

New Business  
Added at Agenda  
Session 11-27-12

**AGENDA REQUEST**

**FOR: COUNCIL MEETING OF DECEMBER 4, 2012**

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**FROM:**

**PAUL BECKER, FINANCE DIRECTOR**

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**ORDINANCE OR RESOLUTION TITLE AND SUBJECT:**

**An Ordinance To Repeal §31.46 Freezing Elected City Officials' Compensation If In Excess Of \$80,000.00**

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**APPROVED FOR AGENDA:**

Paul a. Becker  
Finance Director

11-21-2012  
Date

[Signature]  
City Attorney

11-21-12  
Date

[Signature]  
Chief of Staff

11-26-12  
Date

[Signature]  
Mayor

11/27/12  
Date

11-27-12 P03:04 RCVD

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www.accessfayetteville.org

**TO:** Kit Williams, City Attorney

**CC:** Mayor Lioneld Jordan  
City Council Members

**FROM:** Paul Becker, Finance Director PAB

**DATE:** November 27, 2012

**SUBJECT:** Ordinance No. 5214, (Freezing Elected City Officials Compensation of in excess of \$80,000)

In January of 2009, the City Council chose to freeze Elected Officials compensation for those officials making in excess of \$80,000, and the officials affected concurred with that decision. At that time, the City was facing significant revenue declines and the Mayor with the concurrence of the City Council, froze general employee wages as of July 1, 2009. Revenue continued to fall for the rest of 2009 and continued to decline until August of 2010. Since August of 2010, sales taxes have been increasing. Other revenue sources have also been increasing, but to a lesser degree. Because of these revenue increases the Mayor recommended and the Councils' approval that wage increases be given in March of 2012 to General Employees.

Because of these improved economic conditions I feel the freezing of Elected Officials is no longer necessary and recommend that Ordinance No. 5214 be rescinded.



**Kit Williams**  
*City Attorney*

**Jason B. Kelley**  
*Assistant City Attorney*

**TO: Mayor Jordan**  
**City Council**

**CC: Paul Becker**, Finance Director

**FROM: Kit Williams**, City Attorney

A handwritten signature in blue ink, appearing to read "Kit Williams", with a long horizontal flourish extending to the right.

**DATE: November 27, 2012**

**RE: Repeal of §31.46**

Finance Director Paul Becker has recommended that due to improved economic conditions for the City of Fayetteville §31.46 **Freezing Elected City Officials' Compensation If In Excess of \$80,000.00** be repealed.

Four years ago, the nation and the City of Fayetteville were falling into the deepest recession since the Great Depression. Sales tax revenue was falling with no end in sight. It was obvious that the City would have to tighten its belt dramatically so that budgeted employee raises in 2009 might have to be stopped (which they were for employees expecting raises after July 1, 2009).

In light of this likely hardship for city employees, Mayor Jordan and I believed we should rollback the normal, code required compensation increase we had received on January 1, 2009. If all city employees could not receive wage increases in 2009, neither should we. So we asked the City Council to rollback our compensation to what our positions had been paid on January 1, 2008. Mayor Jordan also voluntarily gave up the Mayor's \$5,000.00 annual automobile expense payment.

Mayor Jordan and I also requested that the salary of all elected officials earning more than \$80,000.00 be frozen. This affected Mayor Jordan, District Judge Moore and myself. When we presented this to the City Council, Alderman Bobby Ferrell requested that I draft an amendment to require an annual review (by December 10<sup>th</sup>) by the City Council to determine "whether the City's financial

condition justified the continuation of this freezing of compensation for elected officials earning in excess of \$80,000.00.” The City Council amended the proposed Ordinance to include this language. I have attached parts of the agenda packet and City Council minutes approving the ordinance for your information.

The City Council needs to determine whether the City’s financial condition justifies:

- (1) The repeal of §31.46 **Freezing Elected City Officials’ Compensation If In Excess Of \$80,000.00;**
- (2) Passage of a Resolution pursuant to §31.46 to unfreeze the compensation only for the year 2013;
- (3) Passage of a Resolution pursuant to §31.46 to continue the freeze of compensation for 2013.

I have drafted the Ordinance recommended by Finance Director Paul Becker as well as both Resolutions so that the City Council has full discretion whether or not to unfreeze the compensation for the Mayor, City Attorney and District Judge.

I know I speak for Mayor Jordan as well as myself when I affirm to you that it is my honor and pleasure to continue to serve our City and citizens whether it be at the 2008 compensation level or whether the City Council decides to unfreeze our compensation because the economic conditions for Fayetteville have improved.

I have asked Budget Director Kevin Springer to determine what percentage increase an unfreezing of our compensation would result in on January 1, 2013. The compensation for the City Clerk, District Judge and myself would increase **3.7%** which is “the average percentage pay increase granted to regular full time non-civil service city employees during the previous calendar year (2012).” §31.18, §31.30 and §31.45 of the Fayetteville Code. The increase for Mayor Jordan would be **4.05%** which is “5% greater than the average of the salaries of each chief and the department directors reporting to the Mayor.” §31.17 of the Fayetteville Code.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO REPEAL §31.46 FREEZING ELECTED CITY OFFICIALS' COMPENSATION IF IN EXCESS OF \$80,000.00**

**WHEREAS**, on January 20, 2009, the City of Fayetteville (as a part of the Great Recession) faced declining revenues and the likely necessity to cut city expenses; and

**WHEREAS**, the Mayor and City Attorney voluntarily requested and the City Council approved to roll back the Mayor's and City Attorney's salaries to the 2008 level; and

**WHEREAS**, the Mayor and City Attorney requested that their salary and the salary of other elected officials earning more than \$80,000.00 be frozen "because of the difficult economic conditions" and because it would be likely necessary to freeze other city employee salaries sometime in 2009; and

**WHEREAS**, Alderman Ferrell proposed an amendment of this proposed ordinance which was approved by the City Council to require annual determinations by the City Council by December 10 "whether the City's financial condition justifies the continuance of this freezing of compensation for elected officials earning in excess of \$80,000.00."

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby determines that the financial condition of the City of Fayetteville has improved during the last four years such that it is no longer necessary to continue the four year freeze of the salaries of the Mayor and City Attorney nor the three year freeze of the salary of the District Judge and therefore repeals §31.46 **Freezing Elected City Officials' Compensation If In Excess Of \$80,000.00** in its entirety.

**PASSED and APPROVED** this 4<sup>th</sup> day of December, 2012.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**SONDRA E. SMITH**, City Clerk/Treasurer

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION TO DETERMINE THAT THE CITY'S FINANCIAL  
CONDITION JUSTIFIES UNFREEZING THE ELECTED OFFICIALS  
SALARIES FOR 2013**

**WHEREAS**, on January 20, 2009, the City of Fayetteville (as a part of the Great Recession) faced declining revenues and the likely necessity to cut city expenses; and

**WHEREAS**, the Mayor and City Attorney voluntarily requested and the City Council approved to roll back the Mayor's and City Attorney's salaries to the 2008 level; and

**WHEREAS**, the Mayor and City Attorney requested that their salary and the salary of other elected officials earning more than \$80,000.00 be frozen "because of the difficult economic conditions" and because it would be likely necessary to freeze other city employee salaries sometime in 2009; and

**WHEREAS**, Alderman Ferrell proposed an amendment of this proposed ordinance which was approved by the City Council to require annual determinations by the City Council by December 10 "whether the City's financial condition justifies the continuance of this freezing of compensation for elected officials earning in excess of \$80,000.00."

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby determines that the financial condition of the City of Fayetteville has improved during the last four years such that it is no longer necessary to continue the four year freeze of the salaries of the Mayor and City Attorney nor the three year freeze of the salary of the District Judge for 2013.

**PASSED and APPROVED** this 4<sup>th</sup> day of December, 2012.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**SONDRA E. SMITH**, City Clerk/Treasurer

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION TO DETERMINE THAT THE CITY'S FINANCIAL CONDITION DOES NOT JUSTIFY UNFREEZING THE ELECTED OFFICIALS SALARIES FOR 2013

**WHEREAS**, on January 20, 2009, the City of Fayetteville (as a part of the Great Recession) faced declining revenues and the likely necessity to cut city expenses; and

**WHEREAS**, the Mayor and City Attorney voluntarily requested and the City Council approved to roll back the Mayor's and City Attorney's salaries to the 2008 level; and

**WHEREAS**, the Mayor and City Attorney requested that their salary and the salary of other elected officials earning more than \$80,000.00 be frozen "because of the difficult economic conditions" and because it would be likely necessary to freeze other city employee salaries sometime in 2009; and

**WHEREAS**, Alderman Ferrell proposed an amendment of this proposed ordinance which was approved by the City Council to require annual determinations by the City Council by December 10 "whether the City's financial condition justifies the continuance of this freezing of compensation for elected officials earning in excess of \$80,000.00."

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby determines that the financial condition of the City of Fayetteville has not improved sufficiently during the last four years to justify ending the four year freeze of the salaries of the Mayor and City Attorney nor the three year freeze of the salary of the District Judge for 2013.

**PASSED and APPROVED** this 4<sup>th</sup> day of December, 2012.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**SONDRA E. SMITH**, City Clerk/Treasurer

OR 15  
1/20/09  
5314

# AGENDA REQUEST

**FOR: COUNCIL MEETING OF JANUARY 20, 2009**

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**FROM:**  
**KIT WILLIAMS, Fayetteville City Attorney**


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**ORDINANCE OR RESOLUTION TITLE AND SUBJECT:**

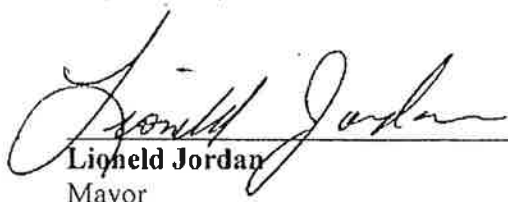
An Ordinance To Amend Chapter 31: City Officials By Repealing §31.17 (D) And Enacting A New §31.46 Freezing City Officials' Compensation If In Excess Of \$80,000.00

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**APPROVED FOR AGENDA:**

  
\_\_\_\_\_  
**Kit Williams**  
City Attorney

January 2, 2009  
Date

  
\_\_\_\_\_  
**Lionel Jordan**  
Mayor

1/2/09  
Date





# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY  
DAVID WHITAKER, ASST. CITY ATTORNEY



DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: City Council

THRU: Lioneld Jordan, Mayor

FROM: Kit Williams, City Attorney

DATE: January 2, 2009

RE: Rollback of Mayor and City Attorney's salary to 2008 levels

Mayor Lioneld Jordan has requested that I prepare an ordinance that rolls back the mayor's salary to its 2008 level (negating the annual increase effective January 1<sup>st</sup> of each year). Mayor Jordan has also requested that his compensation be reduced by an additional \$5,000.00 by repealing §31.17 **Mayor's Compensation**, subsection D, the "annual automobile allowance of \$5,000.00 ...."

Because of what appears to be the nation's continuing severe economic problems, I share Mayor Jordan's concerns that the City of Fayetteville will not be immune from what could be a substantial and long term recession. Therefore, I have also agreed to roll back my salary to its 2008 level (negating the normal January 1<sup>st</sup> percentage increase based upon the average salary increase of all non-uniformed employees).

Mayor Jordan will present these ordinances for your review during the first City Council Agenda Meeting in January and will ask that they be approved by the City Council during the following City Council meeting. Mayor Jordan will also present an ordinance which would freeze any elected official's salary once it exceeds \$80,000.00 until the economy recovers and city revenues rebound sufficiently to ensure that all city employees can continue to receive normal merit or step raises pursuant to the City Council approved pay plan. I also join Mayor Jordan's request on this issue.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE TO AMEND CHAPTER 31: CITY OFFICIALS  
BY REPEALING §31.17 (D) AND ENACTING A NEW §31.46  
FREEZING ELECTED CITY OFFICIALS' COMPENSATION IF  
IN EXCESS OF \$80,000.00**

**WHEREAS**, the national economic climate is in a prolonged and severe recession which threatens the City of Fayetteville's revenue stability; and

**WHEREAS**, until the national economy recovers and City of Fayetteville revenue growth rebounds, City Officials earning more than \$80,000.00 should receive no further raises based upon the formulas set forth in this Chapter; and

**WHEREAS**, this freezing of those salaries may allow city employees earning less than \$80,000.00 to continue to receive merit or step increases to at least partially keep up with inflation; and

**WHEREAS**, Mayor Jordan requests that his salary also be reduced by repealing the \$5,000.00 annual automobile allowance established by Ordinance No. 3659 of December 1, 1992.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE  
CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas, hereby amends Chapter 31: City Officials by repealing §31.17 Mayor's Compensation, subsection (D) in its entirety.

Section 2: That the City Council of the City of Fayetteville, Arkansas, hereby amends Chapter 31: City Officials by enacting a new §31.46 as follows:

**"31.46 Freezing Elected City Officials' Compensation If In Excess Of \$80,000.00**

"Because of the difficult economic conditions, the compensation of any elected City Official earning in excess of \$80,000.00 shall be frozen and not increased pursuant to the formulas in §§ 31.17, 31.18, 31.30, and 31.45."

**PASSED and APPROVED** this 20<sup>th</sup> day of January, 2009.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN, Mayor**

By: \_\_\_\_\_  
**SONDRA E. SMITH, City Clerk/Treasurer**

Mayor Lioneld Jordan  
City Attorney Kit Williams  
City Clerk Sondra Smith



**Aldermen**

Ward 1 Position 1 – Adella Gray  
Ward 1 Position 2 – Brenda Thiel  
Ward 2 Position 1 – Kyle B. Cook  
Ward 2 Position 2 – Matthew Petty  
Ward 3 Position 1 – Robert K. Rhoads  
Ward 3 Position 2 – Robert Ferrell  
Ward 4 Position 1 – Shirley Lucas  
Ward 4 Position 2 – Sarah E. Lewis

**City of Fayetteville Arkansas  
City Council Meeting Minutes  
January 20, 2009**

A meeting of the Fayetteville City Council was held on January 20, 2009 at 6:00 PM 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 Thiel, Cook, Petty, Rhoads, Ferrell, Lucas, Lewis, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

**ABSENT:** Alderman Gray

**Pledge of Allegiance.**

**Mayor's Announcements, Proclamations and Recognitions: None**

**Presentations, Reports and Discussion Items: State of the City Address**

**Mayor Jordan gave the State of the City Address. A copy of the report is attached.**

**Agenda Additions: None**

**Consent:**

**Approval of the January 6, 2009 City Council meeting minutes.**

***Approved.***

**Alderman Cook moved to suspend the rules and go to the second reading. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.**

*City Attorney Kit Williams read the ordinance.*

**Alderman Cook moved to suspend the rules and go to the third and final reading. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.**

*City Attorney Kit Williams read the ordinance.*

**Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Gray was absent.**

*Ordinance 5212 as Recorded in the office of the City Clerk*

**Amend Chapter 31, Mayor and City Attorney Salary Rollback:** An ordinance to roll back the salary of the Mayor and City Attorney to the previous year's level.

*City Attorney Kit Williams read the ordinance.*

**Alderman Ferrell:** I would like to offer a few amendments. Kit has given us a couple of amendments and I would move that we adopt both of them. The City Council each year when they look at the budget will revisit the \$80,000 on the elected employees. Basically when budget time comes the next year the Council would consider the freeze. Secondly I thought it would be simpler to do it now when we were working on this to make it say the newly elected mayor shall make the choice whether they want to take the \$5,000 per month for a car allowance.

**City Attorney Kit Williams:** Those are actually for the second ordinance that we are going to be considering tonight on the compensation rather than the rollback.

**Alderman Cook moved to suspend the rules and go to the second reading. Alderman Thiel seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.**

*City Attorney Kit Williams read the ordinance.*

**Alderman Cook moved to suspend the rules and go to the third and final reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.**

*City Attorney Kit Williams read the ordinance.*

**Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Gray was absent.**

*Ordinance 5213 as Recorded in the office of the City Clerk*

**Amend Chapter 31, Elected City Officials' Compensation Freeze:** An ordinance to amend Chapter 31: City Officials by repealing § 31.17 (D) and enacting a new § 31.46 Freezing Elected City Officials' Compensation if in Excess of \$80,000.

**City Attorney Kit Williams:** Before I read this you all might want to discuss the amendments that Alderman Ferrell presented and then I will either read it as it is now or as it is amended.

**Alderman Ferrell moved to amend the ordinance by reviewing the cap on elected official's salaries during each budget cycle and allowing each new mayor to accept or deny a car allowance. Alderman Cook seconded the motion.**

**Alderman Lucas:** We are changing it to what?

**Alderman Ferrell:** It would be reviewed every budget cycle by the Council for the cap on the elected officials and then when you get a new mayor, he can decide whether he wants to accept the new car allowance or not.

**Upon roll call the motion passed 6-1. Alderman Lucas voting no. Alderman Gray was absent.**

*City Attorney Kit Williams read the ordinance.*

**Alderman Cook moved to suspend the rules and go to the second reading. Alderman Thiel seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.**

*City Attorney Kit Williams read the ordinance.*

**Alderman Cook moved to suspend the rules and go to the third and final reading. There was no second to the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.**

*City Attorney Kit Williams read the ordinance.*

**Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Gray was absent.**

*Ordinance 5214 as Recorded in the office of the City Clerk*

**ORDINANCE NO. 5214**

**AN ORDINANCE TO AMEND CHAPTER 31: CITY OFFICIALS BY REPEALING §31.17 (D) AND ENACTING A REPLACEMENT §31.17 (D) AND A NEW §31.46 FREEZING ELECTED CITY OFFICIALS' COMPENSATION IF IN EXCESS OF \$80,000.00**

**WHEREAS**, the national economic climate is in a prolonged and severe recession which threatens the City of Fayetteville's revenue stability; and

**WHEREAS**, until the national economy recovers and City of Fayetteville revenue growth rebounds, City Officials earning more than \$80,000.00 should receive no further raises based upon the formulas set forth in this Chapter; and

**WHEREAS**, this freezing of those salaries may allow city employees earning less than \$80,000.00 to continue to receive merit or step increases to at least partially keep up with inflation; and

**WHEREAS**, Mayor Jordan requests that his salary also be reduced by repealing the \$5,000.00 annual automobile allowance established by Ordinance No. 3659 of December 1, 1992.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:**

**Section 1:** That the City Council of the City of Fayetteville, Arkansas, hereby amends Chapter 31: **City Officials** by repealing §31.17 **Mayor's Compensation**, subsection (D) in its entirety, and enacting a replacement subsection (D) as shown below:

“(D) A newly elected mayor shall make an irrevocable election in writing during his or her first two months in office whether or not to be paid an annual automobile allowance of \$5,000.00 in equal monthly installments during the mayor's term of office. If a mayor does not make such election in writing, the automobile allowance shall not be paid during the mayor's term of office.”



Section 2: That the City Council of the City of Fayetteville, Arkansas, hereby amends Chapter 31: **City Officials** by enacting a new §31.46 as follows:

**“31.46 Freezing Elected City Officials’ Compensation If In Excess Of \$80,000.00**

“Because of the difficult economic conditions, the compensation of any elected City Official earning in excess of \$80,000.00 shall be frozen and not increased pursuant to the formulas in §§ 31.17, 31.18, 31.30, and 31.45. The financial condition of the City and its projected revenue increase or decrease shall be evaluated by the City Council during budgetary discussions, and the City Council shall determine by December 10<sup>th</sup> of each year whether the City’s financial condition justifies the continuance of this freezing of compensation for elected officials earning in excess of \$80,000.00.”

**PASSED** and **APPROVED** this 20<sup>th</sup> day of January, 2009.

APPROVED:

By:   
LIONELD JORDAN, Mayor

ATTEST:

By:   
SONDRA E. SMITH, City Clerk/Treasurer





FAYETTEVILLE CODE OF ORDINANCES  
TITLE III ADMINISTRATION

- (2) Upon re-election to the same position, the official shall retain their existing pay level.
- (3) Annually at the first payroll period coincident with or first following January 1st, a pay adjustment will be made equal to the average percentage pay increase granted to regular full-time non civil service city employees during the previous calendar year.
- (4) Cumulative annual pay increases over time may not cause the salary level to exceed the salary range for the position without City Council approval.

(Code 1965, §2-11; Ord. No. 1474, 12-6-69; Ord. No. 1865, 5-26-72; Ord. No. 1991, 3-5-74; Ord. No. 3744, §1, 12-7-93; Ord. No. 3765, §1, 3-1-94; Code 1991, § 31.45; Ord. 4440, 11-19-02)

**State law reference(s)**—City Attorney in Mayor-Council of 50,000 or more, A.C.A. §14-43-314; Compensation of City Attorneys, A.C.A. §14-43-410; Deputy City Attorneys, A.C.A. §14-43-407.

**31.46 Freezing Elected City Officials' Compensation If In Excess Of \$80,000.00**

Because of the difficult economic conditions, the compensation of any elected City Official earning in excess of \$80,000.00 shall be frozen and not increased pursuant to the formulas in §§ 31.17, 31.18, 31.30, and 31.45. The financial condition of the City and its projected revenue increase or decrease shall be evaluated by the City Council during budgetary discussions, and the City Council shall determine by December 10th of each year whether the City's financial condition justifies the continuance of this freezing of compensation for elected officials earning in excess of \$80,000.00.

(Ord. 5214, 1-20-09)

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