

**Official Proceedings  
Pontiac City Council  
247<sup>th</sup> Session of the Tenth Council**

**Call to order**

A Formal Meeting of the City Council of Pontiac, Michigan was called to order at the Bowens Senior Center, 52 Bagley Pontiac, MI 48342 on Thursday, August 5, 2021 at 12:00 p.m. by Council President Kermit Williams.

**Invocation – Dr. Doris Taylor-Burks**

**Pledge of Allegiance**

**Roll Call**

**Members Present** – Miller, Shramski, Taylor-Burks, Waterman and Williams

Mayor Waterman was present.  
Clerk announced a quorum.

**Excuse Councilmembers**

21-226 **Motion to excuse Councilmembers Randy Carter and Mary Pietila for personal reasons.** Moved by Councilperson Taylor-Burks and second by Councilperson Waterman.

Ayes: Miller, Shramski, Taylor-Burks, Waterman and Williams

No: None

**Motion Carried**

**Amendments to and Approval of the Agenda**

21-227 **Motion to add Resolutions from the City attorney 2a. to the agenda (Resolution Regarding Recreational Marihuana Initiative Petition and Resolution Regarding Entheogenic Plants Petition).** Moved by Councilperson Miller and second by Councilperson Taylor-Burks.

Ayes: Shramski, Taylor-Burks, Waterman, Williams and Miller

No: None

**Motion Carried**

21-228 **Motion to remove item #16, (Resolution to approve Actuarial Study for Permanent Increase of Retiree Monthly Pension Benefits) from the Agenda.** Moved by Councilperson Taylor-Burks and second by Councilperson Shramski.

Ayes: Shramski, Taylor-Burks, Waterman, Williams and Miller

No: None

**Motion Carried**

21-229 **Motion to approve the agenda as amended.** Moved by Councilperson Waterman and second by Councilperson Taylor-Burks.

Ayes: Waterman, Williams, Carter, Miller, Shramski and Taylor-Burks

No: None

**Motion Carried**

**Approval of the Minutes**

21-230 **Motion to approve meeting minutes for July 27, 2021.** Moved by Councilperson Miller and second by Councilperson Taylor-Burks.

Ayes: Waterman, Williams, Miller, Shramski and Taylor-Burks

No: None

**Motion Carried**

**Subcommittee Report**

Received Finance Subcommittee Report – July 26, 2021

**Resolutions**

**City Attorney**

21-231 **Resolution regarding Recreational Marihuana Initiative Petition. (Agenda Add-on)**  
Moved by Councilperson Waterman and second by Councilperson Shramski.

Whereas, the Pontiac Interim City Clerk received an Initiative Petition regarding Recreational Marihuana on July 26, 2021; and

Whereas, the City Attorney has provided an attorney-client privileged memorandum regarding laws applicable to this Initiative Petition,

Now, Therefore, Be It Resolved, that for the reasons as provided by the City Attorney, the City Council does not place the Initiative Petition regarding Recreational Marihuana on the November 2021 ballot.

PASSED AND APPROVED BY THE CITY COUNCIL, Pontiac, Michigan this 5<sup>th</sup> day of August, 2021.

Ayes: Williams, Miller, Shramski, Taylor-Burks and Waterman

No: None

**Resolution Passed**

21-232 **Resolution regarding Entheogenic Plants Initiative Petition. (Agenda Add-on)**

Moved by Councilperson Waterman and second by Councilperson Miller.

Whereas, the Pontiac Interim City Clerk received an Initiative Petition regarding decriminalization of entheogenic plant use and possession on July 27, 2021; and

Whereas, the City Attorney has provided an attorney-client privileged memorandum regarding laws applicable to this Initiative Petition,

Now, Therefore, Be It Resolved, that for the reasons as provided by the City Attorney, the City Council does not place the Initiative Petition regarding decriminalization of entheogenic plant use and possession on the November 2021 ballot.

PASSED AND APPROVED BY THE CITY COUNCIL, Pontiac, Michigan this 5<sup>th</sup> day of August, 2021.

Ayes: Miller, Shramski, Taylor-Burks, Waterman and Williams

No: None

**Resolution Passed**

**Discussion**

Oak Hill Cemetery

**Recognition of Elected Officials – None**

**Agenda Address – None**

**Communication from the City Clerk**

Memorandum on City Council adoption of the rules prior to the Medical Marihuana Commission approving them would be a violation of Ordinance 2357 (B) City of Pontiac Marihuana Facilities Ordinance approved by Pontiac voters

**Resolution**

**City Council**

21-233 **Motion to set a date to review the Medical Marihuana Commission rules and regulations on August 17, 2021 at the regular Council Meeting at 6:00 p.m.** Moved by Councilperson Taylor-Burks and second by Councilperson Miller.

Ayes: Miller, Shramski, Taylor-Burks, Waterman and Williams

No: None

**Motion Carried**

**Resolutions**

Department of Public Works (DPW)

21-234 **Resolution to approve contract between the City and Koala-T Construction, Inc. for the Community Development Block Grant (CDBG) Sidewalk Improvement Project in the amount of \$481,616.00.**

WHEREAS, the City of Pontiac has advertised and received responses to a Request For Proposal for the 2021 CDBG Sidewalk Improvement Project on June 24, 2021, and publically opened bids; and

WHEREAS, a bid tabulation was prepared and reviewed, and;

WHEREAS, the City identified the low bidder as Koala-T Construction, Inc., and references of the low bidder checked and found acceptable.

NOW, THEREFORE, BE IT RESOLVED, The Pontiac City Council authorizes the Mayor to enter into a contract with Koala-T Construction, Inc. for \$481,616.00 for the 2021 CDBG Sidewalk Improvement Project.

Ayes: Shramski, Taylor-Burks, Waterman and Miller

No: Williams

**Resolution Passed**

21-235 **Resolution to approve contract between the City and Mark Anthony Contracting, Inc. for the Vanguard Drive Reconstruction Project in the amount of \$617,118.69.** Moved by Councilperson Shramski and second by Councilperson Taylor-Burks.

WHEREAS, the City of Pontiac has advertised and received responses to a Request For Proposal for the Vanguard Drive Reconstruction Project on June 24, 2021, and publically opened bids; and

WHEREAS, a bid tabulation was prepared and reviewed, and;

WHEREAS, the City identified the low bidder as Mark Anthony Contracting, Inc., and references of the low bidder checked and found acceptable.

NOW, THEREFORE, BE IT RESOLVED, The Pontiac City Council authorizes the Mayor to enter into a contract with Mark Anthony Contracting, Inc. for \$617,118.69 for the Vanguard Drive Reconstruction Project.

Ayes: Shramski, Taylor-Burks, Waterman, Williams and Miller

No: None

**Resolution Passed**

**Resolutions**

**Finance**

21-236 **Motion to refer items #11 (Resolution to approve Budget Amendment for Fiscal Year 2021-2022 to allocate a total of \$4,220,000 for Construction and Engineering Services) and item #12 (Resolution to approve Budget Amendment for Major Streets, Local Streets and General Fund) to the Finance Subcommittee.** Moved by Councilperson Taylor-Burks and second by Councilperson Miller.

Ayes: Taylor-Burks, Waterman, Williams, Miller and Shramski

No: None

**Motion Carried**

21-237 **Resolution to approve the First Amendment to the VEBA Declaratory Trust Agreement.** Moved by Councilperson Taylor-Burks and second by Councilperson Miller.

**WHEREAS**, the City established the Trust on March 23, 2020;

**WHEREAS**, the Internal Revenue Service issued a determination letter on August 10, 2020, indicating that the Trust is exempt from federal income taxation under Code §501(c)(9) effective March 23, 2020;

**WHEREAS**, the City entered into a settlement agreement with a class of retirees related to City funding of retiree health benefits in *City of Pontiac Retired Employees Association et. al. v. Schimmel et. al.*, Docket #64-2, Case No. 2:12-cv-12830-AC-PJK dated March 30, 2018 (United States District Court Eastern District of Michigan), which was given final approval by the court on November 19, 2018 (the “Settlement Agreement”);

**WHEREAS**, Article 10 of the City of Pontiac VEBA Declaratory Trust Agreement (“Trust Agreement”) generally permits the provisions of such trust agreement to be amended to the extent such amendment is not inconsistent with the Settlement Agreement and does not adversely affect the tax exempt status of the Trust;

**WHEREAS**, this Amendment has been negotiated between the City of Pontiac Retired Employees Association and the City;

**WHEREAS**, on [ ], 2021, the Pontiac City Council approved a resolution authorizing the adoption of this Amendment in order to effectuate the terms of Settlement Agreement; and

**WHEREAS**, on [ ], 2021 the Board of Trustees of Trust unanimously approved a resolution authorizing the adoption of this Amendment in order to effectuate the terms of Settlement Agreement.

**NOW THEREFORE**, the Parties agree and declare that the Trust Agreement is hereby amended as follows:

1. Section 1.10 of the Trust Agreement is amended in its entirety to read as follows:

1.10 “Excess Assets” means an amount equal to (1) the assets held within the GERS on the GERS Approved Termination Date which exceed 130% the GERS pension liabilities on that date, minus (2) \$8,000,000.00.

2. Section 1.14 of the Trust Agreement is amended in its entirety to read as follows:

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1.14 “GERS Approved Termination Date” means March 31, 2021.

3. Section 3.4A of the Trust Agreement is added in its entirety to read as follows:

3.4A Contribution from Unutilized Opt-Out Funding. The City maintains (or will maintain) an account which holds City funds which shall be utilized to make the one-time payments described in and required by Section 11 of the Settlement Agreement. If funds remain in such City account upon the City's payment of the last possible one-time payment required by Section 11 of the Settlement Agreement, then the City shall transfer such remaining funds into the Trust Fund.

IN WITNESS WHEREOF, the Parties have caused this instrument to be signed and/or executed by duly authorized officers of the City of Pontiac VEBA Trust, and the City.

Ayes: Waterman, Williams, Miller, Shramski and Taylor-Burks

No: None

**Resolution Passed**

21-238           **Resolution to approve the Amendment to the Retiree Group Health Insurance Plans.** Moved by Councilperson Taylor-Burks and second by Councilperson Miller.

**WHEREAS**, the City established the City of Pontiac VEBA Trust (the "Trust") on March 23, 2020;

**WHEREAS**, the Trust, when combined with the City of Pontiac Retiree Group Health and Insurance Plan (the "Plan") constitutes a voluntary employees' beneficiary association and conforms with the requirements of Internal Revenue Code section 501(c)(9) and its implementing regulations;

**WHEREAS**, the Internal Revenue Service issued a determination letter on August 10, 2020, indicating that the Trust is exempt from federal income taxation under Code §501(c)(9) effective March 23, 2020;

**WHEREAS**, the City entered into a settlement agreement with a class of retirees related to City funding of retiree health benefits in *City of Pontiac Retired Employees Association et. al. v. Schimmel et. al*, Docket #64-2, Case No. 2:12-cv-12830-AC-PJK dated March 30, 2018 (United States District Court Eastern District of Michigan), which was given final approval by the court on November 19, 2018 (the "Settlement Agreement");

**WHEREAS**, Section 9.1 of the Plan generally permits the City to amend or terminate the Plan at any time to the extent not inconsistent with the terms of the Settlement Agreement;

**WHEREAS**, on [ ], 2021, the Pontiac City Council approved a resolution authorizing the adoption of this Amendment in order to effectuate the terms of Settlement Agreement; and

**NOW THEREFORE**, the City declares that the Plan is hereby amended as follows:

1. Section 1.2 of the Plan is amended in its entirety to read as follows:

1.2 "**Administrator**" or "**Plan Administrator**" means BeneSys, Inc.

2. Section 1.15 of the Plan is amended in its entirety to read as follows:

1.15 "**GERS Approved Termination Date**" means March 31, 2021.

3. Section 2.1(a) of the Plan is amended in its entirety to read as follows:

(a) Retiree Coverage. A Retiree shall be eligible to participate in the Component Benefit Programs pursuant to the terms, conditions, and limitations set forth in the DRAFT 7-20-21

Settlement Agreement and the Component Benefit Programs. A Retiree who elects to receive the one-time payment described in Section 11 of the Settlement Agreement shall be deemed to have irrevocably opted out of coverage under the Plan for himself/herself and his/her Dependents and they shall not be eligible to participate in the Plan. Some of the Component Benefit Programs may require the Retiree to make an annual election to enroll for coverage. The details of such annual elections are described in the underlying documents. In certain circumstances, enrollment may occur outside the open enrollment period.

4. Section 2.2 of the Plan is amended in its entirety to read as follows:

**2.2 Election Periods.**

(a) Initial Election Period. A Retiree must affirmatively elect to receive coverage under the Plan within the later of (1) the 30-day period immediately prior to meeting the eligibility requirements set forth in Section 2.1; or (2) the initial enrollment period established by the Administrator in conjunction with the initial commencement of the Plan's operations.

(b) Open Enrollment / Election Period. A Retiree who wishes to make an election change may do so only during the open enrollment / election period. However, an election change may be made before the open enrollment/election period if a special enrollment event occurs which legally requires mid-year enrollment pursuant to the terms of the underlying Component Benefit Program documents. The change in election request must be timely submitted. Please see the underlying Component Benefit Programs for information related to any permissible mid-year special enrollment rights.

5. Section 2.3 of the Plan is amended in its entirety to read as follows:

**2.3 Date of Participation.** Unless otherwise provided in the Component Benefit Programs, and as long as the Retiree has timely and properly elected coverage pursuant to Section 2.2, a Retiree will become a Participant on the date the Retiree becomes eligible to participate pursuant to Section 2.1 with respect to a particular Component Benefit Program

6. Section 5.8(b) of the Plan is amended in its entirety to read as follows:

(b) Notice to the Plan Administrator must be made in writing and must be mailed or hand-delivered to:

BeneSys, Inc.  
700 Tower Drive, Suite 300  
Troy, Michigan 48098

Oral notice or electronic notice (by e-mail or facsimile) is not acceptable. If mailed, the notice must be postmarked no later than the deadline described below. If hand-delivered, notice must be received by the individual at the address above no later than the deadline described below. Adopted this 5<sup>th</sup> day of August 2021.

Ayes: Williams, Miller, Shramski, Taylor-Burks and Waterman

No: None

**Resolution Passed**

**Communication from the Mayor**

Proclamation Declaring WWI Greatest Generation Day

**Public Comment**

Four (4) individuals addressed the body during public comment

**Mayor, Clerk and Council Closing Comments**

Mayor Waterman, Interim City Clerk Doyle, Councilwoman Shramski, Councilwoman Miller, Councilwoman Taylor-Burks, Councilwoman Waterman and Council President Williams made closing comments.

**Adjournment**

Council President Kermit Williams adjourned the meeting at 1:32 p.m.

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GARLAND S. DOYLE  
INTERIM CITY CLERK