

November 2, 2023, Approved Minutes

**Official Proceedings
Pontiac City Council
114th Session of the Eleventh Council**

Call to order

A Meeting of the City Council of Pontiac, Michigan was called to order at the City Hall Council Chambers, 47450 Woodward Ave Pontiac, MI 48342 on Tuesday, November 2, 2023, at 6:00 p.m. by Council President Mike McGuinness.

Invocation – Minister William Parker Jr. – Pontiac, Michigan

Pledge of Allegiance to the Flag of the United States

Moment of Silence

Roll Call

Members Present – William Carrington, Mikal Goodman, Kathalee James, Mike McGuinness, Brett Nicholson, William Parker Jr., and Melanie Rutherford.

Mayor Tim Greimel was present.
A quorum was announced.

Amendments to and Approval of the Agenda

Motion to approve the agenda. Moved by Councilperson Parker and second by Councilperson Rutherford.

Ayes: Carrington, Goodman, James, McGuinness, Nicholson, Parker, and Rutherford

No: None

Motion Carried

Consent Agenda

23-377 **Resolution to approve the consent agenda for November 2, 2023.** Moved by Councilperson Rutherford and second by Councilperson Parker.

WHEREAS, the City Council has reviewed the consent agenda for November 2, 2023.

NOW, THEREFORE, BE IT RESOLVED that the City Council approves the consent agenda for November 2, 2023, including October 23, 2023, Parks, Recreation & Public Works Subcommittee Meeting Minutes, October 24, 2023, City Council Meeting Minutes, Resolution approving Blus Cross Blue Shield Insurance renewal with Meadowbrook Insurance Agency, Resolution Recognizing November as native American Heritage Month in Pontiac, and Resolution Recognizing November as National Adoption Month in Pontiac.

Ayes: Goodman, James, McGuinness, Nicholson, Parker, Rutherford, and Carrington

No: None

Resolution Passed

23-377 (C) **Resolution approving Blus Cross Blue Shield Insurance Renewal with Meadowbrook Insurance Agency.** Moved by Councilperson Rutherford and second by Councilperson Parker.

WHEREAS, Meadowbrook Insurance Agency, the City's insurance agent has presented the City with Proposals for health insurance for coverage beginning September 1, 2014, and Medicare insurance

November 2, 2023, Approved Minutes

coverage beginning January 1, 2015; and to date.

WHEREAS, the City Administrator and Interim HR Director and Deputy Director have reviewed the proposals, have recommended that both proposals are accepted, and have certified available funding for the following below annual benefit renewal programs.

NOW, THEREFORE, BE IT RESOLVED THAT, the City Council approves the proposals from Blue Cross Blue Shield of Michigan, EyeMed and Mutual of Omaha and authorizes the City Administrator to execute all necessary documents, and benefit renewal programs.

Ayes: Goodman, James, McGuinness, Nicholson, Parker, Rutherford, and Carrington

No: None

Resolution Passed

23-377 (D) Resolution Recognizing November as Native American Heritage Month in Pontiac.
Moved by Councilperson Rutherford and second by Councilperson Parker.

WHEREAS, each November the United States of America recognizes and celebrates Native American Heritage Month, acknowledging the heritages and cultures of Native Americans and the contributions of Native Americans to the United States; and,

WHEREAS, federal Census figures estimate the Native American population living in the United States at more than 5,000,000 individuals, with a substantial presence in the State of Michigan, and Native Americans have been a part of the Pontiac community for many hundreds of years, long predating the arrival of any other populations; and,

WHEREAS, the Native American community in the United States has made many important advances in the area of law, business, religion, agriculture, art, music, education, technology, architecture, cuisine, theater, innovation, and exploration; and,

WHEREAS, Native Americans have provided Michigan and the United States with unique social and cultural influences, fundamentally enriching the extraordinary character of our state and nation; and,

WHEREAS, Pontiac and Michigan are fortunate to count among its population those of Native American descent, who live here, grow businesses here, offer innovative ideas, strengthen our economy, create jobs, build neighborhoods, enhance a sense of community, and contribute to our daily lives; and,

WHEREAS, during this month, many organizations and institutions will celebrate native American Heritage Month through a series of special events featuring history, food, dance, and art, celebrating the rich traditions and many contributions this community has made to the State of Michigan;

NOW THEREFORE, BE IT RESOLVED, the Pontiac City Council hereby recognizes November 2023 as Native American Heritage Month in the City of Pontiac; and

FURTHER RESOLVED, on behalf of the entire Pontiac community, the City Council appreciates and honors the countless achievements of Native Americans and will continue our efforts to ensure our community and our state is a welcoming and inclusive place that provides just and equal opportunities for all; and

FURTHER RESOLVED, the City Council acknowledges, respects, and celebrates the integral role of the Native American community in our economy, culture, and identity of the United States and our home of Pontiac, Michigan; and

FURTHER RESOLVED, we encourage the citizens, organizations, and businesses of Pontiac to observe Native American Heritage Month with appropriate programs and activities the celebrate our Native American neighbors and their contributions to our community.

Ayes: Goodman, James, McGuinness, Nicholson, Parker, Rutherford, and Carrington

No: None

Resolution Passed

23-377 (E) Resolution Recognizing November as National Adoption Month in Pontiac. Moved by Councilperson Rutherford and second by Councilperson Parker.

WHEREAS, each November the United States of America recognizes National Adoption Month to celebrate adoption and to increase awareness of the thousands of children and youth in foster care who are waiting for permanent, loving families; and,

WHEREAS, the City of Pontiac is home to a wide variety of youth from traditional as well as nontraditional families, including but not limited to adopted children, children under guardian care, and foster children; and,

WHEREAS, all children deserve to grow, develop, and have their needs met by being placed with families who can offer a permanent home that is loving, protected, stable, and with a sense of acceptance; and,

WHEREAS, children and youth waiting for adoptive parents and the families who have adopted deserve support from their communities and from related agencies;

NOW THEREFORE, BE IT RESOLVED, the Pontiac City Council hereby recognizes November 2023 as National Adoption Month in the City of Pontiac; and

FURTHER RESOLVED, on behalf of the entire Pontiac community, the City Council appreciates and expresses our gratitude for those families who have adopted; and

FURTHER RESOLVED, the City Council acknowledges that every child deserves a permanent and loving family, and understands that loving and nurturing families are strengthened when dedicated individuals make an important difference in the life of a child through adoption; and

FURTHER RESOLVED, we encourage the citizens, organizations, and businesses of Pontiac to consider ways to engage with and better serve children and youth awaiting adoption and those families going through the adoption process.

Ayes: Goodman, James, McGuinness, Nicholson, Parker, Rutherford, and Carrington

No: None

Resolution Passed

Recognition of Elected Officials – Tameka Ramsey – Chair of the Charter Revision Commission

Agenda Address

1. Renee Beckley addressed item #10
2. Robert Bass addressed item #10
3. Dr. Deirdre Waterman addressed item #10
4. Paul Wilson addressed item #10
5. Chuck Johnson addressed item #2
6. Darlene Clark addressed item #10
7. Gloria Miller addressed item #10

Agenda Items

Ordinance

2426 **Adoption of An Ordinance to Amend Appendix B of the Municipal Code of the City of Pontiac, Amending Article 2, Section 2.103 – Zoning Map. (Second Reading)** Moved by Councilperson Rutherford and second by Councilperson James.

Ayes: James, McGuinness, Parker, Rutherford, Carrington, and Goodman

No: None

Ordinance Adopted

Councilman Nicholson was absent for the vote.

****See Ordinance #2426 as Exhibit A after the minutes****

23-378 **Resolution to approve the First Reading on an Ordinance to Amend Article VI (Finance), Division 2 (Purchasing) Section 2-256 (Specifications, Contracts, and Bid Documents for**

November 2, 2023, Approved Minutes

Construction Contracts and purchases) to add Subsection (d) Authorizing the Use of a Construction Manager at Risk delivery method for City Construction Projects. (First Reading)
Moved by Councilperson Rutherford and second by Councilperson Parker.

WHEREAS, before the City of Pontiac City Council for consideration an Ordinance to amend Article VI (Finance), Division 2 (Purchasing) Section 2-256 (Specifications, Contracts and Bid Documents for Construction Contracts and purchases) to add Subsection (d) Authorizing the Use of a Construction Manager at Risk delivery method for City Construction Projects; and
NOW THEREFORE, BE IT RESOLVED, by the Pontiac City Council that it hereby adopts the first reading presented to the City Council on November 2, 2023 an Ordinance to amend Article VI (Finance), Division 2 (Purchasing) Section 2-256 (Specifications, Contracts and Bid Documents for Construction Contracts and purchases) to add Subsection (d) Authorizing the Use of a Construction Manager at Risk delivery method for City Construction Projects.

Ayes: McGuinness, Nicholson, Parker, Carrington, Goodman, and James

No: None

Resolution Passed

Councilwoman Rutherford was absent for the vote.

Resolutions

City Clerk

23-379

Resolution approving the appointment of Stephen L. Gerhart, Jr. as Chief Assistant Clerk. Moved by Councilperson Carrington and second by Councilperson Nicholson.

WHEREAS, Section 3.202 of the Charter states “the Clerk may, with approval of Council, appoint a chief assistant who serves at the pleasure of the Clerk and performs the duties of the office in the absence or disability of the Clerk.” and;

WHEREAS, The City Clerk is seeking approval to appoint Mr. Stephen L. Gerhart, Jr. to the position of Chief Assistant Clerk and;

WHEREAS, Mr. Gerhart has a master’s degree in public administration and fifteen years of municipal government experience and;

WHEREAS, Mr. Gerhart has served as the Chief Deputy City Clerk for the City of Ann Arbor for over five years. The Deputy City Clerk for the City of Grosse Pointe Woods for over three years. In addition, Mr. Gerhart has worked for both the cities of Dearborn and Dearborn Heights and;

WHEREAS, Mr. Gerhart is a Certified Municipal Clerk (CMC) by the International Institute of Municipal Clerks and a Certified Michigan Professional Municipal Clerk (MiPMC) by the Michigan Association of Municipal Clerks and;

WHEREAS, Mr. Gerhart has over eight years of experience in managing elections for municipalities and;

WHEREAS, Mr. Gerhart professional work experience in multiple cities and his prior service as both a Chief Deputy City Clerk and Deputy City Clerk demonstrates that he is qualified to serve as the Chief Assistant Clerk.

NOW, THEREFORE, BE IT RESOLVED, The Pontiac City Council approves the Clerk’s appointment of Mr. Stephen L. Gerhart, Jr. as the Chief Assistant Clerk effective January 3, 2024, with a salary of \$92,500.

Ayes: Parker, Rutherford, Carrington, Goodman, James, and McGuinness

No: None

Resolution Passed

Councilman Nicholson was absent for the vote.

Department of Public Works (DPW)

23-374

Resolution to approve contract with Site Industries LLC DBA CemSites to renew

November 2, 2023, Approved Minutes

the CemSites software license used to operate Ottawa Park and Oak Hill Cemeteries and authorize the Mayor or Mayor's designee to sign the agreement. (Postponed from 10/24/2023 Council Meeting) Moved by Councilperson Nicholson and second by Councilperson Parker.

WHEREAS, The Purchasing Manager has ensured that the purchase is following the City's municipal code, Division II. Purchasing, Section 2-517, 2-518, and 2-519 pertaining to major purchases; and WHEREAS, the Purchasing Manager is requesting approval to execute a contract with Site Industries LLC DBA CemSites to renew the CemSites software license used to operate Ottawa Park and Oak Hill cemeteries.

NOW, THEREFORE, IT IS RESOLVED: The Pontiac City Council approves the Mayor or Mayor Designee to execute a contract with Site Industries LLC DBA CemSites to renew the CemSites software license used to operate Ottawa Park and Oak Hill cemeteries.

Ayes: Parker, Rutherford, Carrington, Goodman, James, McGuinness, and Nicholson

No: None

Resolution Passed

Finance

23-380 Resolution approving a Budget Amendment for Fiscal Year 2023-24 to establish budget appropriation in the amount of \$1,958,300.00 to account 285-699-818.000-ARPCPK-Other Professional Services-Community Parks. (ARPA Funds for Community Parks Improvements)
Moved by Councilperson Rutherford and second by Councilperson Parker.

WHEREAS, the City of Pontiac was awarded The City of Pontiac was allocated \$37.7 million from the State and Local Fiscal Recovery Fund (SLFRF) under the American Rescue Plan Act (ARPA), and; WHEREAS, the funding provided under ARPA provides a unique opportunity for state and local governments to make strategic investments in long-lived assets, rebuild reserves to enhance financial stability, and cover temporary operating shortfalls until economic conditions and operations normalize in the wake of COVID-19, and;

WHEREAS, the City's Executive Administration worked to build a programming budget for the use of its \$37,700,000 in SLFRF funding that reflects the needs of the community, and;

WHEREAS, the Pontiac City Council unanimously approved the Executive Administration's ARPA Program Budget on November 10th, 2022, allocating \$2,000,000 to establish a park revitalization program for community parks, and to fund the administration of the program, and;

WHEREAS, in an effort to put ARPA funds into action, and to mitigate the impacts of COVID-19 on Pontiac residents, the City has established the Pontiac Park Revitalization Program, and;

WHEREAS, the budget amendment will increase the budgeted appropriations in the amount of \$1,958,300.00, representing the community led design program for Pontiac's Community Parks.

NOW THEREFORE, be it resolved that the City Council hereby approves a budget amendment to establish budget appropriation in the amount of \$1,958,300.00 to account 285-699-818.000-ARPCPK - Other Professional Services - Community Parks.

Ayes: Rutherford, Carrington, Goodman, James, McGuinness, Nicholson, and Parker

No: None

Resolution Passed

23-381 Resolution approving a Budget Amendment for Fiscal Year 2023-24 to establish budget appropriations in the amount of \$78,795.00 to account 285-000-532.000-ARPHRP – Salaries & Wages, \$6,028.00 to account 285-699-715.000-ARPHRP - FICA - City Contribution, \$11,775.00 to account 285-699-716.000-ARPHRP – Medical Insurance, \$5,516.00 to account 285-699-718.500-ARPHRP - MERS Employer Contribution, \$568.00 to account 285-699-719.001-ARPHRP - Dental Insurance, \$10.00 to account 285-699-716.011-ARPHRP – Hearing/Optical,

\$928.00 to account 285-699-717.000-ARPHRP - Life Insurance, \$1,000.00 to account 285-699-719.000-ARPHRP - Workers Comp, \$ 759.00 to account 285-699-725.000-ARPHRP - Sick and Vacation Contribution, \$1,200.00 to account 285-699-707.003-ARPHRP - Cell Phone Stipend, \$4,000.00 to account 285-699-957.002-ARPHRP – Training, and \$80,000.00 to account 285-699-818.000-ARPHRP - Other Professional Services (ARPA Funds for Home Repair Program Building Inspector). Moved by Councilperson Rutherford and second by Councilperson Nicholson.

WHEREAS, the City of Pontiac was allocated \$37.7 million from the State and Local Fiscal Recovery Fund (SLFRF) under the American Rescue Plan Act (ARPA), and;

WHEREAS, the funding provided under ARPA provides a unique opportunity for state and local governments to make strategic investments in long-lived assets, rebuild reserves to enhance financial stability, and cover temporary operating shortfalls until economic conditions and operations normalize in the wake of COVID-19, and;

WHEREAS, the City's Executive Administration worked to build a programming budget for the use of its \$37,700,000 in SLFRF funding that reflects the needs of the community, and;

WHEREAS, the Pontiac City Council unanimously approved the Executive Administration's ARPA Program Budget on November 10th, 2022, allocating \$3,622,000 to establish a home repair program and fund the administration of the program, and;

WHEREAS, in an effort to put ARPA funds into action, and to mitigate the impacts of COVID-19 on Pontiac residents, the City has established the Pontiac Home Repair Program, and;

WHEREAS, the following budget amendment reflects funding for the Pontiac Home Repair Program and associated costs, and;

WHEREAS, the budget amendment will increase the budgeted appropriations in the amount of \$ 190,579.00, representing Pontiac Home Repair Program expenditures for the PHRP Building Inspector salary and additional costs of lead and asbestos assessments.

NOW THEREFORE, BE IT RESOLVED that the City Council hereby approve a budget amendment to establish budget appropriations in the amount of \$78,795.00 to account 285-000-532.000-ARPHRP – Salaries & Wages, \$6,028.00 to account 285-699-715.000-ARPHRP - FICA - City Contribution, \$11,775.00 to account 285-699-716.000-ARPHRP – Medical Insurance, \$5,516.00 to account 285-699-718.500-ARPHRP - MERS Employer Contribution, \$568.00 to account 285-699-719.001-ARPHRP - Dental Insurance, \$10.00 to account 285-699-716.011-ARPHRP – Hearing/Optical, \$928.00 to account 285-699-717.000-ARPHRP - Life Insurance, \$1,000.00 to account 285-699-719.000-ARPHRP - Workers Comp, \$ 759.00 to account 285-699-725.000-ARPHRP - Sick and Vacation Contribution, \$1,200.00 to account 285-699-707.003-ARPHRP - Cell Phone Stipend, \$4,000.00 to account 285-699-957.002-ARPHRP – Training, and \$80,000.00 to account 285-699-818.000-ARPHRP - Other Professional Services.

Ayes: Carrington, Goodman, James, McGuinness, Nicholson, Parker and Rutherford

No: None

Resolution Passed

23-382 **Resolution approving a Budget Amendment for Fiscal Year 2023-24 to establish budget appropriations in the amount of \$1,000.00 to account 285-699-902.005-ARPBUS - Public Notices, \$10,000.00 to account 285-699-728.000-ARPBUS – Postage, \$5,000.00 to account 285-699-901.000-ARPBUS - Printing and Bindery Service, \$1,000.00 to account 285-699-745.003-ARPBUS – Events, \$500,000.00 to account 285-699-818.019-ARPBUS - Professional Services -Technical Assistance, \$1,250,000.00 to account 285-699-969.004-ARPBUS - Contribution – Grants, \$750,000.00 to account 285-699-818.020-ARPBUS - Professional Services -Loans, and \$83,000.00 to account 285-699-818.000-ARPBUS - Other Professional Services (ARPA Funds for Small Business Support Program Technical Assistance). Moved by Councilperson Rutherford and second by Councilperson Nicholson.**

November 2, 2023, Approved Minutes

WHEREAS, the City of Pontiac was allocated \$37.7 million from the State and Local Fiscal Recovery Fund (SLFRF) under the American Rescue Plan Act (ARPA), and;

WHEREAS, the funding provided under ARPA provides a unique opportunity for state and local governments to make strategic investments in long-lived assets, rebuild reserves to enhance financial stability, and cover temporary operating shortfalls until economic conditions and operations normalize in the wake of COVID-19, and;

WHEREAS, the City's Executive Administration worked to build a programming budget for the use of its \$37,700,000 in SLFRF funding that reflects the needs of the community, and;

WHEREAS, the Pontiac City Council unanimously approved the Executive Administration's ARPA Program Budget on November 10th, 2022, allocating \$2,600,000 to establish a small business program and fund the administration of the program, and;

WHEREAS, in an effort to put ARPA funds into action, and to mitigate the impacts of COVID-19 on Pontiac residents, the City has established the Pontiac Small Business Program, and;

WHEREAS, the following budget amendment reflects funding for the Pontiac Small Business Program and associated costs, and;

WHEREAS, the budget amendment will increase the budgeted appropriations in the amount of \$2,600,000.00, representing Pontiac Small Business Program expenditures.

NOW THEREFORE, be it resolved that the City Council hereby approves a budget amendment to establish budget appropriations in the amount of \$1,000.00 to account 285-699-902.005-ARPBUS - Public Notices, \$10,000.00 to account 285-699-728.000-ARPBUS - Postage, \$5,000.00 to account 285-699-901.000-ARPBUS - Printing and Bindery Service, \$1,000.00 to account 285-699-745.003-ARPBUS - Events, \$500,000.00 to account 285-699-818.019-ARPBUS - Professional Services -Technical Assistance, \$1,250,000.00 to account 285-699-969.004-ARPBUS - Contribution - Grants, \$750,000.00 to account 285-699-818.020-ARPBUS - Professional Services -Loans, and \$83,000.00 to account 285-699-818.000-ARPBUS - Other Professional Services.

Ayes: Goodman, James, McGuinness, Nicholson, Parker, Rutherford and Carrington

No: None

Resolution Passed

Mayor's Office

23-383 **Resolution approving the appointment of JoAnne Gurley as Director of Law.** Moved by Councilperson Rutherford and second by Councilperson Nicholson.

WHEREAS, in accordance with Article IV, Chapter 1, Section 4.106 the Mayor may appoint for each department of the executive branch a director who serves at the pleasure of the Mayor as head of the department; and

WHEREAS, in accordance with Article IV, Chapter 1, Section 4.106 such appointment is subject to the approval of Council; and

WHEREAS, JoAnne Gurley has the experience and professionalism necessary to serve as the Director of Law;

NOW THEREFORE, BE IT RESOLVED, in accordance with the appointment procedures provided by law and the City Charter, Ms. JoAnne Gurley is formally appointed, effective November 20, 2023, as the Director of Law for the City of Pontiac and will receive the budgeted salary of \$110,000 for this position.

Ayes: James, McGuinness, Parker, Carrington and Goodman

No: None

Resolution Passed

Councilpersons Rutherford and Nicholson were absent for the vote.

23-384 **Resolution approving the appointment of Linda Durakovic as the Human Resources Director.** Moved by Councilperson Nicholson and second by Councilperson Parker.

WHEREAS, in accordance with Article IV, Chapter 1, Section 4.106 the Mayor may appoint for each department of the executive branch a director who serves at the pleasure of the Mayor as head of the department; and

WHEREAS, in accordance with Article IV, Chapter 1, Section 4.106 such appointment is subject to the approval of Council; and

WHEREAS, Melinda Durakovic has the experience and professionalism necessary to serve as the Director of HR; and

WHEREAS, Melinda Durakovic was recommended to the city through a targeted search by GOVHR;
NOW THEREFORE, BE IT RESOLVED, in accordance with the appointment procedures provided by law and the City Charter, Ms. Durakovic is formally appointed, effective immediately, as the Director of Human Resources for the City of Pontiac a will receive the budgeted salary of \$106,090 for this position.

Ayes: McGuinness, Nicholson, Parker, Rutherford, Carrington, Goodman and James

No: None

Resolution Passed

Planning Division

23-385 **Resolution approving the Conditional Rezoning Agreement for 729 Linda Vista and authorizing the Mayor to execute the agreement.** Moved by Councilperson Rutheford and second by Councilperson Nicholson.

WHEREAS, before the City of Pontiac City Council for consideration is an Ordinance to amend the City of Pontiac Zoning Ordinance Map to conditionally rezone 9.6 acres at 729 Linda Vista Drive (formerly the Mark Twain School); specifically to amend the Zoning Ordinance Map which list 729 Linda Vista Drive from the classification(s) One Family Dwelling (R-1) to Corridor Commercial (C-3) with the Conditional Rezoning Agreement.

WHEREAS, the City of Pontiac City Council finds it is in the best interest for the health, safety, and welfare, to reject the Planning Commission's Recommendation and approve the amendments to the Zoning Ordinance Map as presented.

NOW THEREFORE, BE IT RESOLVED by the Pontiac City Council that it hereby authorizes the Mayor to Execute the Conditional Rezoning Agreement regarding 454 Auburn Avenue.

Ayes: Nicholson, Parker, Rutherford, Carrington, Goodman and McGuinness

No: James

Resolution Passed

See Conditional Rezoning Agreement for 729 Linda Vista as Exhibit B after the minutes

Councilman Nicholson left the meeting.

Public Comment

1. Robert Bass
2. H. Bill Maxey
3. Dr. Deirdre Waterman
4. Paul Wilson
5. Renee Beckley
6. Carol Wilson
7. Iola Miller
8. Tameka Ramsey
9. Chuck Johnson
10. Darlene Clark

11. Gloria Miller

Discussions

City Council's 2023 Pontiac Pride and Beautification Awards Reception, Process Successfully Concluded

A Woman was killed in a hit-and-run crash early in the morning of Saturday, October 28 on University Drive near Kenilworth around 2:30 am, the vehicle did not stop; anyone who has information is asked to call Crime Stoppers at 1-800-SPEAK-UP; a reward is offered for information leading to an arrest in the case and tipsters remain anonymous.

Michigan Department of Transportation Public Meeting on Proposed Changes to M-59 (Huron Street) between Telegraph Road and Woodward Avenue, Thursday, November 2, 2023 from 4:00 to 6:00 pm, held at the Bowens Senior Center, 52 Bagley Street in Pontiac

Gauging Council's Perspective and Considering Next Steps for Community Benefits Requirements for Future Development Projects in Pontiac

Gauging Council's Perspective on a North Oakland County Resources Recycling Authority Concept

23-386 **Resolution to proceed in closed session to discuss the confidential legal opinion and to discuss settlement in connection with pending litigation at 9:21 p.m.** Moved by Councilperson Rutheford and second by Councilperson James.

WHEREAS, in September 2022 a complaint relief was filed against the City of Pontiac in the Circuit Court of Oakland County, *Katz v City of Pontiac*, Case No. #22-195877-CH; and

WHEREAS, Section 8(e) of the Michigan Open Meetings Act provides that a public body may meet in Closed Session to consult with its attorney regarding settlement strategy in connection with pending litigation, but only if an open meeting would have a detrimental financial effect on the litigation or settlement position of the City; and

WHEREAS, the Michigan Open Meetings Act provides that a public body may meet in Closed Session to consider material exempt from discussion or disclosure by state or federal statute; and

WHEREAS, written confidential communications that are the subject of attorney-client privilege are exempt from disclosure and may be discussed in Closed Session pursuant to Section 8(h) of the Open Meetings Act, MCL 15.268(h).

NOW THEREFORE BE IT RESOLVED, the City Council will proceed in Closed Session pursuant to Section 8(e) and 8(h) of the Open Meetings Act, MCL 15.268(e) and (h), to discuss settlement and the confidential legal opinion of counsel in connection with pending litigation, *Katz v City of Pontiac*.

Ayes: Rutherford, Carrington, Goodman, James and McGuinness

No: None

Resolution Passed

Motion to come out of closed session at 9:44 p.m. Moved by Councilperson Rutherford and second by Councilperson Goodman.

Ayes: Rutheford, Carrington, Goodman, James, McGuinness and Parker

No: None

Motion Carried

November 2, 2023, Approved Minutes

Communications

City Council, Mayor's Office, and Clerk's Office

Mayor, Clerk and Council Closing Comments

Mayor Tim Greimel, Clerk Garland Doyle, Councilwoman Kathalee James, Councilman Mikal Goodman, Councilwoman Melanie Rutherford, and Council President Mike McGuinness made closing comments.

Adjournment

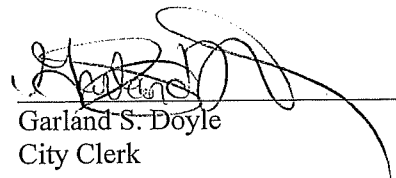
Motion to adjourn the meeting. Moved by Councilperson Rutherford and second by Councilperson Carrington.

Ayes: Carrington, Goodman, James, McGuinness, Parker and Rutherford

No: None

Motion Carried

Council President Mike McGuinness adjourn the meeting at 9:56 p.m.



Garland S. Doyle
City Clerk

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF PONTIAC

ORDINANCE NO. 2426

ZONING ORDINANCE MAP AMENDMENT

AN ORDINANCE TO AMEND APPENDIX B OF THE MUNICIPAL CODE OF THE CITY OF PONTIAC, AMENDING ARTICLE 2, SECTION 2.103—ZONING MAP.

THE CITY OF PONTIAC ORDAINS:

Section 1. Amendments.

That the Zoning Map of the City of Pontiac, said map being incorporated by reference in the Zoning Ordinance for the City of Pontiac pursuant to Article 2 therefore, be and the same is hereby amended, changed, and altered to adopt the zoning map attached hereto.

Section 2. Repealer and Severability.

All other parts and provisions of the Zoning Ordinance shall remain in effect, amended only as provided above. 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. Effective Date

The foregoing amendment to the City of Pontiac Zoning Map was approved and adopted by the City Council on _____, 2023, after a public hearing as required pursuant to the Michigan Act 110 of 2006, as amended. The Ordinance shall be effective on _____, 2023, which date is the eighth day after publication of a Notice of Adoption and Posting of the Zoning Map Amendment in a publication in a newspaper of general circulation in the zoning district as required by Section 401 of Act 110 of 2006, as amended. However, this effective date shall be extended as necessary to comply with the requirements of Section 402 of Act 110, as amended.

ORDINANCE DECLARED ADOPTED.

**CITY OF PONTIAC
CONDITIONAL REZONING AGREEMENT**

This Conditional Rezoning Agreement (the “**Agreement**”) is made this ____ day of _____, 2023, by and between THE CITY OF PONTIAC, with its offices located at 47450 Woodward Ave., Pontiac, MI 48342 (the “**City**”), and ACORP Services, LLC (“**ACORP**”) with its principal office located at 1601 Valdosta Circle., Pontiac, MI 48340.

THE PARTIES RECITE THAT:

WHEREAS, ACORP owns a certain parcel of real property located within the City of Pontiac, which is commonly described as follows:

729 Linda Vista Dr., Pontiac, MI 48342

WHEREAS, ACORP seeks re-zoning of the referenced parcel, as shown on **Exhibit A**. The parcels where rezoning is sought shall be referred to herein as the “Property.” The Property is currently zoned as follows and the legal descriptions for the Property are on **Exhibit A** attached hereto:

Parcel Number(s)	Previous Zoning District	Rezoned to the following Zoning District:
14-21-451-002	One-Family Dwelling District (R-1)	Corridor Mixed Use District (C-3)

WHEREAS, under and pursuant to Section 405 of the Michigan Zoning Enabling Act, 2008 PA 110, as amended (codified at MCL §125.3405 *et seq*), certain conditions voluntarily offered by the owner of land, including an agreement between the City and ACORP, may become a condition of rezoning of the Property; and

WHEREAS, ACORP submitted the Application for Zoning Map Amendment, which was supplemented by the Offer of Conditions on August 29, 2023, attached as **Exhibit B** (collectively “Application”), voluntarily offering, in writing, certain conditions to rezone the Property as set forth in the table above, subject to the conditions of this Agreement; and

WHEREAS, the City Planning Commission on September 6, 2023, held a Public Hearing on the request for Conditional Rezoning and proposed amendment to the City’s Zoning Map Ordinance; and

WHEREAS, the City Council on _____, voted to approve the request for Conditional Rezoning and adopted Ordinance No. [add Ordinance number] to amend the City’s Zoning Map Ordinance based upon the conditions set forth in this Agreement and the attached Exhibits;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises hereinafter set forth, the City and ACORP agree as follows:

1. **CONDITIONAL REZONING, PROJECT DEVELOPMENT, AND CONDITIONS AND EXCEPTIONS TO USE OF PROPERTY**

A. **Conditional Rezoning.** Consistent with MCL §125.3405, the Property has been conditionally rezoned from the classification(s) One-Family Dwelling District (R-1) to Corridor Mixed Use District (C-3) as set forth above, with conditions as approved by the City Council based upon ACORP’s Offer of Conditions, subject to and in accordance with this Agreement, unless this Agreement is amended by mutual agreement of the City and ACORP, following public hearing, or unless ACORP determines to use the Property in accordance with the zoning applicable to the Property under and in accordance with the termination provisions set forth herein. ACORP and future owners of the Property shall not develop and use the Property in a manner inconsistent with this Agreement.

B. **Project Definition.** The Project shall be based on ACORP’s Site Plan Approval Application Submittal Package that is to be submitted subsequent to the approval and execution of this Agreement and is a condition of this Agreement as more fully set forth below. Except as modified herein or pursuant to any variances or deviations approved by the City, the Property shall remain subject to all other zoning and use district regulations of the City Zoning Ordinance, for property zoned Corridor Mixed Use District (C-3), as applicable in accordance with the zoning of each respective parcel as set forth above, and as limited by ACORP’s Offer of Conditions, and shall remain subject to all other requirements of the City’s building, zoning, and other land use regulations.

C. - **Offered Conditions.** ACORP has voluntarily offered the following condition in consideration for the City’s granting of the rezoning:

- i. The property shall not be utilized for any of the following uses without an applicant receiving a separate Conditional Rezoning approval from the City:
 - a. Automobile Services (Commercial) as defined in the City's Zoning Ordinance
 - b. Bakery or confectionary
 - c. Bar, tavern, or alcohol service establishment
 - d. Child care center or day care center
 - e. Funeral home or mortuary
 - f. Hotel or inn
 - g. Medical marihuana facility
 - h. Personal service establishment as defined in the City's Zoning Ordinance
 - i. Pet boarding facility
 - j. Restaurant
 - k. Retail sales
 - l. Terminal public transportation
 - m. Toxic or hazardous material storage and/or distribution
 - n. Hospital
 - o. Veterinary hospital and/or clinic
 - p. Outdoor retail sales
 - q. Outdoor sidewalk and/or patio dining
- ii. Any and all outdoor storage shall be prohibited on the site.

D. **Acknowledgement.** ACORP hereby acknowledges that the rezoning with conditions was proposed by ACORP to induce the City to grant the rezoning, and that the City relied upon such proposal in granting the rezoning pursuant to the terms spelled out in the conditional rezoning agreement; and, ACORP further agrees and acknowledges that the conditions and conditional rezoning agreement are intended to comply with all applicable state and federal law and constitution, and that the Agreement is valid and was entered into on a voluntary basis, and represents a permissible exercise of authority by the City. ACORP further represents and warrants that it agrees to all of the following:

- i. That the property in question shall not be developed or used in a manner inconsistent with this conditional rezoning agreement.
- ii. That each of the requirements and conditions set forth in this Agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the approved rezoning with conditions, taking into consideration the changed zoning district classification and the specific use

authorization granted.

- iii. Nothing in this Agreement shall be construed as replacing the requirement for ACORP to obtain preliminary and final Site Plan, subdivision, condominium, or special land use review and approval, as applicable.

2. **PERIOD OF APPROVAL.** Unless extended by the City Council for good cause, the rezoning with conditions shall expire following a period of two (2) years from the effective date of the rezoning unless bona fide development of the property pursuant to approved building and other permits required by the City commences within the two (2) year period and proceeds diligently and in good faith as required by ordinance to completion.

A. **Expiration.** In the event bona fide development has not commenced within two (2) years from the effective date of the rezoning, the rezoning with conditions and the conditional rezoning agreement shall be void and of no effect unless, before such expiration, ACORP applies for an extension in accordance with MCL 125.3405 and the Pontiac Zoning Ordinance.

B. **Effect of Expiration.** If the rezoning with conditions becomes void in the manner provided in this section, no development shall be undertaken or permits for development issued until a new zoning district classification of the property has been established. Either or both of the following actions may be taken:

- i. ACORP may seek a new rezoning of the property and the City may approve same; and/or
- ii. Pursuant to MCL 125.3405, the land shall revert to its former zoning classification following the process for approval of a rezoning with conditions.

C. **Extension.** If an extension of approval is granted by the City Council, a new conditional rezoning agreement with the new expiration date shall be recorded in accordance with the Pontiac zoning ordinance.

3. **RECORDATION.** This Rezoning shall become effective following publication in the manner provided by law and recording of the conditional rezoning agreement with the County Register of Deeds.

4. **DEFAULT.** A violation of the terms of this conditional rezoning agreement shall constitute a violation of the zoning ordinance and the City may seek any lawful remedies as a result thereof.

5. **ENTIRE AGREEMENT.** This Agreement, the exhibits attached hereto, if any, and the instruments which are to be executed in accordance with the requirements hereof set forth all the covenants, agreements, stipulations, promises, conditions, and understandings between the City and ACORP concerning the Project as of the date hereof, and there are no covenants, agreements, stipulations, promises, conditions or understandings, either oral or written, between them other than as set forth herein.

6. **RELATIONSHIP OF THE PARTIES.** The relationship of the City and ACORP shall be defined solely by the expressed terms of this Agreement, including the implementing documents described or contemplated herein, and neither the cooperation of the parties hereunder nor anything expressly or implicitly contained herein shall be deemed or construed to create a partnership, limited or general, or joint venture between the City and ACORP, nor shall any party or their agent be deemed to be the agent or employee of any other party to this Agreement.

7. **MODIFICATION.** This Agreement can be modified or amended only by a written instrument expressly referring hereto and executed by the City and ACORP.

8. **MICHIGAN LAW TO CONTROL.** This Agreement and the rights and obligations of the parties hereunder shall be construed in accordance with Michigan law.

9. **DUE AUTHORIZATION.** The City and ACORP each warrant and represent to the other that this Agreement and the terms and conditions hereof have been duly authorized and approved by, in the case of the City, its City Council and all other governmental agencies, all whose approval may be required as a precondition to the effectiveness hereof, , and that the persons who have executed this Agreement below have been duly authorized to do so.

10. **SUCCESSORS AND ASSIGNS.** The terms, provisions, and conditions of this Agreement are for the benefit of the Property and shall run with the Property and shall bind and inure to the benefit of the parties to this Agreement and their respective successors, assigns, and transferees.

11. **NO PERSONAL LIABILITY.** The obligations hereunder of the City and ACORP shall constitute solely the obligations of the respective entities to be satisfied solely from their respective assets, and no officer, Board member, agent, employee or partner of any of said entities shall have any personal obligation, responsibility or liability for the performance of the terms of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first set forth above.

EXHIBIT A

(Legal Description)

T3N, R10E, SEC 21 ASSESSOR'S PLAT NO 13 LOTS 33 TO 37 INCL EXC W 50 FT OF EACH, ALSO EXC N 25 FT OF LOT 37 EXC W 50 FT THEREOF, ALSO LOTS 50 TO 53 INCL, ALSO LOTS 55, 56 & 57, ALSO ALL OF VAC PONTIAC DR ADJ TO SD LOTS

EXHIBIT B

Copy of Application for Conditional Rezoning

(See following pages)