Alderman Adella Gray
Ward 1 Position 1

Alderman Sarah Marsh
Ward 1 Position 2

Alderman Mark Kinion
Ward 2 Position 1

Alderman Matthew Petty
Ward 2 Position 2

Alderman Justin Tennant
Ward 3 Position 1

Alderman Sarah Bunch
Ward 3 Position 2

Alderman John La Tour
Ward 4 Position 1

Alderman Alan T. Long
Ward 4 Position 2

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra E. Smith

City of Fayetteville Arkansas
City Council Meeting
March 7, 2017

A meeting of the Fayetteville City Council was held on March 7, 2017 at 5:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Jordan called the meeting to order.

PRESENT: Alderman Adella Gray, Sarah Marsh, Mark Kinion, Matthew Petty, Justin Tennant, Sarah Bunch, John La Tour, Alan Long, Mayor Lioneld Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

2016 4th Quarter Financial Report - Paul Becker, Chief Financial Officer

Paul Becker, Chief Financial Officer gave a brief summary of the 4th Quarter, 2016 Financial Report. He stated that 2016 was a financially good year for the City of Fayetteville.

A brief discussion followed about City of Fayetteville reserves.

Alderman La Tour: Is there a legal requirement to keep a minimum balance in our reserve accounts?

Paul Becker: A requirement was established by the City Council. The policy is to have 60 days' worth of revenue in case we have some kind of disruption in revenues to keep the city rolling. It is important to keep servicing the public during a catastrophe or some type of event. We have an additional $3 million in a different fund in case of something like an ice storm.

Alderman La Tour: What is our legal required amount of reserves in the General Fund this year?

Paul Becker: It is set by the Council. It is $7 million dollars.

Alderman La Tour: We had $19 million at the end of December?

Paul Becker: Yes. You have $19 million, but we need to subtract $2 million for carry overs. Depending on the pay plan, some of that would be used if in fact we don't get revenue to support that.

City Council Meeting Presentations, Reports, and Discussion Items: None

Agenda Additions: None

Consent:

Approval of the February 21, 2017 City Council Meeting Minutes.

Approved

Lewis Ford of Fayetteville Dodge Ram 2500: A resolution to authorize the purchase of a Dodge Ram 2500 regular Cab, long bed truck from Lewis Ford of Fayetteville, Arkansas in the amount of $21,443.00, pursuant to a state procurement contract, for use by Fleet Operations.

Resolution 53-17 as recorded in the office of the City Clerk

Lewis Ford of Fayetteville Ford C-Max Hybrid: A resolution to authorize the purchase of a Ford C-Max Hybrid from Lewis Ford of Fayetteville, Arkansas in the amount of $21,542.00, pursuant to a state procurement contract, for use by Fleet Operations.

Resolution 54-17 as recorded in the office of the City Clerk

Professional Turf Products, L.P.: A resolution to authorize the purchase of a Toro Sand Pro 5040 from Professional Turf Products, L.P. of Tulsa, Oklahoma in the amount of $23,423.95 pursuant to National Intergovernmental Purchasing Alliance contract #120535 for use by the Parks and Recreation Department.

Resolution 55-17 as recorded in the office of the City Clerk

Bid No. 17-25 Arkansas Roofing Company Conway, Inc.: A resolution to award Bid No. 17-25 and approve a construction contract with Arkansas Roofing Kompany Conway, Inc. for the Corporate Hangar Roof Rehabilitation Project at Drake Field in the amount of $109,841.00 with a project contingency in the amount of $12,659.10, contingent upon receipt of a 90-10 grant from the Arkansas Department of Aeronautics.

Resolution 56-17 as recorded in the office of the City Clerk

Afterglow Lease Agreement: A resolution to approve a three year lease agreement with Exclusive Flight, LLC d/b/a Afterglow Aircraft Services for the hangar located at 4580 S. School Avenue in the amount of $2,400.00 per month.

Resolution 57-17 as recorded in the office of the City Clerk

Parks and Recreation Donation Revenue: A resolution to approve a budget adjustment in the total amount of $5,545.00 representing donations to the Parks and Recreation Department in 2016.

Resolution 58-17 as recorded in the office of the City Clerk

Kessler Mountain Regional Park Concession Stands: A resolution to approve a ten month contract with James and Jewel Morrow with a one year automatic renewal for 2018 to provide for operation of the concession stands at Kessler Mountain Regional Park Soccer Complex, Gary Hampton Softball Complex, Lake Fayetteville Softball Complex, and Wilson Park Pool.

Resolution 59-17 as recorded in the office of the City Clerk

Animal Services Donation Revenue: A resolution to approve a budget adjustment in the amount of $10,777.00 representing donation revenue to Animal Services in November and December of 2016.

Resolution 60-17 as recorded in the office of the City Clerk

K-9 Officer Replacement: A resolution to approve a budget adjustment of $12,000.00 for a replacement of our current K-9 Officer and for tuition for the new K-9 Officer and its handler.

Resolution 61-17 as recorded in the office of the City Clerk

Fayetteville District Court Budget Adjustment: A resolution to approve a budget adjustment in the amount of $10,000.00 recognizing revenue from the court automation fund for upgrades to the video arraignment equipment used by the Fayetteville District Court.

Resolution 62-17 as recorded in the office of the City Clerk

Insituform Technologies, Inc.: A resolution to approve the final contract extension with Insituform Technologies, Inc. and to approve an authorization of up to $330,000.00 for sewer rehabilitation projects in 2017 using cured-in-place sanitary sewer linings.

Resolution 63-17 as recorded in the office of the City Clerk

Environmental Consulting Operations, Inc. Amendment 3: A resolution to approve Amendment 3 to the contract with Environmental Consulting Operations, Inc. in the amount of $56,500.00 for wetlands mitigation site monitoring and management in 2017.

Resolution 64-17 as recorded in the office of the City Clerk

Gulley Park Trail Improvements: A resolution to express the willingness of the City of Fayetteville to utilize Federal-Aid Recreational Trails Program funds for Gulley Park Trail improvements.

Resolution 65-17 as recorded in the office of the City Clerk

Federal-Aid Transportation Alternatives Program Funds: A resolution to express the willingness of the City of Fayetteville to utilize Federal-Aid Transportation Alternatives Program funds and authorize application for a 20% local match grant through the Arkansas Transportation Alternatives Program in an amount up to $500,000.00 for the construction of the shared use trail on the Wedington Drive bridge across Interstate 49.

Resolution 66-17 as recorded in the office of the City Clerk

Alderman Marsh moved to accept the Consent Agenda as read. Alderman Gray seconded the motion. Upon roll call the motion passed unanimously.

Unfinished Business:

Amend §110.02 Telecommunications Franchises: An ordinance to amend §110.02 **Telecommunications Franchises** of the City Code to include and incorporate references to competing local exchange carriers and any other telecommunications providers desiring to use city street rights of way. *At the February 21, 2016 City Council Meeting this ordinance was left on the first reading.*

City Attorney Kit Williams: I informed the City Council at the Agenda Session meeting that I was going to ask for this to be tabled indefinitely. I'm continuing conversations with some of the major telecom companies and also there are possible bills that have been submitted at the legislature that could affect any kind of negotiations we might have. I will bring it back when I have an agreement or some other news about what the new legislation might be.

Alderman Long moved to table the ordinance indefinitely. Alderman Kinion seconded the motion. Upon roll call the motion passed unanimously.

This ordinance was Tabled Indefinitely

New Business:

Granicus, Incorporated: An ordinance to waive the requirements of formal competitive bidding and approve a one-year contract with Granicus, incorporated in the amount of $42,765.06 for 2017 with four possible annual renewals with a 3% cost increase each year.

City Attorney Kit Williams read the ordinance.

Doug Bankston, Director of Media Services gave a brief description of the ordinance.

Alderman Marsh moved to suspend the rules and go to the second reading. Alderman Long seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Marsh moved to suspend the rules and go to the third and final reading. Alderman Gray seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Long: I know there had been some kinks with the program initially when it was rolled out. Have they agreed to work with us and come service us in-house?

Doug Bankston: Are you referring to the Vote Cast System?

Alderman Long: Yes.

Doug Bankston: Yes. Our IT Department works with Granicus quite a bit on the Vote Cast System to have those bugs worked out. They are very agreeable to work with us.

Alderman Long: Within this contract we expect them to be able to continue working with us and not charging us additional amounts?

Doug Bankston: There won't be any additional charges.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 5955 as Recorded in the office of the City Clerk

JMSH, LLC.: An ordinance to waive the requirements of formal competitive bidding and to approve a cost share agreement with JMSH, LLC. For the installation of water and sewer mains along a portion of North Assembly Drive north of East Maple Street with the estimated amount to be paid by the City of Fayetteville not to exceed $31,800.00, and to approve a project contingency in the amount of $6,360.00 for a total of $38,160.00.

City Attorney Kit Williams read the ordinance.

Mark Rogers, Water & Sewer Operations Manager gave a brief description of the ordinance.

Alderman Kinion moved to suspend the rules and go to the second reading. Alderman Tennant seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Kinion moved to suspend the rules and go to the third and final reading. Alderman Long seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 5956 as Recorded in the office of the City Clerk

U.S. Geological Survey: An ordinance to waive the requirements of formal competitive bidding and authorize a joint funding agreement with the U.S. Geological Survey for stream gauge operation and maintenance and water quality sampling and monitoring at various locations in the City of Fayetteville in 2017 with the amount paid by the city not to exceed $61,721.00.

City Attorney Kit Williams read the ordinance.

Chris Brown, City Engineer gave a brief description of the ordinance.

Alderman Kinion moved to suspend the rules and go to the second reading. Alderman Marsh seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Kinion moved to suspend the rules and go to the third and final reading. Alderman Marsh seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 5957 as Recorded in the office of the City Clerk

Amend §160.02 Official Zoning Map: An ordinance to amend §160.02 **Official Zoning Map** of the Unified Development Code to adopt a digital format for the City of Fayetteville's official zoning map.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. Staff and the Planning Commission are recommending in favor.

Alderman Kinion moved to suspend the rules and go to the second reading. Alderman Marsh seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Kinion moved to suspend the rules and go to the third and final reading. Alderman Marsh seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: Thank you Jeremy and the Planning Department for this cost effective upgrade.

Mayor Jordan: It was a great job.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 5958 as Recorded in the office of the City Clerk

2017 Total Compensation Implementation and Compensation Philosophy: A resolution to approve an updated Compensation Philosophy, to accept the Johanson Group Classification, Compensation and Benefits study report and adopt the financial recommendations of the Mayor, and to approve a budget adjustment in the amount of $1,700,300.00 to implement the 2017 compensation plan.

Paul Becker, Chief Financial Officer: There are two parts to this. One, is to approve the plan and two, is the Mayor's financial recommendations of implementation.

Blair Johanson, Johanson Group gave a brief description about the plan and the study.

Paul Becker, Chief Financial Officer gave a brief description about finances. He stated if sales taxes continue at the rapid rate they are now, the City of Fayetteville could expect to get another $1.2 million dollars this year into the General Fund. He stated the Mayor's position is to fund what we can this year and look at it next year to see if we can fund more of the plan. He stated that this year $1.2 million would be the implementation of about 25% of what would be necessary for the implementation of the plan. He stated as we look at revenue, once you approve payroll expenditures, they automatically become part of the operating base. Therefore, they are going to be part of the 2018 budget. It will no longer be \$1.2 million, it will be \$1.6 million which we will have to face funding that year. If we commit to funding this fully, each year that's going to be expanding. He stated the Mayor and he feel that it is not fair or honest to say they think we can fully fund this plan. He stated another avenue available would be a property tax increase, but the Mayor does not support that. He stated the revenue looks like we will be able to support implementation of 25% of the plan this year, but we don't know if we will be able to keep it going next year because it depends on what our revenue sources are. He stated at that point in time next year they will look at it again and if they can implement more of the pay plan, they will. He stated we will implement increases in addition to that. It provides roughly 4% for merit employees. There are a number of merit employees who will be under the minimum of the plan and it would put them up to that and an average of 6% in public safety at this point in time.

Alderman La Tour: I appreciate financial prudence and I'm for not spending money we don't have. If we grant 100% of these raises this year, next year they will be bigger. What we are talking about is underpaying our employees and that is something I don't think any of us like on the Council. We want to pay fair compensation for a fair days work for everybody. Especially when it comes to public safety for our Firemen and Policemen who risk their lives. We need to get somebody to look at the finances, more than just those of us who spend the money. We need a committee to look at our finances and compensation level.

Mayor Jordan: Your suggestion is to put a committee together which would delay paying the workers until we get a decision made on what we are going to pay.

Alderman La Tour: Somebody needs to be looking at it on a continual basis. It is what I tell small business all the time. If we don't have our employees, we don't have a city.

Mayor Jordan: I don't disagree with you. I would give them all of it if I could afford it. I got so much coming in and so much going out and I got to keep us between the ditches. I've got a Finance Director telling me after 35 years of experience that right now you can't do this plan unless you want to raise taxes. You all will have this discussion about property taxes in September. I am trying to meet a payroll by the first of April. Paul, is that correct?

Paul Becker: That is correct.

Mayor Jordan: We can take as long as you want.

Alderman La Tour: We don't want to take any longer. I think we can pass this tonight to give 25% raises, but that is just ¼ of where we need to be.

Mayor Jordan: I don't disagree with you. This is the starting point. This fall you can have all the discussions you want about the pay plan and what you want to implement next year. Right now, this is what I got to work with. I don't want to hold people up from getting paid in the first of April. If we pay 25% now, then discussions can be had this fall.

Alderman La Tour: We are in agreement. We want to pay the employees and we want to pay a fair wage.

Paul Becker: We can have all the meetings and all the committees, but it all depends on what those revenue sources are going to be.

Mayor Jordan: You have to look at my position. What if I said to implement 100% and this time next year we don't have the money to pay anybody. We have to cut services and cut people. I would have to live with that decision.

Alderman La Tour: I agree. I'm not saying we should fund 100% today. We need to have a path designed to get us there.

Mayor Jordan: Right now your path is 25%.

Alderman La Tour: I am going to vote in favor of this proposal. It is a step in the right direction.

Alderman Petty: We recruit a lot of these positions from inside the region. If we vote on this tonight, where will we end up for these positions relative to the rest of Northwest Arkansas?

Blair Johanson, Johanson Group: We are doing 100% with the merit program. When we are talking about 25%, that's 25% implementation for the Fire and Police variance to the market. With the 100% merit it represents getting quite a few people to the minimum in the schedule. If we looked at that on a regional basis, there is only about a 3% difference between the region and the Arkansas eight cities we compared in the study for merit. For Police and Fire, the difference is about 10% when you go from the regional averages to the eight cities that we compare with Arkansas. The 25% implementation gets us really close to the Fire and Police average for the eight cities we compared with. We would be about 3.5% to 4% behind the average for Police and Fire with the 25% implementation.

Alderman Petty: That is with the eight cities of Arkansas?

Blair Johanson, Johanson Group: Yes. Springdale, Rogers, Bentonville, Fort Smith, Conway, North Little Rock, Little Rock, and Jonesboro.

Alderman Petty: 100% for the merit will put us on par with Arkansas or slightly better?

Blair Johanson, Johanson Group: That is correct.

Alderman Petty: With the 25% of the uniform recommendations, we are still 3% to 4% behind Arkansas?

Blair Johanson, Johanson Group: That is correct.

Alderman Petty: I hope we keep that in mind for future discussions as a benchmark of what we should be looking to accomplish with the next round. When we talk about the merit employees, is the delta different when we are looking at employees who are paid closer to the lower range of what we pay employees versus employees that are in more managerial level positions that might be recruited from a wider area?

Blair Johanson, Johanson Group: When we look at the overall variance on the merit side and we look at the hourly employees that we call tier one that is where the largest amount of variance is when we look both regionally and locally compared to all the positions that are merit schedule. That is where the bulk of the 8.5% that we are behind and then that drops about 3% when you go with Arkansas only. The professional technical group which is the tier two group, they are about 3% ahead of market when we look at actual pay compared to the market. The executive group which is tier three is about three fourths of a percent behind market. When we look at that whole group as a whole, it is the hourly group that's the furthest behind the market. It is where the bulk of the adjustments are going to be made when we look at the people under minimum to get to the minimum of the range structure. The majority of the adjustments that will be made that are outside of merit are in that tier one hourly employees.

Alderman Petty: When you talked about the tier two and tier three, it seemed like you were talking about the current pay for those two groups. What is the answer if I were to ask the same question about the maximum pay for those ranges?

Blair Johanson, Johanson Group: As far as where do we compare to the market?

Alderman Petty: Yes.

Blair Johanson, Johanson Group: When we look at the variance on actual pay and we are building the pay structure, we are using that actual as a way to determine how we are doing pay structure, so when we apply those adjustments to all three tiers on the merit side, we are about 10% structure to structure variance. The 2013 current pay structure minimum midpoint max market compared to the 2017 is about a 10% separation for all those tiers. We are about 10% behind on the merit.

Alderman Petty: That's true if we are talking about actual pay or maximum pay?

Blair Johanson, Johanson Group: That's correct.

Jimmy Vinyard, Fire Department: It is 100% for the civilian employees and 25% for Fire and Police. A total implementation this year would be $2.2 million and that would be 100% for Fire and Police and the same thing that you're doing for the civilian employees. Paul, is that correct?

Paul Becker: Correct.

Jimmy Vinyard: The $3.1 million in 2018, would that be against 2016 numbers or against 2017 numbers?

Paul Becker: I don't understand that question.

Jimmy Vinyard: I'm trying to figure out if you are showing payroll as growing again in 2018 or is it growing from 2016 numbers?

Paul Becker: It would be growing from 2016 numbers. If we implemented 100% January 1, the cost would be $3.1 million. Because we are implementing it in April, the cost would be 73% of that, which is $2.2 million.

Jimmy Vinyard: The difference between the two years would be $900,000. Is that correct?

Paul Becker: That would be the additional increase, but it is going to compound.

Jimmy Vinyard: We believe the city doesn't need to increase the tax base, the tax rate for the citizens to implement this. We believe the citizens have paid sufficient amount of taxes in their millage and sales tax. In my 22 years with the Fire Department we have done seven pay studies. This will be the first time that there has been no completion of the process forecast in that time period. We have either taken the money from the reserve or paused it and implemented it over two years. It was no surprise to us that the salary survey came back and said that Police Officers and Firemen were double digit behind in pay. It is odd that it wasn't forecast prior to today. That is a repetitive incident that has happened. We wait every four years to do these studies and they come back either close to double digit or they are over double digit. Some of the Police Officers and Battalion Chiefs are closer to 20% behind in areas of their pay. I understand Paul's philosophy of not dipping into the reserve. The reserve has grown since 2013 as we have pulled money out of it at 12.5%. We run a very efficient Fire Department in the City of Fayetteville. We have a class two rating. Our payroll against the number of citizens is $136 a head in this city. The regional average is $159. We are well below what we are spending for fire protection and we provide a high quality of service to citizens of Fayetteville. It appears we are not seeking new funding for this mechanism of paying the employees. I think the civilian employees need their pay. I think the Firefighters and Police Officers need this 25%. We need to make a plan and a priority. We are drifting further behind. I ask you to fully implement what has been recommended to you. I ask you to make this a priority to build a committee to look at this. Come back with a plan in August before September when you are looking at the taxes to find a path to fully fund the Firemen and the Policemen in this city.

Mayor Jordan: You are proposing a pay committee with certain representatives on that committee. Correct?

Jimmy Vinyard: Yes, sir.

Mayor Jordan: I think I can put something together for you. Fair enough?

Jimmy Vinyard: Fair enough. Thank you for your time.

Scott O'Dell, Fayetteville Detective: From 2007 to 2009 our nation experienced a recession. During that time the city employees went about 10 years without a raise. I may be wrong, but we got a seven cent raise at one point. There was a hiring freeze. I have been here 10 years and until the year before last I got a seven cent raise.

Mayor Jordan: What I remember in 2009 was that the step raises were already implemented before I came into office. Anyone remember that?

City Attorney Kit Williams: They are implemented at the start of the year.

Mayor Jordan: I put a hiring freeze on and then nobody got raises until 2010 I believe.

Scott O'Dell: I believe it was after 2012. I don't know how long the hiring freeze lasted. For 10 years the Police Department had 121 Police Officers or less. During those same 10 years the population rose from 64,000 to 80,000. The university saw a very sharp rise in enrollment. There are numerous apartment complexes that are off campus and filled with students. During this time the Mayor and the City Council were working so that we didn't have furloughs. We didn't lose people and most of the people in our departments understood that. The Police Department as well as other departments looked at ways to save the city money. Our shifts were changed from a 10 hour shift to a 12 hour shift. We didn't complain and we did our job. We traded out work hours that would otherwise be overtime in order to save the city money. I ask that you look at the sacrifices the employees have made and continue to make an effort to save the city money. The city employees represent this city well. They are a large part of the reason why people consider this city as a top place to live and work in the United States. I hope you fully fund the raises instead of waiting for a four year implementation. There was no surprise this pay study was coming up, but there's never any mention of how to pay for something. It is tough to feel like we are getting the brunt of a policy that doesn't allow us to get paid what we should be getting paid.

Peter Tonnessen, Ward 3 stated he has problems with the methodology and the result of the report from the Johanson Group. He stated he hopes that the city is not considering another tax increase.

Phillip Lee, Fayetteville Police Officer: We propose that it be passed at 25% tonight. A committee should be formed to get a definitive plan for the future for these concerns.

Mayor Jordan: I believe the comp was taken into consideration in the pay plan.

Don Marr, Chief of Staff: The Johanson Group is a very reputable national firm. They do wage studies for many cities throughout Arkansas and the United States. You can't blame a consultant for math and that's what a compensation study is. This discussion about having a committee, there are things that could be policy addressed, such as are we benchmarking against the right cities. We now have 11 years of data on where our recruitment comes from and where our people exit. We looked at total compensation. We've taken into consideration that LOPFI 2 is a benefit that the city gives, our benefit in most of those cases is richer than other peer cities in our group. It is why, to the dispute of our workforce, a discount factor was put into place about what that payout is at LOPFI 2 versus LOPFI 1 for larger cities. It was considered. Our healthcare was considered. It is all about recruitment. We have learned things about certificate pay, holiday pay, which jobs are exempt, and what actual pay lines are. They are all important factors in calculating these numbers. We looked at the local three cities in our region and the data that is used in the study to calculate averages about where we are behind market. The percentages where we are off are all of the positions. There is greater variance as you move up the organization chart in the higher levels of management. Particularly on the maximum side and not as much on the minimum where a person enters that particular rank. Our plan is on a step plan. We have 157 employees who are topped out in the old structure on the merit side. When the new grid is applied, those individuals are not topped out any longer. Some of them move to the third quadrant of the pay because of where the market moved that pay. When talking about this implementation, it is not on the public safety side. It is not just the implementation of the structure, but it is the movement of the step. We are adamant as an administration that you must keep the movement of the step in the plan or you create huge compression issues in your hiring as you bring people in.

When Mayor Jordan had to freeze wages we know that group impacted will never catch up. This is why this implementation plan was done that particular way. Pay is all about getting the best talent and keeping the talent. When you lose the talent, you want to make sure you are losing it for reasons other than total compensation. There are a lot of factors that go into how I choose where I want to work. We have to have spousal benefits and they pay for that benefit. If there is going to be a committee it has to be more than implementation. It has to be a discussion about comparing to the right cities, do we have the right structure in place, and how do we keep it updated in the years between the overall studies. Inflation alone changes these numbers. We are much more satisfied with our consultant this round than we were with our prior consultant, regardless of the results of the data.

Mayor Jordan: I apologize to Scott O'Dell if he felt I was not completely honest with him in our dealings in my office. I have been one of the few mayors that has allowed the president of the local IAFF and FOP to come in and visit on a monthly basis. We set up labor management teams that were supposed to address issues just like this. It obviously has not done what I thought it would do. I will set up a committee to address a few issues. I want everybody to be paid fairly. If anyone has advocated for employees, it has been me. Four years ago we did a pay plan and the Fire Department was in double digits then and we caught that up. Did we not, Paul?

Paul Becker: That is correct, Mayor.

Mayor Jordan: There is no way I can recommend 100% of this pay plan to you and hope to keep it going. I can't afford to put the city in financial jeopardy.

Alderman La Tour: Great idea, Mayor. Thank you for your commitment.

Mayor Jordan: We will not wait until August or September. I will have something put together in the next couple of weeks. Council members will have to decide if they go to 50% of this pay plan and you will have to do taxes to implement it. Is that correct, Paul?

Paul Becker: It depends on what the revenue sources are. I don't see us generating that type of additional revenue. We would have to have a discussion about property taxes again.

Mayor Jordan: As far as knowing the numbers ahead of time, I think we were all a bit stunned about how much they were off. We had everything up to market four years ago and they have jumped that much. If I had known that, I would have told you all.

Alderman Petty moved to approve the resolution. Alderman Long seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 67-17 as recorded in the office of the City Clerk

Theatresquared Proposed Project: A resolution to approve a budget adjustment of three million one hundred thousand dollars ($3,100,000.00) to invest in the TheatreSquared proposed project to be built on city property leased to TheatreSquared, Inc.

Jeremy Pate, Director of development Services gave a brief description of the resolution. He stated Theatresquared provides diverse performances fueling the downtown economic engine. He stated it brings national arts tourists to the region. He stated it would be a city facility just like the investment in the Walton Arts Center facility in the 1990's, which both are city assets. He stated it is an investment for the future and a sound long term investment for economic development of the city. The City of Fayetteville and the Mayor are supporting the request for funding.

Martin Miller, Theatresquared Executive Director gave a brief historical overview of Theatresquared. He spoke about free and reduced priced tickets to citizens of the community who would otherwise be unable to attend. He spoke about the facility design team. He stated he appreciated the support from the City Council for the long term lease. He discussed the studio theater for educational programs. He described a design illustration. He stated that they pushed the design team to create a cost efficient and sustainable facility. He spoke about the economic activity that the facility would create. He stated they have a significant operating reserve built into their fundraising campaign. He stated they are in the final stages of securing a seven figure grant to help support the operating transition as they move into a more capable facility.

Bob Ford, Theatresquared Artistic Director shared his vision for Fayetteville's future as the regions theater district. He discussed Theatresquared's facility strategy group. He spoke about the design team meeting with community members to find out how Fayetteville citizens would use the new facility. He discussed the main stage and back stage plans for the new facility. He stated the facility's common areas would be an open space all day long to the community, regardless if a show is in progress. He stated when Theatresquared was founded 12 years ago it was in their vision statement that the company would be an economic component in the community. He stated the building would belong to the City of Fayetteville and its citizens.

Alderman Tennant: What you have done over the last few years and the growth you've experienced is amazing. My big concern with any business I'm going to invest in is its longevity and its ability to pay for itself in the long term. I would be interested in more details about the operating budget and reserves. There is a reality when you tear away the things that are not under the lights and on stage. There is a day to day process that has to take place to stay in business. What I'm trying to guard against is five years from now. If Theatresquared goes away, then the city is stuck with a pretty building that doesn't give any money back to the community.

Martin Miller: Those are the exact same questions I've spent my time and boards' time over the last couple of years as to whether we are ready to have this full conversation. It is why we are including an operating reserve as part of the capital campaign. It is also why we have already built a cash reserve of over $400,000 by achieving a surplus every year for the last seven years. As we move into the new building we will no longer be responsible for about $200,000 of other rental and ticketing fees cost that are currently our responsibility. We are in the final stages of a grant process that will for the first three years help us to make sure we aren't diverting any of our funds away from our programs. We've engaged a panel of people that have had this kind of facility transition, specifically in the performing arts, who are advising us. We appreciate the city's approach to creating a lease document which says we have to deliver or else it is the city's building to bring in another company to operate.

Alderman Tennant: Kit, in the Walton Arts Center situation, did we have some guarantee written in of fund raising for any city money to go to the Walton Arts Center?

City Attorney Kit Williams: Are you talking about the original construction?

Alderman Tennant: Yes.

City Attorney Kit Williams: I don't think there was. At the same time that the construction occurred there was a commitment by the U of A and City of Fayetteville to each put in $1.5 million. When you look at the total cost of the Walton Arts Center, the construction itself being $8 million or less, $3 million in reserves is a very large percent. You do need to have some money in there to make sure you are going to be stabilized and to be able to continue. When we changed all the agreements before the enhancement of the Walton Arts Center they paid us that money back. They would be able to invest as they saw fit, rather than having to continue to follow city municipal rules on investment.

Alderman Tennant: If we give $3.1 million to Theatresquared, is that money immediately gone or is there anything we are holding as collateral to make sure the investment is seen through?

City Attorney Kit Williams: The important words of the resolution states that, "The City Council hereby approves a budget adjustment of $3,100,000 to enable Mayor Jordan to pledge and then invest that amount into the Theatresquared's proposed theater project pursuant to a proper agreement which the City Council authorizes Mayor Jordan to execute." We are not going to give them the money. We are going to have an agreement. We have not worked it out yet, even though you would tentatively be giving Mayor Jordan the right to sign the agreement. It might be that it will be a cost share agreement. If it is cost share agreement, then it's going to have to come back to you because you have to waive the rules of competitive bidding. I've thought about this to try to make sure when our money gets invested, that we know there is going to be a project completed and completed with a reserve so we have some confidence in the future it will continue to function. Theatresquared knows that and I think they are prepared to do that. I haven't begun negotiations. I'm waiting to see if the City Council wants to invest $3.1 million. If you make the decision, I will do my best to ensure we are protected.

Alderman Long: During the Walton Arts Center process there were discussions about the Freedom of Information Act. Will information flow freely to the citizens of Fayetteville because they are the ones investing $3.1 million?

City Attorney Kit Williams: The Walton Arts Center is slightly different. We have representatives on the Walton Arts Center Council that runs the Walton Arts Center. This is a private non-profit. I don't think FOIA would apply to them from a legal point of view. Reports to the citizens are very important. I imagine the City Council would like to receive some reports from Theatresquared to see how it is operating.

Martin Miller: We have reporting requirements within the current lease document that amounts to much of the same thing. As an organization we have a commitment to transparency.

Alderman Long: It is really important to our citizens. I sponsored an ordinance two or three years ago that said any entity we go into business with has to follow our FOIA requirements. I think it would apply in some way.

City Attorney Kit Williams: It would apply if we were providing operational funding to them. This investment is not for operations, it is for capital. Once the capital has been spent, I don't think that they would be subject to FOIA legally for their operations.

Alderman Long: I believe Theatresquared is coming at this from the right angle and I think they are going to be open. With some of the concerns Alderman Tennant brought up with ongoing operations, I think having FOIA applied to this area is something I'd like to see as a condition of our giving the funds. I want to amend this resolution in that way.

A discussion followed about the amendment wording.

Alderman La Tour: I understand FOIA is important for city employees for transparency to the citizens of our city and state. I'm not sure applying those same principles to a private enterprise is necessary.

Alderman Petty: As well intentioned as the proposed amendment is, I can't help having some questions about the mechanics of how it would be enforced. FOIA requires every member of a governing body to disclose to the press whenever three of them get together in the same room. I can't imagine applying that to a board regardless of the contents of their meeting. I encourage us to rely on our City Attorney to draft the agreement that might come after this vote to address those intentions.

Alderman Long: Some of the mechanics can be worked out later, but this discussion point came up a lot during the Walton Arts Center conversations. I believe $3.1 million is enough money to merit us being ensured that some form of information will be guaranteed to us.

Alderman Tennant: I would vote for this because I wouldn't be representing a majority of my constituents if I didn't. This has nothing to do with the two people standing at the podium. There is a trust issue in this project of the people that I have talked too. There are a lot of different things that are coming at me from my constituents. If I don't support FOIA or the ability to have that action during the construction phase, which is what the citizens are paying for, then it makes it a little more difficult. I understand what Alderman La Tour is saying and I'm not saying that going forward we need to force anything into a private business. This is not a private business right now because we are talking about public money going to it. We are now investors in this business. We are doing a lot as a city because we have already given them the land. In most cases that would be more than enough. Some see a need now to give $3.1 million of tax money which we fortunately got last year in excess, but we may never get an excess again towards this. I can think of about a dozen things we could spend money on today. It may not give us the return, but if this business doesn't stay healthy we won't get any returns.

Alderman Petty: When we are crafting a motion, the legal language is so important. When referencing FOIA there are unintended consequences that go far beyond what the intentions seem to be here. We should expect to see disclosure consistent with the kind of disclosure the lending institution is requiring. We should expect independent inspections of the work. We should expect there are deep financial disclosures with regards to the payment of invoices all the way through the general contractor and the trades. That should be sufficient.

Alderman La Tour: I don't want to throw $3.1 million out there without some accountability. The better way to get the accountability is through the lease agreement. I agree with Alderman Petty that FOIA is enormous. Kit is capable of drafting a document that will protect us. We will own the building. They are building it on our property.

City Attorney Kit Williams: That's correct.

Alderman La Tour: Will we have a deed to it?

City Attorney Kit Williams: We already own the land and they will be building on the land. Therefore, the building is ours.

Alderman La Tour: We aren't giving them $3.1 million. We are investing it in our own real property.

City Attorney Kit Williams: We can't give them that. We are making an investment to build our own building. That is the only way constitutionally do that. I support FOIA and think it is a great law. It is made for government. It can be abused against the city if somebody gets mad and they start doing repetitive FOIA's. They can demand every document in the world and then demand them again. You are dealing with a private entity that is going to have to have meetings with potential donors. They don't want to have to call the press hours in advance every time two of their board members want to meet with a donor. What we need to do as a city is keep the power ourselves. If we make this investment, we need to be able to see any document we want related to the project. We don't need to open this for the entire world for anybody that has a bone to pick with Theatresquared. State law doesn't say they are subject to FOIA. This is a private non-profit and could hurt their fundraising.

Alderman Bunch: I think we can get enough information when we write it into the lease. If this goes forward I would be in support of something like that, but not FOIA.

Alderman Long: I want to avoid being in a situation like we were before with the Walton Arts Center. We are looking at a long term lease agreement. We could exclude fundraising activities from FOIA. I want protections in the contract for the City of Fayetteville.

Mayor Jordan: I have confidence in the City Attorney to be able to arrive at that.

Peter Tonnessen, Ward 3 stated he wondered if a citizen could submit a request to the city to submit a request to Theatresquared.

Alderman La Tour: I have reservations about pouring $3.1 million from our tax coffers that our citizens have worked hard to put there. I see a lot of firemen standing in the audience waiting to see how we are going to vote on this $3 million that we wouldn't spend on them. I feel bad about that. We can't afford to pay our employees what they are worth. I'm willing to spend the $3 million because it will help our tourism. Our biggest revenue generator is sales tax. I'll vote for things that grow our city and bring more sales tax dollars so I can pay bigger salaries to our firemen, policemen, and other staff. This investment is an avenue to giving higher salaries for all of our city employees.

Peter Tonnessen, Ward 3 spoke about his concerns of the long term viability of the project.

Bill Schwab, Botanical Gardens Vice President spoke in favor of the resolution.

Frank Sharp, 2062 South Smokehouse Trail spoke in favor of the resolution.

Bill Rogers, 3539 West Earnhardt Drive spoke in favor of the resolution.

Don Marr, Chief of Staff stated the investment is in direct alignment with the 2016 Economic Development plan adopted by City Council. He stated one of the focus areas was in arts and culture. He spoke about the amount of economic activity that the arts generates in Northwest Arkansas.

Alderman Gray: I am delighted to lend my support to this fine organization. Theatresquared has been so careful to meet with the City Council to keep us informed. Thank you to those in attendance tonight who are in support of this fine organization. This is going to be a community resource. I'm happy they provide many students in our area the opportunity to see live theater. This is a one-time expense and a one-time investment. This will add to our quality of life. It will increase our sales tax.

Alderman Tennant: I support Theatresquared, the arts, and the economic value. I'm trying to be comfortable with the business model we are dealing with here. Kit is working on the agreement for the investment. It might come back if it is a cost share situation, but that would be the only way it would come back to the Council. Correct?

City Attorney Kit Williams: That's the only way it would have to come back.

Alderman Tennant: I want to feel more comfortable with the wording of the document that Kit is putting together, which is not done right now. The commitment that Arvest bank made lends some merit to it, but that is not public money. This is not an issue with Theatresquared. This is an issue about the economic impact. I believe we need more time to talk about this.

Alderman Long: Would you like to wait until the next Council meeting on March 21, 2017 to give you more time for discussions?

Alderman Tennant: I don't know how long it would take to get with the group and talk about it. I don't know what the hurry is.

Alderman Marsh: The number one strategic focus area in the Fayetteville First Economic Development Plan are arts and culture. We do a great job managing our city resources. The reality is that we do not have enough income to support all the great people in our city. The way to increase that is through increasing sales tax revenue. This theater will do that. Another avenue we have is increasing property tax revenue. Rather than raising taxes, we can create more value in our downtown area. This is a great investment that will pay back in the dividends that will allow us to support our people who work for our city.

Alderman Kinion stated he supports the resolution as a driver of economic development to allow long term income that will support services such as fire and police. He stated affordable housing will be available for the artist. The facility will be on city property and owned by the city. He stated the city is paying pennies on the dollar, regardless of who is managing or operating it. He believes Theatresquared has made a serious business development approach.

Mayor Jordan stated he worked on this for about two years. He gave a historical overview of the project. He spoke about the arts being the third best economic development driver in the nation. He stated he supports Theatresquared because he believes it will be successful. He spoke about other city investment projects that money was taken out of reserves and stated sales tax revenue went up. He believes it is a good investment.

Alderman Long moved to amend the resolution to apply FOIA during the construction phase of Theatresquared. Alderman Tennant seconded the motion. Upon roll call the motion failed 2-6. Alderman Tennant and Long voting yes. Alderman Marsh, Kinion, Petty, Bunch, La Tour, and Gray voting no.

Alderman Marsh moved to approve the resolution. Alderman Kinion seconded the motion. Upon roll call the resolution passed 7-1. Alderman Marsh, Kinion, Petty, Bunch, La Tour, Long, and Gray voting yes. Alderman Tennant voting no.

Resolution 68-17 as recorded in the office of the City Clerk

<u>Announcements:</u>

Mayor Jordan: We are going to set up a committee to talk about the wages. How do you all want me to set this committee up?

Alderman La Tour: I want objectivity on the committee. The City Council should be represented since we are the funding agency. A fireman, policeman, and independent people that are not from Fayetteville.
Mayor Jordan stated he wanted Council members' suggestions and thoughts on the committee.

Alderman Bunch: I think we have objective people in Fayetteville to choose from to put on this committee. I like the idea of having someone represent the police, fire, and financial minds. I can't support picking other people from other cities.

Alderman Petty stated he believes the committee will be objective. He is pleased that the committee is being assembled. He would like for every ward to be represented.

A discussion followed about having a City Council member from every ward and a fire and police representative.

Don Marr: If we are going to have a representative from police and fire, then we should have a representative from the merit employees.

Mayor Jordan: I agree.

Alderman Long: I will be fine with however it is set up. I would prefer for any Council member to be able to sit at the table and be a part of the discussion if they want.

Mayor Jordan: Absolutely.

A discussion followed about who was willing to serve. Alderman La Tour, Bunch, Gray, and Kinion volunteered. The police and fire will choose their representative. The merit employee will be chosen at a later date.

Alderman Marsh: I would like to hear from the union representative if they have any suggestions for how the committee should be comprised.

Jimmy Vinyard: I like four City Council members from each ward. I support members of the community and city being involved. I would like to be a representative. I would like someone from Human Resources.

Don Marr: You have to have individuals who have worked on this study. I think the Mayor's office should have a representative.

A discussion followed about the representatives for the committee.

Leonard Graves, Police Department stated he believes the committee would be very beneficial.

Jeremy Pate, Director of Development Services: This is my last full City Council meeting after 14 years. Thank you to all the aldermen I have had the privilege to work with. Thank you Kit and Sondra. I have always had a lot of respect for elected officials and admire what you do.

Alderman Tennant: You were a tremendous asset and best of luck in your future endeavors.

Don Marr: I will miss Jeremy. He is an incredibly talented individual. Thank you.

Mr. Marr gave a brief description of upcoming public meetings in the City of Fayetteville. He spoke about the code red sign up alerts.

A brief discussion followed about City of Fayetteville road closures.

City Council Agenda Session Presentations: None

City Council Tour: None

Adjournment: 9:03 p.m.

Lioneld Jordan

Lioneld Jordan, Mayor

Sondra E. Smith

Sondra E. Smith, City Clerk Treasurer