64 **Request for approval of the proposal to remove from the boundaries of the Tax Increment Finance Authority parcels 19-04-226-001, 19-04-226-003 and 19-04-226-013. Moved by Councilperson Woodward and supported by Councilperson Taylor-Burks.**

Whereas, the City of Pontiac Community Development Department recommends the removal of parcels 19-04-226-001, 19-04-226-003 and 19-04-226-013 from the boundaries of the Tax Increment Finance Authority,

Whereas, the City of Pontiac Community Development Department recommends the approval of the establishment of a brownfield district for parcels 19-04-226-001, 19-04-226-003 and 19-04-226-013. Now, therefore, Be It Resolved, that the Pontiac City Council approves the removal from the boundaries of the Tax Increment Finance Authority parcels 19-04-226-001, 19-04-226-003 and 19-04-226-013 and establishes a brownfield district for parcels 19-04-226-001, 19-04-226-003 and 19-04-226-013.

Parcel 19-04-226-001

A parcel of land situated in the Northeast ¼ of Section 4, T2N, R10E, within the City of Pontiac, Oakland County, Michigan, more particularly described as:

Land in "Assessor's Plat No. 98", as recorded in Liber 1B of Plats, Page 98, Oakland County Records. All that part of Lots 1 and 2 described as beginning at the Northwest corner of Lot 1; thence easterly along the northerly lot lines 580.1 feet; thence S 02°09'01" E, 85.6 feet to the northerly wall of a building; thence N 87°50'59" E, along said northerly wall, 40.75 feet to the westerly line of a brick wall; thence S 02°09'01" E, along said easterly line of wall, 267 feet more or less to the southerly line of former Baldwin Rubber property; thence S 87°51'14" W, 160 feet more or less to the westerly line of said lot 2; thence northerly along the westerly line of said Lots 1 and 2 to the point of beginning, except the north 17 feet for street widening, also except a parcel in the southwest corner of the above described as being 48.50 feet on the north and south lines and 42.00 feet on the east and west lines.

Parcel 19-04-226-003

A parcel of land situated in the Northeast ¼ of Section 4, T2N, R10E, within the City of Pontiac, Oakland County, Michigan, more particularly described as:

Land in "Assessor's Plat No. 98", as recorded in Liber 1B of Plats, Page 98, Oakland County Records. Part of Lots 1 and 2 beginning on the north line of Lot 2, distant N 87°50'59" E, 180.10 feet from the northwest corner of Lot 2; thence S 02°09'01" E, 85.60 feet to the north wall of building; thence N 87°50'59" E, 40.75 feet to brick wall dividing building; thence S 02°09'01" E, 267 feet; thence N 87°51'14" E, 478.07 feet; thence N 02°08'46" W, 15 feet; thence N 87°51'14" E, 244 feet; thence N 02°09'01" W, 337.16 feet; thence S 87°50'59" W, 762.82 feet to the point of beginning. Except the northerly 17 feet for street widening.

Parcel 19-04-226-013

A parcel of land situated in the Northeast ¼ of Section 4, T2N, R10E, within the City of Pontiac, Oakland County, Michigan, more particularly described as:

Land in "Assessor's Plat No. 98", as recorded in Liber 1B of Plats, Page 98, Oakland County Records. Part of Lot 2 beginning at a point distant S 87°50'59" E, 942.92 feet from the northwest lot corner; thence S 87°50'59" E, 300 feet; thence S 02°09'01" W, 290.18 feet; thence S 16°11'11" W, 41.23 feet; thence N 87°51'14" W, 290 feet; thence N 02°09'01" E, 337.16 feet to the point of beginning. Except the northerly 17 feet taken for road.

Ayes: Holland, Pietila, Taylor-Burks, Waterman and Woodward

No: Carter

Resolution Passed.

17-65 **Request for approval of a resolution concurring with the provisions of a Brownfield Plan adopted by the Oakland County Brownfield Redevelopment Authority for the 366, 400 and 500 East Boulevard Project.** Moved by Councilperson Woodward and supported by Councilperson Taylor-Burks.

Whereas, the Oakland County Board of Commissioners, pursuant to and in accordance with the provisions of the Brownfield Redevelopment Financing Act, being Act 381 of the Public Acts of the State of Michigan of 1996, as amended (the "Act"), have established a Brownfield redevelopment of Brownfields within Oakland County's communities; and

Whereas, the property located at 366, 400, 500 South Boulevard (Property), a site in the City of Pontiac is an environmental hazard, a "facility" under state statute; and

Whereas, a Brownfield clean up and redevelopment plan (the "Plan") has been prepared to restore the environmental and economic viability to this parcel which the OCBRA has reviewed and approved; and

Whereas, pursuant to OCBRA by-laws, a local committee has been appointed, participated in discussions regarding the proposed plan and project, reviewed the plan, and recommends its approval; and

Whereas, the OCBRA, pursuant to and in accordance with Section 13 of the Act, shall consider recommending that the Oakland County Board of Commissioners approve the Brownfield Plan to be carried out within the City of Pontiac, relating to the redevelopment of the 366, 400, 500 South Boulevard; and

Whereas, the City has reviewed the Plan, and have been provided a reasonable opportunity to express their views and recommendations regarding the Plan in accordance with Sections 13 (13) of the Act; and

Now, Therefore, Be It Resolved That the City of Pontiac hereby concurs with the provisions of the Plan including approval of the Plan by the Oakland County Board of Commissioners and implementation of the Plan by the Oakland County Brownfield Redevelopment Authority.

Be It Further Resolved That should any section, clause or phrase of this Resolution be declared by the courts to be invalid, the same shall not affect the validity of this Resolution as a whole nor any part thereof other than the part so declared to be invalid.

Be It Further Resolved That all resolutions or parts of resolution in conflict with any of the provisions of this resolution are hereby repealed.

Ayes: Holland, Pietila, Taylor-Burks, Waterman and Woodward

No: Carter

Resolution Passed.

17-66 **Request resolution for the Oakland County Brownfield Authority to assist with the 366, 400, and 500 East South Boulevard Project.** Moved by Councilperson Woodward and supported by Councilperson Pietila.

Whereas, the City of Pontiac has a Brownfield Project known as the 366, 400 and 500 East South Boulevard project that that it would like to have reviewed and processed by the Oakland County Brownfield Redevelopment Authority;

Whereas, the City of Pontiac has a Brownfield Authority but desires to have the Oakland County Brownfield Redevelopment Authority handle the 366, 400 and 500 East South Boulevard Project;

Whereas, the Oakland County Brownfield Authority was created by Oakland County pursuant to MCL 125.2651 et seq. to assist jurisdictions like the City of Pontiac;

Whereas, the Oakland County Brownfield Redevelopment Authority is prepared to assist the City of Pontiac by reviewing the proposed 366, 400 and 500 East South Boulevard project, provided that the City of Pontiac acknowledges certain rights that the Oakland County Brownfield redevelopment Authority has, to wit:

- OCBRA intends to collect an administrative fee of \$5,000 per year for the length of the Brownfield plan; and

Whereas, the City of Pontiac will have the opportunity to provide public comment on any Brownfield plan (including the amount of the administrative fee to be collected) before it is finally adopted by the OCBRA and/or the Oakland County Board of Commissioners;

Now, Be, It Resolved that the City of Pontiac requests that the OCBRA undertake review of the 366, 400 and 500 East South Boulevard Project.

Ayes: Pietila, Taylor-Burks, Waterman, Woodward and Holland

No: Carter

Resolution Passed.

17-67 Request for a 1st reading of an ordinance to create an administrative hearings bureau. Moved by Councilperson Woodward and supported by Councilperson Pietila.

Be It Further Resolved, that the Pontiac City Council will consider an ordinance to create an administrative hearing bureau on Thursday, March 9, 2017 at 6:00 p.m.

Ayes: Taylor-Burks, Waterman, Woodward, Carter, Holland and Pietila

No: None

Resolution Passed.

17-68 Request resolution for the addition of three (3) personnel positions for the Department of Public Works. Moved by Councilperson Woodward and supported by Councilperson Taylor-Burks.

Whereas, the City of Pontiac is looking to hire three new positions in the Department of Public Works, Maintenance Superintendent at a final compensation of \$96,335.30 and Grounds Maintenance Foreman at a final compensation of \$70, 281.22 and Maintenance Worker at a final compensation of \$62,465.00 and; Whereas, the Department of Public Works is requesting that these three job description be approved and added into the DPW in an effort to ensure higher quality work in performing City maintenance operations. It is our belief that these positions will result in higher work productivity at a lower contractor cost and;

Now, Therefore, Be it Resolved, that the Pontiac City Council accepts the three job descriptions and authorizes the Mayor or Deputy Mayor to advertise and fill the Maintenance Superintendent position, the grounds Maintenance Foreman position and the Maintenance Worker position.

Ayes: Waterman, Woodward, Carter, Holland, Pietila and Taylor-Burks

No: None

Resolution Passed.

17-69 Resolution for Deacon William Kennedy. (Agenda ad-on) Moved by Councilperson Woodward and supported by Councilperson Taylor-Burks.

Whereas, The Pontiac City Council and the Mayor are deeply saddened by the loss of our brother, Deacon William Kennedy; and,

February 23, 2017

Whereas, Deacon William Kennedy of Pontiac, Michigan departed this life on February 18, 2017; and,
Whereas, Deacon William Kennedy was born to Deacon JW and Mother Marry Lee Eason Kennedy on March 15, 1944 in Livingston , Alabama; and,

Whereas, Deacon William Kennedy was the third of ten children; and,

Whereas, Deacon William Kennedy upon graduating from Sumter County Training School, moved to Michigan; and,

Whereas, Deacon William Kennedy attended barber school and later embarked on a 43 year career at General Motors; and,

Whereas, Deacon William Kennedy in 1966 married Donna Moss and together they shared three children and five grandchildren; and,

Whereas, Deacon William Kennedy in 1974, opened Kennedy's Beauty and Barbershop, his greatest love outside of God, his family and Macedonia Missionary Baptist Church where he proudly served as a deacon; and,

Whereas, Deacon William Kennedy was a pillar in the community who was always kind, encouraging and always had a word to share about the Lord; and,

Whereas, Deacon William Kennedy leaves his daughter Kimberly "Kym" Kennedy, of Dallas Texas and son William G (Kia) Kennedy of New Mexico, two granddaughters, Atira and Sidni, three grandsons, Taylor, Emanuel and Isaiah Kennedy and siblings May Crawford of Pontiac, MI, Ann (Richard) Moore of Brockton MA, Dorthy Jean Neeley (Herbert) of Auburn Hills, MI, L. Pearl (Daryl) Thomas of Farmington Hills, MI, Gloria Ann Kennedy, Samuel (Sheila) of Lawrenceville, GA and Frank L. Kennedy of Pontiac MI; and

Whereas, Deacon William Kennedy was preceded in death by his parents, Annie K. Robinson and brother, James.

Therefore Be It Resolved, that the members of the Pontiac City Council and the Mayor will greatly miss Deacon William Kennedy and all of his countless contributions to the City of Pontiac.

Now, Therefore Be It Resolved, that the Members of Pontiac City Council, The Mayor, and members of this great community honor the life of an accomplished man and give our sincerest condolences to the family and friends of Deacon William Kennedy.

Ayes: Woodward, Carter, Holland Pietila, Taylor-Burks and Waterman

No: None

Resolution Passed.

There were 6 individuals who addressed the body during public comments.

President Patrice Waterman left meeting at 8:00 p.m.

Councilman Don Woodward left meeting at 8:03 p.m.

Honorable Mayor Deidre Waterman Reported.

City Clerk Sherikia Hawkins, City Attorney Travis Mihelick, Councilman Randy Carter, Councilwoman Doris Taylor-Burks, Councilman Mark Holland and Pro-Tem Mary Pietila made closing comments.

President Patrice Waterman adjourned the meeting at 8:37 p.m.

SHERIKIA L. HAWKINS
CITY CLERK

March 2, 2017

**Official Proceedings
Pontiac City Council
174th Session of the Ninth Council**

A Study Session of the City Council of Pontiac, Michigan was called to order in City Hall, Thursday, March 2, 2017 at 6:00 P.M. by President Patrice Waterman.

Call to Order at 6:00 p.m.

Roll Call

Members Present: Carter, Pietila, Taylor-Burks, Waterman and Woodward.

Members Absent: Holland and Williams.

Mayor Waterman was present.

Clerk announced a quorum.

17-70 **Excuse Councilperson Mark Holland and Kermit Williams for personal reasons.**
Moved by Councilperson Pietila and supported by Councilperson Woodward.

Ayes: Carter, Pietila, Taylor-Burks, Waterman and Woodward

No: None

Motion Carried.

Councilman Mark Holland arrived at 6:02 p.m.

There were 9 individuals who addressed the body during public comment.

Councilman Kermit Williams arrived at 6:23 p.m.

17-71 **Council Suspend the Rules.** Moved by Councilperson Taylor-Burks and supported by Councilperson Woodward.

Ayes: Pietila, Taylor-Burks, Waterman, Williams, Woodward, Carter and Holland

No: None

Motion Carried.

17-72 **Rules were suspended to act on item # 2. Request resolution to schedule a public hearing on waiving the bid procedure for Lot 1AP Parcel #14-29-436-024.** Moved by Councilperson Taylor-Burks and supported by Councilperson Woodward.

Be it Further Resolved, that the Pontiac City Council will schedule a public hearing on waiving the bid procedure for lot 1AP Parcel #14-29-436-024 on Thursday, March 9, 2017 at 6:00 p.m. in the City Council Chambers, located at 47450 Woodward Avenue Pontiac, Michigan 48342.

Ayes: Taylor-Burks, Waterman, Williams, Woodward, Carter, Holland and Pietila

No: None

Resolution Passed.

March 2, 2017

17-73 **Rules were suspended to act on item # 3. Request resolution to schedule a public hearing on the sale of Lot 1AP Parcel #14-29-436-024.** Moved by Councilperson Taylor-Burks and supported by Councilperson Woodward.

Be it Further Resolved, that the Pontiac City Council will schedule a public hearing to approve the sale of Lot 1AP Parcel #14-29-436-024 on Thursday, March 9, 2017 at 6:00 p.m. in the City Council Chambers, located at 47450 Woodward Avenue Pontiac, Michigan 48342.

Ayes: Waterman, Williams, Woodward, Carter, Holland, Pietila and Taylor-Burks

No: None

Resolution Passed.

President Patrice Waterman adjourned the meeting at 7:45 p.m.

SHEILA R. GRANDISON
DEPUTY CITY CLERK

Memorandum - Revised

To: Honorable Mayor, Council President and City Council Members

From: Michelle L. McKenzie, Purchasing Agent

Through: Jane Bais-DiSessa, Deputy Mayor

Date: March 7, 2017

Re: Project & Construction Management of Structural Demolitions

The City advertised for bids for Project & Construction Management of Structural Demolitions. The proposals were accepted on August 29, 2016 at 2:00 pm in the office of the City Clerk and publically opened at that time.

There were two respondents to the RFP. They were:

- Atwell, LLC
- George W. Auch Co.

A three member review panel comprised of the Deputy Mayor, Deputy Community Development Director and the Purchasing Agent individually reviewed the responses. The review consisted of the following categories: Understanding of Service, Qualifications of Team, Past Performance and Fees/Costs.

The award amount is no more than \$ 75,000. The contract will be paid with Community Development Block Grant (CDBG) funds. The Consultant will manage the work of third party demolition contractors that will be selected and contracted by the City of Pontiac based upon qualifications and competitive bids. It is anticipated that more than one (1) demolition contractor and asbestos abatement contractor will be utilized to perform the physical demolition and abatement activities.

The delay in approving the contract is due to the completion of demolition batches 4A, 5A & 6A. There was also a question of the availability of funds for this contract. The panel met with both bidders to assure they could comply with the CDBG rules and with City of Pontiac guidelines. Both companies submitted excellent proposals. After much deliberation, a decision was reached. The panel felt that based on past performance and maintaining a consistency with our demolition program, that Atwell, LLC be awarded the contract.

As such, it is the recommended of the panel that the City authorizes the Mayor or Deputy Mayor to enter into a contract with the above mentioned consultant, Atwell, LLC:

***WHEREAS**, the City of Pontiac advertised and received responses to a request for proposals for Project & Construction Management of Structural Demolitions on August 29, 2016 and publically opened bids; and,*

***WHEREAS**, a panel reviewed the responses and met with the bidders; and,*

***WHEREAS**, the most experienced and qualified bidder is being recommended for the contract; and,*

***WHEREAS**, the contract will be granted to Atwell, LLC. The amount of \$ 75,000 is the total funding for any and all work performed, by the contractor, under this agreement and will be funded by CDBG dollars;*

***NOW, THEREFORE, BE IT RESOLVED** that the Pontiac City Council authorize the Mayor or Deputy Mayor to enter into a contract with; Atwell, LLC for Project & Construction Management of Structural Demolitions in the amount of \$ 75,000 as budgeted with CDBG funds.*

Hourly Rate Cost Comparison				
Project & Construction Management of Structural Demolition				

Company		Auch		Atwell
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Job Title		per hour		per hour
Project Director		\$ 225.00		
Project Executive				\$ 235.00

Atwell \$ 10.00 more

Senior Project Manager		\$ 185.00		
Senior Project Manager				\$ 190.00

Atwell \$ 5.00 more

Construction Estimator		\$ 201.00		\$ -
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No comparable

Project Eng/Scheduler		\$ 112.00		
Engineer/Designer I-V				\$ 102 to \$ 154

similar cost

similar cost

Secretary/Clerk		\$ 90.00		
Accountant		\$ 110.00		
Administrative Services				\$ 65 to \$ 86

Auch \$ 4.00 more

Auch \$ 24.00 more

Field Superintendent		\$ 163.00		
Construction Manger I-II				\$ 139 to \$ 154

Auch \$ 9.00 more

AGREEMENT FOR ACQUISITION OF REAL PROPERTY

AGREEMENT made this ____ day of _____, 2017, by and between McLaren Oakland Hospital whose address is 50 North Perry Street, Pontiac, Michigan 48342, (Purchaser), and the City of Pontiac, a Michigan Municipal Corporation, whose address is, 47450 Woodward Ave., Pontiac, MI 48342 (Seller).

WITNESSETH:

WHEREAS, Seller is the owner of approximately 86,000 square feet of *vacant* property identified by the City as Lot 1AP at the corner of Pike and Woodward in the City of Pontiac, County of Oakland, State of Michigan, being more particularly described in Exhibit "A" attached hereto and made a part hereof, (hereinafter referred to as the Property); and

WHEREAS, the City has agreed to sell the Property and McLaren Oakland has agreed to buy the Property upon the terms set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings stated herein, and subject to the conditions set forth, the parties agree as follows:

1. **Sale and Purchase.** Seller shall sell and convey to Purchaser, and Purchaser shall purchase from Seller, subject to the terms and conditions set forth in this document, the real estate described in Exhibit A as attached.
2. **Definition of Property.** Reference to Property in this Agreement shall be the real property described in Exhibit A as attached, including:
 - a. all, and singular, the rights and appurtenances pertaining to the Property, including any right, title, and interest of Seller in and to adjacent easements, together with all air, subsurface, gas, oil, and all other mineral rights that Seller may have or retain;
 - b. such other rights, interests, and properties as may be specified herein to be sold, transferred, assigned, or conveyed by Seller to Purchaser;
 - c. those rights and interests that show up in the Title Commitment provided by Purchaser.
3. **Purchase Price.** Purchaser shall pay to Seller, in cash or certified check at closing, the sum of Two Hundred Thirty Thousand (\$230,000.00) Dollars as herein provided.
4. **Expenses.** Purchaser will pay up to Fifteen Thousand (\$15,000.00) Dollars for expenses and fees related to the sale of the property.
5. **Title Insurance.** Purchaser will purchase title insurance at its own cost.

6. **Condition of Property.** Purchaser is purchasing this property in an as-is condition.

7. **Purchaser's Acknowledgement.** The Purchaser agrees not to impede the progress of the proposed right-hand turn lane and the potential taking of some of the parking lot for right-of-way or easements. The Purchaser agrees to fully cooperate with MDOT, reserving only the issue of just compensation per Michigan law. This acknowledgement and provision will survive the closing of the transaction.

8. **Right of First Refusal.** If Hospital receives a bona fide offer for purchase of the premises, the Hospital shall give the City the right of first refusal to purchase the Premises under the following conditions:

- a. Hospital will give City the right to review the bona fide offer in its entirety;
- b. The City shall have sixty (60) days to exercise its right of first refusal from the date of receipt of the bona fide offer.
- c. The Hospital will make the same terms of the bona fide offer available to the City.
- d. This right of first refusal shall not apply in the event that the hospital transfers the property to one of its legal entities.

This provision and its subparagraphs will survive the closing of the transaction.

9. **Possession.** Purchaser is currently in possession of the Property and will retain possession throughout and after closing.

10. **Closing and Conveyance.** The Closing of this transaction shall take place within thirty (30) days following the effective date of this agreement. The Closing shall take place at the offices of Secrest Wardle. At Closing, the parties shall take the following actions for the purpose of consummating this transaction:

- a. Seller shall:
 - 1) Execute, acknowledge and deliver to Purchaser: a Warranty Deed accompanied by a Transfer Valuation Affidavit conveying the Property. The Deed to be delivered by Seller shall be the usual or customary Warranty Deed, duly executed in proper form for recordation. The Deed shall be sufficient to convey to Purchaser fee simple title to the Property.

2) Assign, transfer, and give to Purchaser at Closing all easements, leases, licenses, and similar property rights that relate to the use, ownership, possession, or control of the Property.

- b. Purchaser shall deliver to Seller those funds required to be paid upon Closing as provided for in this Agreement. Purchaser shall pay at Closing the recording fees with respect to the recording of the Warranty Deed as well as any transfer taxes.
- c. Both parties shall execute, acknowledge and deliver such other instruments and documents, in customary form reasonably acceptable to Seller and Purchaser, as shall be reasonably necessary in order to fully consummate the sale of the Property.
- d. Purchaser shall be responsible for the payment of all property taxes falling due after the date of closing without regard to lien date. Seller shall pay the cost of all utilities and service charges through and including the date of closing.

11. **Destruction or Damage.** Prior to Closing, all risk relating to the Property shall remain the sole responsibility of the Seller. The proceeds from any insurance shall inure to the benefit of Purchaser and shall be credited to Seller at Closing.

12. **Notice.** Any notice to be provided or served upon any party to this Agreement in connection herewith, must be in writing and may be personally delivered or provided by certified mail, return receipt requested. All notices shall be deemed to have been provided (i) upon receipt in the event of personal service by actual delivery or (ii) upon two days after posting if deposited in the United States mail with proper postage affixed and dispatched by certified mail. All such notices shall be forwarded to the parties at the following addresses:

If to Purchaser:
Barton Buxton, CEO
McLaren Oakland
50 North Perry Street
Pontiac, Michigan 48342

If to Seller:
Mayor Dierdre Waterman
City of Pontiac
70 North Saginaw
Pontiac, Michigan 48342

Either party may, at any time, change the address to which notices are to be directed by providing notice to the other party in the manner set forth above. Notice of a change of address shall be effective five (5) days after that notice shall be deemed to have been provided.

13. **Agreement.** This document affirms the agreement and understanding between the parties for the purchase of the Property.

14. **Binding Effect.** The Agreement between the parties for the purchase of the Property is binding upon any and all successors and assigns of the parties.

15. **Jurisdiction and Choice of Law.** Any dispute regarding the purchase of the Property shall be decided pursuant to the laws of the State of Michigan which shall control. The parties consent and agree to the jurisdiction of the courts of the State of Michigan for any action brought regarding the purchase of the Property.

16. **Amendments.** No change or modification hereof shall bind the parties unless written and signed by the parties.

17. **Counterparts.** This document may be executed in any number of counterparts, none of which need be executed by all the parties hereto, each of which shall be deemed an original, and all of which when taken together shall constitute one in the same instrument. Each Exhibit attached shall be a part of this Agreement as if the content thereof was fully set forth in the body of the Agreement.

18. **Execution.** Upon approval of the City Council, this Agreement shall be executed forthwith by the authorized officers of both the parties.

PURCHASER (BUYER)

McLaren Oakland Hospital

Barton Buxton, CEO

Dated: February ____, 2017

(Signatures continued on next page)

OWNER (SELLER)

City of Pontiac

By: _____
Its: _____

City of Pontiac

By: _____
Its: _____

Dated: February ____, 2017

EFFECTIVE DATE OF AGREEMENT: _____, 2017

Seller: _____ Purchaser: _____

EXHIBIT "A"

LEGAL DESCRIPTION

Parking Lot (1A) located at the northwest corner of Wide Track Drive, West and E. Pike Street.

All that land located in Clinton Addition described as: Lots 1 to 6 both inclusive and the south 36 feet of Lot 7 except that part lying easterly of the westerly line of Wide Track Drive, East as now laid out and established. Also all of Lots 3 and 4, part of Lot 1 of Assessor's Plat No. 45, described as beginning at the southeast corner of Lot 1; thence N 6°53'40" W 202.85 feet; thence N 7°21'50" E 65.5 feet; thence N 2°53'20" E to a point where a line 36 feet north of the south line of Lot 7 of Clinton Addition would intersect the east line of Lot 1; thence S 87°42'10" W to a point on the west line of Lot 1, located N 12°53'40" W 34 feet from angle in west line of Lot 1; thence S 12°53'40" E 34 feet to said angle point; thence S 0°33'20" W 265.3 feet; thence N 74°53'10" E 135.0 feet to the point of beginning. Also Lot 2 of Assessor's Plat No. 45 except that portion lying west and northwest of the bed of the Clinton River, also except that part lying north of a line described as beginning at the southeast corner of Lot 5; thence east on extended south line of Lot 5, 22 feet; thence N 1°45'24" W 18.23 feet; thence N 87°43' E to the east line of said Lot 2.

All the above said land located in parts of the southeast 1/4 of Section 29 and southwest 1/4 of Section 28, T3N, R10E, City of Pontiac, Oakland County, Michigan.

5/15/80
Eng/Div
NT/ml

Contains approximately 86,000 s.f., exact square footage to be determined by survey in the field.

Ordinance No. xxxx

An ordinance to create an administrative hearings bureau

The City of Pontiac ordains:

Section 1. Administrative Hearings Bureau

Chapter 2 of the Code of Ordinances shall be amended to read as follows:

ARTICLE VII. - ADMINISTRATIVE HEARINGS BUREAU

Sec. 2-701 - Purpose.

The city finds that the current ordinances have operated in a manner that has been less than efficient and effective in obtaining compliance among our neighborhoods. This chapter is designed to define, prevent, reduce, and eliminate blight, factors, and causes of blight and address other quality of life violations in the City that negatively impact the public health, safety, and welfare of the residents of the City. Consistent with the State Statute, MCL 117.41, 117.4q and 117.4r, authorizing the creation of an administrative hearings bureau, the City finds that changing building or property maintenance, , solid waste, illegal dumping, disease and sanitation, noxious weeds, and vehicle abandonment and inoperative vehicles from criminal misdemeanor or civil infraction offenses to blight violations punishable by a civil fine as determined following a hearing in the city administrative hearings bureau is a more efficient and effective way of gaining compliance.

Sec. 2-702 - Definitions.

The following words and phrases as used in this chapter shall have the meaning set forth in this section unless a different meaning is clearly required by the context:

Blight means a condition that impairs, destroys, or deteriorates the property because of its decay, improper storage, or effect on property or quality of life including but not limited to such things as garbage, junk, noxious weeds, inoperative vehicles, and waste. The proper storage of materials or equipment incidental to and necessary for the carrying out of any business or occupation lawfully being carried out on the property in question is not the cause of blight or a blighting factor if all applicable city ordinances are satisfied. The piling and storage of firewood in a neat orderly manner for consumption by the property residents is not blight.

Blight violation means a violation of any provision of this Code, regarding zoning, building or construction, building or property maintenance or condition in buildings or on the premises; fire prevention; illegal dumping, disposal of solid waste; noxious weeds, abandoned vehicles or inoperative vehicles.

Building materials means any material or equipment used in the restoration, renovation or construction of any structure or surface, including but not limited to lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts and equipment, shingles, mortar, concrete, cement, nails, screws, ladders, scaffolding, or tools.

Garbage includes all animal and vegetable wastes resulting from the handling, preparation, cooking, consumption, or decomposition of food.

Junk includes any abandoned, discarded, stored, unused object or equipment, regardless of viability of use or value, stored in the open, including but not limited to motor vehicle parts, machinery, furniture, appliances, bottles, boxes, cartons, crates, or remnants of cloth, wood, metal, rubber, or other cast-off materials.

Refuse includes garbage, rubbish, trash, debris, junk, ashes, incinerator ash or residue, street cleaning, industrial sludge, solid commercial and industrial waste, animal waste, inoperable household appliances, or broken or damaged stuffed furniture, but does not include human body waste, liquid or other waste regulated by statute, or ferrous or nonferrous scrap possessed by a commercial scrap metal processor or a commercial re-user of ferrous or nonferrous products.

Waste includes any litter, garbage, trash, rubbish, or refuse that is a useless or worthless by-product of any industrial, biological, or other such process and tends to create a danger to public health, safety, and welfare.

Sec. 2-703. - Exclusions.

The administrative hearings bureau shall not have jurisdiction over criminal offenses, traffic civil infractions, municipal civil infractions, or state civil infractions, other than provided for in this ordinance. The bureau and its hearing officers shall not have the authority to impose a penalty of incarceration and may not impose a civil fine in excess of \$10,000.00. This ordinance does not authorize a proceeding against a foreclosing governmental unit as defined under section 78 of the general property tax act, 1893 PA 206, MCL 211.78, or an authority created under the land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774. The city may waive a fine for a blight violation at an owner-occupied dwelling for a first time offender of a blight ordinance, if the offender has corrected the circumstances for the violation, within the time limit set by the Administrative Hearing Officer. The jurisdiction of the administrative hearings bureau shall not be exclusive and nothing in this ordinance will prevent the City from pursuing blight or other violations in accordance with any other laws or ordinances.

Sec. 2-705 - Administrative hearings bureau—Establishment and composition.

Effective April 1, 2017, the City Council establishes an office of the municipal government to be known as the administrative hearings bureau ("bureau"), for adjudicating alleged blight violations, making determinations of responsibility, and imposing sanctions upon those found responsible for a violation.

The bureau will be administered by an administrative hearings officer, who will be appointed by the Mayor, and staffed by other employees as may be provided for in the annual appropriation ordinance. The administrative hearing officer serves solely at the pleasure of the Mayor.

The administrative hearings officer will be compensated as authorized by charter and as provided for in the City's Budget.

Sec. 2-706 - Director—Powers and duties.

The Mayor and the Community Development Director shall be responsible for insuring that the administrative hearings bureau is appropriately staffed and provided for in the annual appropriation ordinance.

Sec. 2-707 - Administrative hearing officer—Powers and duties.

Each administrative hearing officer appointed by the Mayor must be either an attorney admitted to the practice of law in the State of Michigan for at least five (5) years or a licensed building official or code enforcement officer with at least ten (10) experience in municipal government and serves at the pleasure of the Mayor. Each administrative hearing officer has all power necessary to conduct fair and impartial hearings including, but not limited to, the power to:

The authority and duties of a hearing officer shall include all of the following:

- (a) Hearing testimony and accepting evidence that is relevant to the existence of the blight violation.
- (b) Issuing subpoenas directing witnesses to appear and give relevant testimony at the hearing, upon request of a party or a party's attorney.
- (c) Preserving and authenticating the record of the hearing and all exhibits and evidence introduced at the hearing.
- (d) Issuing a determination, based upon the evidence presented at the hearing, whether a violation of this Chapter exists. The determination shall be in writing and shall include written findings of fact, a decision, and an order. The City shall have the burden of establishing the responsibility of the alleged violator by a preponderance of the evidence. Unless the burden is met, the matter shall be dismissed. A decision and an order shall not be made except upon consideration of the record as a whole or a portion of the record as may be cited by any party to the proceeding and as supported by and in accordance with the competent, material, and substantial evidence. A decision and order finding the alleged violator responsible for the violation shall include the civil fine, if any, or any action with which the violator must comply, or both.
- (e) Imposing reasonable and proportionate sanctions consistent with applicable ordinance provisions and assessing costs upon a finding that the alleged violator is responsible for the alleged violation. The maximum monetary civil fine allowed under this section excludes costs of enforcement or costs imposed to secure compliance with the City's ordinances and is not applicable to enforce the collection of any tax imposed and collected by the City.
- (f) In addition to the fines and costs imposed, the hearing officer shall impose a justice system assessment of \$10.00 for each blight violation determination. Upon payment of the assessment, the City shall transmit the assessment collected to the state treasury to be deposited into the justice system fund created in section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181.

Sec. 2-708. - Administrative hearing officer—Training requirements.

Before conducting any administrative adjudication proceeding, an administrative hearing officer must have successfully completed a formal training program administered by the City Attorney and the Director of Building and Safety, or their designee, which includes at least the following:

- (1) Instruction on the rules of procedure of the administrative hearings, which he or she will conduct;
- (2) Orientation to each subject area of the code violations, which he or she will adjudicate;
- (3) Observation of administrative hearings; and
- (4) Participation in hypothetical cases, including ruling on evidence and issuing final orders;

- (5) The importance of impartiality in the conduct of the administrative hearing and adjudication of the violation; and
- (6) Instructions on the preparation of a record that is adequate for judicial review.

Sec. 2-709 - Instituting administrative adjudication proceedings.

To initiate a proceeding for a violation of this Chapter, the City shall issue and serve upon an alleged violator a written violation notice on which an authorized local official records the occurrence or existence of 1 or more blight violations by the person cited and which directs the named person to pay a civil fine for the violation or appear at the administrative hearings bureau as provided in this section. A violation notice to appear at an administrative hearings bureau shall be treated as made under oath if the violation alleged in the notice occurred in the presence of the authorized local official signing the violation notice and if the notice contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief." An authorized local official may issue a violation notice to appear if, based upon investigation, the official has reasonable cause to believe that the person is responsible for a violation

If a landlord of premises rented in the city for residential purposes is registered with the city's rental inspection program, the city shall not issue a violation notice during an inspection of the premises unless either of the following occurs:

- (a) The landlord is given a written correction notice of the violation and a reasonable opportunity to correct the circumstances before a re-inspection of the premises or a date specified in the notice.
- (b) The violation is a direct result of the landlord's action or inaction and creates an emergency that presents an immediate risk of harm to people or damage to property including, but not limited to, a flooded basement or premises without heat.

Sec. 2-710 – Response to Violation.

The person named in the violation notice shall appear on or before the time specified in the violation notice and may respond to the allegations in the notice, as follows:

- (a) If the alleged violator wishes to admit responsibility for the violation, the person may do so by appearing in person, by representation, or by mail. If appearance is made by representation or mail, the administrative hearings bureau may accept the admission as though the person personally appeared. Upon acceptance of the admission, a hearing officer may order any of the sanctions permitted under this section.
- (b) If the alleged violator wishes to deny responsibility for the violation, or admit responsibility with an explanation, the person may do so by appearing in person on the date scheduled for the administrative hearing for the purpose of adjudicating the alleged violation.
- (c) If the alleged violator fails to appear, a decision and order of default may be entered, at which time the administrative hearings bureau may issue any order consistent with this Chapter to address the violation or the violator.

Sec. 2-711 - Administrative hearings.

(a) A party shall be provided with the opportunity for a hearing during which they may be represented by counsel, present witnesses, and cross-examine witnesses. The hearing shall be recorded by the hearing officer. The City Attorney may, but is not required to be, present and participate in any hearing. A party may request the hearing officer to issue subpoenas to direct the attendance and testimony of relevant witnesses and the production of relevant documents. Hearings shall be scheduled with reasonable promptness, except that for hearings scheduled in all nonemergency situations the alleged violator if he or she requests shall have at least 14 days after service of process to prepare for the hearing. For purposes of this subsection, "nonemergency situation" means any situation that does not reasonably constitute a threat to the public interest, safety, or welfare. If service is provided by first-class mail, the 14-day period begins to run on the day that the notice is deposited in the mail.

In an administrative hearing under this section, the rules of evidence as applied in a nonjury civil case in circuit court shall be followed as far as practicable, but the hearing officer may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Irrelevant, immaterial, or unduly repetitious evidence may be excluded. Effect shall be given to the rules of privilege recognized by law. Objections to offers of evidence may be made and shall be noted in the record. Subject to these requirements, the hearing officer, for the purpose of expediting hearings and when the interests of the parties will not be substantially prejudiced thereby, may provide in an administrative hearing or by rule for submission of all or part of the evidence in written form.

Any final decision by a hearing officer that a blight violation does or does not exist constitutes a final decision and order for purposes of judicial review and may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

Sec. 2-712 - Default.

If an admission of responsibility is not made and the civil fine and costs, if any, prescribed by charter or ordinance for the violation are not paid at the administrative hearings bureau, and the alleged violator fails to appear at a hearing scheduled in accordance with this section, a final decision and order of responsibility in the amount of the prescribed civil fine and costs may be issued by the administrative hearings bureau.

Sec. 2-713 - Judicial review under the administrative review law.

A party may file an appeal within 28 days after entry of the decision and order by the hearing officer. An appeal of a final decision and order of an administrative hearing officer is to the circuit court.

An alleged violator who appeals a final decision and order to circuit court shall post with the administrative hearings bureau, at the time the appeal is taken, a bond equal to the fine and costs imposed. A party who has paid the fine and costs is not required to post a bond. If a party who has posted a bond fails to comply with the requirements of the court rules for an appeal to the circuit court, the appeal may be considered abandoned, and the bureau may dismiss the appeal on 7 days' notice to the parties.. If the appeal is dismissed or the decision and order are affirmed, the administrative hearings bureau may apply the bond to the fine and costs. An appeal by the city must be asserted by the City's Attorney and a bond is not required.

An appeal to circuit court shall be a review by the court of the certified record provided by the administrative hearings bureau. Pending appeal, and subject to the bond requirement identified in this section, the hearing officer may stay the order and any sanctions or costs imposed. Once an appeal is filed, and subject to the bond requirement this section, the court may stay the order and any sanctions or costs

imposed. The court, as appropriate, may affirm, reverse, or modify the decision or order, or remand the matter for further proceedings. The court shall hold unlawful and set aside a decision or order of the hearing officer if substantial rights of an alleged violator have been prejudiced because the decision or order is any of the following:

- (a) In violation of the constitution or a statute, charter, or ordinance.
- (b) In excess of the authority or jurisdiction of the agency as conferred by statute, charter, or ordinance.
- (c) Made upon unlawful procedure resulting in material prejudice to a party.
- (d) Not supported by competent, material, and substantial evidence on the whole record.
- (e) Arbitrary, capricious, or clearly an abuse or unwarranted exercise of discretion.
- (f) Affected by other substantial and material error of law.

Sec. 2-714. - Enforcement of administrative hearing officer's order.

(a) Any fine, sanction, or cost imposed by an administrative hearing officer's order that remains unpaid after the exhaustion of, or the failure to exhaust, judicial review procedures is a debt due and owing the city and, as such, may be collected in accordance with applicable law.

(b) After the expiration of the period in which judicial review may be sought, unless stayed by a court of competent jurisdiction, the findings, decision, and order of an administrative hearing officer may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

(c) In any case in which a respondent fails to comply with an administrative hearing officer's order to correct a code violation or imposing a fine or other sanction as a result of a code violation, any expenses incurred by the City to enforce the administrative hearing officer's order, including but not limited to, attorney's fees, court costs, and costs related to property demolition or foreclosure, after they are fixed by a court of competent jurisdiction or an administrative hearing officer is a debt due and owing the City.

Before an administrative hearing officer fixes any expense, the respondent must be provided notice that states that the respondent must appear at a hearing before an administrative hearing officer to determine whether the respondent has failed to comply with the administrative hearing officer's order. The notice must set the time for the hearing, which may not be less than seven (7) days from the date that notice is served. Notice is sufficient if served by first class mail and the seven-day period begins to run on the date that the notice is deposited in the mail.

(d) Upon being recorded in the manner required by the Uniform Commercial Code, a lien is imposed on the real estate or personal estate, or both, of the respondent in the amount of a debt due and owing the city. The lien may be enforced in the same manner as a judgment lien pursuant to a judgment of a court of competent jurisdiction.

(e) Nothing in this section prevents the city from enforcing or seeking to enforce any order of an administrative hearing officer in any manner, which is in accordance with applicable law.

Sec. 2-715. - Interest.

Except as otherwise provided by law, interest on any debt due and owing accrues at the rate set for interest upon judgments.

Sec. 2-716. - Fines payable to the City Treasurer.

All fines and other monies paid to the City under this chapter must be remitted to the city treasurer.

Sec. 2-717. - Petition to set aside default order.

(a) An administrative hearing officer may set aside any order entered by default and set a new hearing date, upon a petition filed within twenty-one (21) days after the issuance of the order of default, if the administrative hearing officer determines that the petitioner's failure to appear at the hearing was for good cause or, at any time, if the petitioner establishes that the petitioner was not provided with proper service of process. If the petition is granted, the administrative hearing officer must proceed with a new hearing on the underlying matter as soon as practical.

(b) If any order is set aside under this section, the administrative hearing officer must enter an order extinguishing any lien which has been recorded for any debt due and owing as a result of the vacated default order and directing the city to refund any fines or penalties paid pursuant to the vacated order.

Sec. 2-718. - Petition by city department for relief from a final order of liability entered in error.

(a) After an order of liability becomes final, the city department or agency, which initiated or prosecuted an administrative adjudication before the bureau may file a written petition for relief from a final order of liability entered in error with the bureau.

(b) The written petition must be filed and signed by the department or agency head of the initiating or prosecuting department or agency and must set forth facts alleging that the order of liability: (1) was entered in error; (2) is unsupported by the record; (3) is inconsistent with applicable provisions of this Code; and (4) should be vacated to avoid a miscarriage of justice. The authority to file and sign a petition under this section is expressly reserved to the department or agency head and may not be delegated to other department or agency officials or personnel.

(c) Upon the filing of a written petition by a department or agency head, the bureau must schedule a hearing on the petition. The scope of the hearing is limited to the merits of the petition and may not be expanded to constitute a re-litigation of the underlying notice of violation.

(d) If a petition is granted, the final order of liability must be vacated. If an order is vacated under this section, the administrative hearing officer must enter an order extinguishing any lien that has been recorded for any debt due and owing as a result of the vacated order and direct the city to refund any fines or penalties paid pursuant to the vacated order.

Sec. 2-719. - Election of remedies.

The bureau may not conduct an administrative adjudication proceeding for an alleged violation of this Code where the requested remedy is a punishment of imprisonment; provided, however, where a violation of the code is punishable by fines and other penalties in addition to imprisonment, the city may elect to institute

an action with the bureau and thereby waive any imprisonment for the code violation. Nothing in this chapter, however, precludes the City from seeking the remedy of imprisonment in a court of law, including imprisonment for failure to comply with the order of an administrative hearing officer.

Sec. 2-720. - Administrative adjudication procedures not exclusive.

Notwithstanding any other provision of this chapter, neither the bureau's authority to conduct administrative adjudication procedures nor the institution of such procedures under this chapter precludes the city from seeking any remedies for code violations through the use of any other administrative procedure or court proceeding where authorized by law. Further, the City is not required to use the bureau for the adjudication of any violation of this Chapter and may elect to pursue any remedies otherwise available under the law.

Sec. 2-721. - General violations.

A violation of the following types of ordinances may be deemed blight violations:

Building or property maintenance

Solid waste and illegal dumping

Disease and sanitation

Noxious weeds

Vehicle abandonment, inoperative vehicles, vehicle impoundment, and municipal vehicle licensing

The placement of right-of-way signage in a right-of-way without a proper permit from the City.

A violation of the ordinance that is substantially the same as sections 138 to 142 of the housing law of Michigan, 1917 PA 167, MCL 125.538 to 125.542.

Sec. 2-722. - Penalties.

All blight violations under this Code are subject to enforcement by the procedures and penalties outlined in this chapter. The City Council will establish a schedule by resolution for the potential fines for violations by resolution, and as amended from time to time.

The administrative hearings officer may waive a fine for a violation at an owner-occupied dwelling for the first time offender of a blight ordinance, if the offender has corrected the circumstances for the violation.

Except as otherwise provided, if the civil fine and costs imposed against a person under this section are \$1,000.00 or more and the person does not pay the civil fine and costs imposed within 30 days after a final decision and order of the hearing officer or of the circuit court under this section, the person is subject to the following:

(a) For a first violation, the person is responsible for a Municipal civil infraction and may be ordered to pay a civil fine of not more than \$250.00.

(b) For a second violation, the person is responsible for a Municipal civil infraction and may be ordered to pay a civil fine of not less than \$250 and not more than \$500.

(c) For a third or subsequent violation, the person is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

Section 2-723 does not apply to any of the following that becomes the owner of a property after foreclosure or after taking a deed in lieu of foreclosure:

(a) A government-sponsored enterprise. As used in this subdivision, "government-sponsored enterprise" means that term as defined in 2 USC 622(8), or the Michigan state housing development authority created under the state housing development authority act of 1966, 1966 PA 346, MCL 125.1401 to 125.1499c.

(b) A financial institution. As used in this subdivision, "financial institution" means that term as defined in section 4(c) of the Michigan strategic fund act, 1984 PA 270, MCL 125.2004.

(c) A mortgage servicer, as that term is defined in section 1a of the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651a, that is subject to the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684.

(d) A credit union service organization that is organized under the laws of this state or the United States.

Section 2-723 does not apply to the owner of a property if, at the time the civil fine and costs are imposed against the owner, the owner had filed a principal residence exemption affidavit as provided under section 7cc of the general property tax act, 1893 PA 206, MCL 211.7cc, certifying that the property is owned and occupied as a principal residence by that owner.

An entity described in this Chapter that becomes the owner of a property after foreclosure or after taking a deed in lieu of foreclosure shall adhere to all ordinances relating to vacant property or blight violations adopted by the city that established an administrative hearings bureau under this section.

As used in this Chapter, "person" means an individual, partnership, corporation, limited liability company, association, or other legal entity. Person includes the partners or members of a firm, a partnership, or an association and the officers of a corporation.

Section 2. Severability.

If any section, clause, or provision of this Ordinance shall be declared to be unconstitutional, void, illegal, or ineffective by any Court of competent jurisdiction, such section, clause, or provision declared to be unconstitutional, void, or illegal shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

Section 3. Saving Clause.

A prosecution which is pending on the effective date of this ordinance and which arose from a violation of an ordinance repealed by this ordinance, or a prosecution which is started within one (1) year after the effective date of this ordinance arising from a violation of an ordinance repealed by this ordinance and which was committed prior to the effective date of this ordinance, shall be tried and determined exactly as if the ordinance had not been repealed.

Section 4. Repealer.

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 5. Publication.

The Clerk shall publish this Ordinance in a newspaper of general circulation.

Section 6. Effective Date.

This Ordinance shall be effective, which shall be at least ten days after date of adoption by the City Council.

Pontiac City Council Resolution



Whereas, The City of Pontiac was under state receivership with an Emergency Manager from 2009 until 2013, and;

Whereas, many city services were privatized and outsourced; and,

Whereas, the Department of Public Works (DPW) was heavily impacted by the outsourcing and the selling of the former DPW site and the DPW equipment; and,

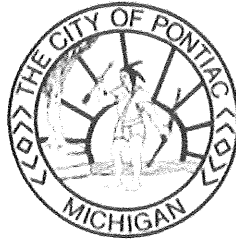
Whereas, now the City is under Home Rule Charter and the Pontiac City Council recommends a cost analysis on all DPW staff, equipment, and housing to explore options to better service the citizens of Pontiac, and;

Whereas, The Pontiac City Council strongly believes that returning DPW related city services would be a greater service to the citizens of Pontiac, and;

Now Therefore Be It Resolved, that the Pontiac City Council request that the Executive Office conduct a DPW feasibility study in regards to in-house services in comparison to contracted services.

Be it Further Resolved that the Pontiac City Council recommends that this request be completed by April 5, 2017.

Pontiac City Council Resolution



Whereas, The City of Pontiac was under state receivership with an Emergency Manager from 2009 until 2013, and;

Whereas, many city services were privatized and outsourced; and,

Whereas, the Department of Public Works (DPW) was heavily impacted by the outsourcing and the selling of the former DPW site and the DPW equipment; and,

Whereas, now the City is under Home Rule Charter and the Pontiac City Council recommends a cost analysis on all DPW staff, equipment, and housing to explore options to better service the citizens of Pontiac, and;

Whereas, The Pontiac City Council strongly believes that returning DPW related city services would be a greater service to the citizens of Pontiac, and;

Now Therefore Be It Resolved, that the Pontiac City Council request that the Executive Office conduct a thorough cost analysis that includes salaries, equipment purchasing pricing, and a cost estimate of a new location for a DPW site.

Be it Further Resolved that the Pontiac City Council recommends that this request be completed by April 5, 2017.