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
August 15, 2017

A meeting of the Fayetteville City Council was held on August 15, 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: None

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

Agenda Additions: None

Consent:

Approval of the August 1, 2017 City Council Meeting Minutes.

Approved

Gulf Coast High Intensity Drug Trafficking Area (HIDTA): A resolution to approve a budget adjustment recognizing funding from the Gulf Coast High Intensity Drug Trafficking Area in the amount of $135,024.00 for the Police Department.

Resolution 158-17 as recorded in the office of the City Clerk

Jett Aircraft, LLC and M.K. Rockwell Investments, LLC Lease Agreement: A resolution to approve a three year lease agreement with Jett Aircraft, LLC and M.K. Rockwell Investments, LLC for the hangar located at 4568 S. School Avenue and office space in the Airport Terminal building in the amount of $4,200.00 per month.

Resolution 159-17 as recorded in the office of the City Clerk

Arkansas Department of Aeronautics-A&P Facility Roof Rehabilitation: A resolution to approve a budget adjustment in the amount of $29,968.00 recognizing grant funds received from the Arkansas Department of Aeronautics for the rehabilitation of the A&P Facility roof at Drake Field.

Resolution 160-17 as recorded in the office of the City Clerk

Arkansas Department of Aeronautics-Wings Avionics Corporate Hangar Roof Rehabilitation: A resolution to approve a budget adjustment in the amount of $33,939.00 recognizing grant funds received from the Arkansas Department of Aeronautics for the rehabilitation of the Wings Avionics corporate hangar roof at Drake Field.

Resolution 161-17 as recorded in the office of the City Clerk

2017 Community Development Block Grant (CDBG): A resolution to approve the 2017 Community Development Block Grant (CDBG) Action Plan, and to authorize the Mayor to execute the CDBG Agreement for 2017 in the amount of $612,164.00 when received.

Resolution 162-17 as recorded in the office of the City Clerk

Community Resources Division and Community Development Block Grant Program Donations: A resolution to approve a budget adjustment in the total amount of $7,147.00 representing donations to the Community Resources Division and Community Development Block Grant Program income received from a housing lien payoff and the sale of CDBG-purchased kitchen equipment.

Resolution 163-17 as recorded in the office of the City Clerk

Bid #17-40 WWJD, Inc.: A resolution to award Bid #17-40 and authorize a one year contract with WWJD, Inc. d/b/a BBB Septic and Portable Toilets with automatic renewals for up to four additional one year terms in an amount not to exceed $10.00 per 100 gallons for leachate hauling from the former C&L Landfill, and to approve a budget adjustment.

Resolution 164-17 as recorded in the office of the City Clerk

Destruction of Certain Records: A resolution to authorize the destruction of certain records shown on the attached affidavit pursuant to relevant sections of the Arkansas Code related to maintenance and destruction of accounting and other city records.

Resolution 165-17 as recorded in the office of the City Clerk

Amend Resolution No. 17-71: A resolution to amend Resolution No. 17-71 by approving payment of an additional $5,000.00 to Grant Thornton, LLP as reimbursement for out of pocket expenses.

Resolution 166-17 as recorded in the office of the City Clerk

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

Unfinished Business: None

Public Hearing:

James L. & Judith A. Hazen Condemnation and Possession: A resolution to authorize the City Attorney to seek condemnation and possession of certain lands owned by The Links at Fayetteville, a limited partnership, and James L. and Judith A. Hazen needed for the extension of Rupple Road from West Starry Night view to Mount Comfort Road.

Mayor Jordan opened the Public Hearing.

Chris Brown, City Engineer gave a brief description of the resolution. He stated that Lindsey Management have offered a proposed land swap. He stated the city owns some property that they would like to acquire and believes it is a fair trade. He stated they are working on that option to bring to the City Council. He stated there was a significant change on the Hazen property in the amount of the updated offer of about $375,000. He stated that the Hazens' countered with an offer of $500,000. He stated the city does not believe it is an appropriate counter offer and therefore are planning to proceed with condemnation.

There was a discussion if the property owners were at the City Council meeting and it was determined that they were not present.

City Attorney Kit Williams: We will continue to negotiate. It looks like we have a pretty good potential agreement with Lindsey. It will have to come before the City Council because you are the owners of the real property, which is being suggested to be traded for property we need for Rupple Road. It looks like a good situation for the city and Lindsey. On the Hazen property, we will do everything we can to see if we can arrive at some sort of reasonable accommodation and settle the case. I will do my best to bring you a potential settlement offer if one can be achieved.

Mayor Jordan closed the Public Hearing.

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

Resolution 167-17 as recorded in the office of the City Clerk

New Business:

Skydive Fayetteville, LLC Lease Agreement: A resolution to approve a one year lease agreement with Skydive Fayetteville, LLC for office space in the Airport Terminal building in the amount of $241.00 per month.

Terry Gulley, Transportation Services Director gave a brief description of the resolution.

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

Resolution 168-17 as recorded in the office of the City Clerk

Skydive Fayetteville, LLC Additional Office Space: A resolution to approve a one year lease agreement with Skydive Fayetteville, LLC for additional office space in the Airport Terminal building in the amount of $160.00 per month.

Terry Gulley, Transportation Services Director gave a brief description of the resolution.

Alderman Tennant: How many spaces are rented out?

Terry Gulley: The only thing not rented, but we actually have it rented because we are working with a group. We have a space that used to be used for banquets and a caterer used it. We had no one in there and they wanted to use it and we thought it would be good for citizens to have access to that. We rent it for $25 a day when they use it. They have the understanding that if somebody else comes in and wants it, it would be $7.00 a square foot. They are working with the university in trying to execute a lease for the amount and rent it year round. They are having funding issues and we are allowing them to use it. Other than that and these two spots, everything else is leased.

Alderman Tennant: Thank you to the city staff for continuing to fill them even though this was a low price. It helps the overall health of the building to make sure as many people are in there as possible. If somebody does want to rent a bigger space that comes open, they aren't in a deserted building.

Terry Gulley spoke about the benefits of having all the spaces rented out.

Don Marr, Chief of Staff: Alderman Tennant gave us the charge two years ago during the budget discussions to be more aggressive about the unused space. We took his message to heart as we took over the operations that we were able to do it, not at a deficit and to get more of these done. This is not the most desirable rent location because of its proximity of where it is in town. It is not going to get the same type of rent requirement. We are trying to keep it occupied.

Alderman La Tour stated his appreciation to Terry Gulley for getting the spaces rented out.

Alderman Tennant moved to approve the resolution. Alderman Gray seconded the motion. Upon roll call the motion passed unanimously.

Resolution 169-17 as recorded in the office of the City Clerk

Meyer, Scherer & Rockcastle, Ltd.: A resolution to authorize the Mayor to sign a contract with Meyer, Scherer & Rockcastle, Ltd. and the Fayetteville Public Library for professional architectural services for the library expansion renovation projects in the total amount not to exceed $3,770,857.00 with the city's portion of the fees not to exceed $2,639,599.90, and to approve a project contingency in the amount of $377,086.00.

David Johnson, Executive Director of the Fayetteville Public Library gave a brief description of the resolution.

Alderman Marsh moved to approve the resolution. Alderman Gray seconded the motion. Upon roll call the motion passed unanimously.

Resolution 170-17 as recorded in the office of the City Clerk

2018 Employee Benefits Package: A resolution to approve the 2018 employee benefits package.

Pachee Lee, Human Resources Generalist gave a brief description of the resolution. She spoke about the different tiers that would be offered to employees.

Alderman Petty: With the addition of the new tiers, is there any proposed change to the split between employee pay and city pay?

Pachee Lee: No. The cost share is going to be the same.

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

Resolution 171-17 as recorded in the office of the City Clerk

Additional Personal Holiday Time: A resolution to add eight (8) additional hours of Personal Holiday time for all city employees for 2018.

Alderman Long: There is a federal holiday that the city does not observe, which employees don't receive time off. Assisting with employee retention and recruitment is a large factor in keeping talented city staff. I'd like to see our talented city employees continue to stay with the city and reward them for the hard work that they have done.

Don Marr, Chief of Staff: When Alderman Long contacted us about this, we took it to our employee work groups. They all support the addition of this time. We identified in our compensation study that our vacation schedules for time off for employees who are ten years or less in seniority was less than our competitors. Because this is a personal holiday that can be used on any date, it functions like a vacation day. It does not carry over from year to year so there's no financial accrual for future payout. It is the best of both worlds in terms of this offering.

Alderman Petty: Should we take that as a statement of support from the administration?

Mayor Jordan: Absolutely.

Alderman Tennant: Thank you to Alderman Long for bringing this forward. As I interview younger people I hear more requests about time off. It seems like it's not being used to just do nothing. There's a lot of people who want to volunteer, but they don't have time to volunteer. This kind of thing will see more and more people taking additional hours and using them for the greater good of the community. I don't think this is adding a day off. I believe it might add time to do things they really want to do for the city. I whole heartedly support it.

Alderman Marsh moved to approve the resolution. Alderman Tennant seconded the motion. Upon roll call the motion passed unanimously.

Resolution 172-17 as recorded in the office of the City Clerk

VAC 17-5868 (2615 N. Charleston Crossing/Lot 6-Savannah Estates): An ordinance to approve VAC 17-5868 for property located at 2615 North Charleston Crossing to vacate a portion of a general utility easement.

City Attorney Kit Williams read the ordinance.

Andrew Garner, City Planning Director gave a brief description of the ordinance. He stated the Planning Commission voted 9-0 in favor of the request.

Alderman Tennant 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 Long 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.

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

Ordinance 5991 as Recorded in the office of the City Clerk

Dixie Landing, LLC: An ordinance to waive the requirements of formal competitive bidding and approve a cost share agreement with Dixie Landing, LLC for the extension of a water main along a portion of Freshwater Avenue between East Township Street and Marks Mill Lane with the city's portion of the cost not to exceed $32,285.00, and to approve a project contingency in the amount of $6,457.00.

City Attorney Kit Williams read the ordinance.

Mark Rogers, Water & Sewer Operations Manager gave a brief description of the ordinance. He stated that the Water, Sewer & Solid Waste Committee voted 4-0 to forward to City Council with a recommendation of approval.

Alderman Kinion: This went through the Water, Sewer & Solid Waste Committee. It is meeting our goal of trying to have loops so that we don't have dead end water. It is giving us a higher volume and better pressure to meet fire safety emergency needs. This is a good partnership we have with the developer that will benefit everyone.

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 5991 as Recorded in the office of the City Clerk

University of Arkansas Master Agreement: A resolution to authorize the Mayor to sign a Master Agreement with the University of Arkansas regarding the placement of utilities within public rights of way and utility easements.

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

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

Resolution 173-17 as recorded in the office of the City Clerk

833 North Crossover Road Public Sale: A resolution to authorize the Mayor to offer for public sale approximately 0.92 acres and improvements located at 833 North Crossover Road for the appraised value of $162,000.00.

David Dayringer, Fire Chief gave a brief description of the resolution.

Alderman Marsh: Are we reserving enough right-of-way to accommodate future transit needs along that corridor?

Don Marr, Chief of Staff: There is approximately 35 feet of land behind the sidewalk along and just to the south of the Fire Marshall office that would be adequate to pull off for an area and shelter for a bus stop. We don't see a need for any additional land reservations for this. After talking with our transit providers, we believe a stop would be best on the east side of the street so we don't have to cross a five-lane road.

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

Resolution 174-17 as recorded in the office of the City Clerk

Stormwater Utility Study Intent: A resolution to express the City Council's intent to fund a study to evaluate the feasibility of creating a stormwater utility program in an amount not to exceed $200,000.00, and to approve a budget adjustment.

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

Alderman La Tour: Other cities have gone to this utility based drainage program. Can you give us an idea of how much each citizen might see on their water bill?

Chris Brown: Hot Springs charged a small amount of $3.00 for residents and $5.00 for commercial operations. I don't believe they did the level of detail to really determine what the cost are and the size of the system. One of the first questions we have to answer is what is the size of our system and what is the city going to take on, as far as the stormwater features we have within the city. Secondly, what is the level of service and what kind of maintenance level are we looking at. There are some big policy questions that will need to be answered early on in this study. It will then form the basis of what level of funding is needed each year.

Alderman La Tour: Would it be hundreds of dollars on our water bill?

Chris Brown: One way to look at it is comparing a single-family home to Wal-Mart. The impervious area and the impact on the stormwater system for a single-family home versus a Wal-Mart is very different. For a single-family home, it could be a few dollars a month. For a larger commercial system, it could be approaching $100 a month. There's a lot of work that needs to be done before we start settling on any kind of number.

Alderman La Tour: With the recent rains we have had several areas of our city affected. How will we prioritize this money? Does the administration have an idea?

Mayor Jordan: We've got a list.

Alderman La Tour: Who gets first crack at the money?

Chris Brown: We are looking at ways we can prioritize those projects. We are looking at the number of people affected by a particular problem and the severity of that affect.

Don Marr, Chief of Staff: We are talking about public impact to properties, not private impact to properties. We are talking about impacts in the public infrastructure.

Mayor Jordan spoke about the list of priorities.

Alderman La Tour stated he wanted to make it a priority for people who have water in their homes.

Mayor Jordan: I don't have any issue with that.

Don Marr, Chief of Staff: As an example, if the Mayor has water in his back yard for eight months because of the failure of the public system, then it would be addressed. If he has water in his back yard for eight months because he is in a low spot that is not draining public water, then he would be responsible for that.

Alderman La Tour: If we approved developments up on a hill and they build driveways with impervious surfaces and it causes a greater runoff, is that a public or private problem?

Don Marr, Chief of Staff: It depends. There is not a clear answer on that.

City Attorney Kit Williams: I would direct the Chief of Staff to not answer that question.

Alderman Kinion: This has been an issue that has been discussed at the Water, Sewer & Solid Waste Committee because we have a unique topography with two different watersheds. We are trying to add density into areas of town that are challenging. The current infrastructure is failing to meet the needs. We can do a lot of speculation tonight. This is going to give us a foundation so we can adequately discuss what we have, where we've had failures, and as we grow the city with density. We need to have this study because of speculation and presumption. Until we have the numbers in one place and collected, then we're not making decisions based on a sound projection of what we need to manage. This is something that a lot of cities are faced with and we saw this recently with the rains in April. It was probably our 100-year volume of water that came out with high velocity. Time is of the essence and that is why we want to move forward with this.

Alderman Petty: This is the only way we are going to solve some of our big drainage challenges and it's worth doing for that reason, alone. Right now, our drainage regulations require new developments with varied limited exceptions to implement flood control provisions and minimum water quality provisions within in their own site so that no adjacent parcels are affected. Making sure new impervious surface and the runoff it causes is handled, especially from a flood control perspective, is a standard we need to maintain. It's wise as we move forward to recognize in most cases that stormwater systems whether they are natural systems or built systems, natural systems don't respect parcel boundaries at all. It's a beneficial thing if we come out of this at the end of it and we are able to offer builders the opportunity to contribute into a utility fund that can pull their resources and make improvements at the level of the hydrology, not at the level of the parcel boundary. On small parcels that we have today can be difficult to meet and can kill more projects. I am encouraged we will end up with a system that allows small parcels to contribute to a broader and more systemic solution.

Alderman Marsh: The essence of the matter is that we have identified approximately $15 million in drainage infrastructure needs in this city. We have about $200,000 to $300,000 a year to address them. We do not have the resources right now to address the needs we have. The recent flooding event showed us the potential impacts to life and property that this negligence is having. We want to prioritize anytime we have water coming into homes or businesses and where we need to access with emergency vehicles. The stormwater utility will enable us to find a sustainable funding method to address these problems and help us figure out how to most equitably distribute the economic burden to get these needs met. It will enable us to incentivize some of the things our citizens have said they want, such as low impact development and green infrastructure. It can help us improve water quality.

Mayor Jordan: We are trying to do a study to see exactly what we do need to do. We have done studies on Transportation, Economic Development, Recycling, and Parking. Alderman La Tour asked how much we'll have to charge. We don't know exactly until the study is complete and it will enable us to make an informed decision.

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

Resolution 175-17 as recorded in the office of the City Clerk

Internet/Online Sales Tax Support: A resolution to support federal and state legislation to ensure the proper assessment and collection of sales tax from all internet/online sales thereby creating a fair and free market for all businesses and consumers regardless of the location of the business from which the purchase was made.

Mayor Jordan gave a brief description of the resolution. He stated that the Municipal League asked Mayors from across the state to bring the item forward. He stated it was supported in the legislature. He stated it isn't a new tax and it helps to provide the salaries that city workers receive. He stated it protects businesses, protects jobs, and that is why he chose to bring it forward. He stated the Governor said that if enough cities pass the resolution that he would call a special session.

Alderman La Tour: Often times the rationale for supporting an internet tax is fairness. Some people like to touch their items. Brick and mortar stores have some advantages over online sellers of goods. I don't want you to think the internet has all the advantages and the brick and mortar stores don't have advantages. Each side has advantages. I agree it is a tax that is owed and it is not a new tax. This tax is difficult to collect. People will have to report it on their tax returns as a use tax. They are legally required to do it, but most people do not. It is not a new tax, but it is a tax that is seldom collected.

Mayor Jordan: It is a tax that is owed. Can we agree on that, Alderman La Tour?

Alderman La Tour: I agree, but it is a difficult one to collect. Millennials like convenience and older people like to touch things before buying. I could see our shopping malls one day becoming obsolete as technology changes.

Mayor Jordan: I am trying to protect our local businesses.

Alderman La Tour: All of our local businesses need to have websites where they sell to people all over the world.

Don Marr, Chief of Staff: There are some people who buy in a store because they want to touch it. There are some people who go to a store, take a photo of it, and then go online to buy it because they can get it cheaper. This policy issue is not about getting it cheaper. What should not be different is the tax collection component of a financial decision. This is what this legislation is about. It is why Congressman Womack introduced it originally in the federal government. It is why it was introduced at the state government from Fayetteville Representative Charlie Collins who is a Republican elected individual. It is not a party issue. This is a fairness issue. This is a jobs bill. Businesses that aren't physically located in our community are using our infrastructure. They are using our roads for the delivery and shipping of products. We can argue if it is paid or not, but it is a tax that is owed. The person paying this is the consumer. It is whether the consumer wants it done more easily by having the retailer collect it at the time, rather than keeping receipts and reporting what they bought online. There is a convenience component to this fairness issue. The state projected $50 to $150 million in potential revenue if a tax was collected on these transactions. It is free market competition and more importantly, keeping our local jobs.

Kyle Smith, 2801 West Dove Drive stated that he does online shopping because it is cheaper, but believes it is time to collect taxes that are due to the city. He spoke in favor of the resolution.

Chung Tan, Fayetteville Chamber of Commerce spoke in favor of the resolution.

Don Marr, Chief of Staff: Wal-Mart supports this legislation.

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

Resolution 176-17 as recorded in the office of the City Clerk

Announcements:

Alana Massey, Spring International Language Center introduced students who were in attendance at the City Council meeting.

Mayor Jordan thanked them for being in attendance.

Don Marr, Chief of Staff: The final concert for our Gulley Park Concert Series will be on August 17, 2017. The group is the United States Navy Band.

The Fayetteville Animal Services joins the nationwide, Clear the Shelters pet adoption drive on August 19, 2017. We will be participating in the Cocktails and Dogtails adoption program on August 16, 2017 from 4:00 p.m. to 7:00 p.m. at the Chancellor Hotel.

City Council Agenda Session Presentations:

Agenda Session Presentation- Fayetteville Chamber of Commerce Bi-Annual update.

Agenda Session Presentation- Startup Junkie Consulting, LLC Bi-Annual update.

City Council Tour: None

Adjournment: 6:45 p.m.

Lioneld Jordan, Mayor

Sondra E. Smith

Lioneld Jordan, Mayor **Sondra E. Smith, City Clerk Treasurer**