

Mayor – Sandy Sanders

Acting City Administrator – Jeff Dingman

City Clerk – Sherri Gard

Board of Directors

Ward 1 – Keith Lau

Ward 2 – Andre’ Good

Ward 3 – Mike Lorenz

Ward 4 – George Catsavis

At Large Position 5 – Tracy Pennartz

At Large Position 6 – Kevin Settle

At Large Position 7 – Don Hutchings

AGENDA

Fort Smith Board of Directors

STUDY SESSION

January 12, 2016 ~ 12:00 Noon

Fort Smith Public Library

3201 Rogers Avenue

CALL TO ORDER

1. Annual compliance of Act 235 of 2015 to assemble and organize the governing body of the City of Fort Smith for 2016
2. Report of Convention Center 2015 accomplishments
3. Discuss enactment of prepared food tax ~ *Discussed at the September 22, 2015 study session ~*
4. Review preliminary agenda for the January 19, 2016 regular meeting

ADJOURN



Memo

To: Honorable Mayor & Members of the Board of Directors
From: Jeff Dingman, Acting City Administrator
Date: 1/7/2016
Re: Requirement to "Assemble and Organize"

Act 235 of 2015 requires that "members of a governing body elected for each city or town shall annually in January assemble and organize the governing body."

We have already adopted ordinances regarding setting meeting dates for 2016 and establishing procedures for setting the agendas and conducting the meetings of the governing body (such ordinances are attached). In order to satisfy the requirement of Act 235, a review and discussion of these items is included on the agenda for your January 12, 2016 study session.

Please let me know if you have questions regarding this study session agenda item.

Title 14 Local Government
Subtitle 3. Municipal Government
Chapter 43 Government Of Cities Of The First Class
Subchapter 5 -- Powers and Duties Generally

14-43-501. Organization of governing body.

- (a) (1)** The members of a governing body elected for each city or town shall annually in January assemble and organize the governing body.
- (2) (A)** A majority of the whole number of members of a governing body constitutes a quorum for the transaction of business.
- (B) (i)** The governing body shall judge the election returns and the qualifications of its own members.
- (ii)** These judgments of the governing body are not subject to veto by the mayor.
- (C) (i)** The governing body shall determine the rules of its proceedings and keep a journal of its proceedings, and the journal shall be open to the inspection and examination of any citizen.
- (ii)** The governing body may also compel the attendance of absent members in such a manner and under such penalties as it prescribes.
- (iii)** The governing body may consider the passage of rules on the following subjects, including without limitation:

 - (a)** The agenda for meetings;
 - (b)** The filing of resolutions and ordinances; and
 - (c)** Citizen commentary.
- (b) (1) (A)** In a mayor-council form of government, the mayor shall be ex officio president of the city council and shall preside at its meetings.
- (B)** The mayor shall have a vote to establish a quorum of the city council at any regular or special meeting of the city council and when his or her vote is needed to pass any ordinance, bylaw, resolution, order, or motion.
- (2)** In the absence of the mayor, the city council shall elect a president pro tempore to preside over council meetings.

(3) If the mayor is unable to perform the duties of office or cannot be located, one (1) of the following individuals may perform all functions of a mayor during the disability or absence of the mayor:

(A) The city clerk;

(B) Another elected official of the city if designated by the mayor; or

(C) An unelected employee or resident of the city if designated by the mayor and approved by the city council.

(c) As used in this section, "governing body" means the city council in a mayor-council form of government, the board of directors in a city manager form of government, and the board of directors in a city administrator form of government.

HISTORY: Acts 1875, No. 1, § 51, p. 1; C. & M. Dig., §§ 7738-7741; Pope's Dig., §§ 9934-9937; Acts 1981, No. 345, § 1; A.S.A. 1947, § 19-1010; Acts 2001, No. 354, § 1; 2005, No. 190, § 1; 2009, No. 185, § 3; 2011, No. 110, § 1; 2013, No. 753, § 1; 2015, No. 235, § 1.

ORDINANCE NO. 82-15

ORDINANCE AMENDING SECTION 2-26 OF THE
FORT SMITH MUNICIPAL CODE SETTING THE
DATES, TIME AND LOCATION FOR REGULAR MEETINGS
OF THE BOARD OF DIRECTORS FOR THE YEAR 2016

BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE
CITY OF FORT SMITH, ARKANSAS, THAT:

SECTION 1: Section 2-26 of the Fort Smith Municipal Code is hereby amended to
read as follows:

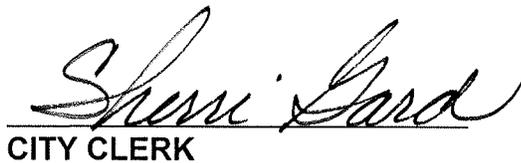
In 2016, all regular meetings of the Fort Smith Board of Directors shall
be held at 6:00 p.m. at the Fort Smith Public Schools Service Center,
Building B, 3205 Jenny Lind Road, on the first and third Tuesday
evenings of each month.

THIS ORDINANCE ADOPTED this 17th day of November, 2015.

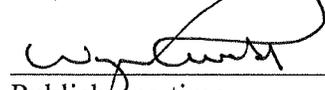
APPROVED:


MAYOR

ATTEST:


CITY CLERK

Approved as to form.


Publish one time

ARTICLE II. - MAYOR AND BOARD OF DIRECTORS^[2]

Footnotes:

Editor's note—Ord. No. 24-10, § 1, adopted May 18, 2010, repealed former Art. II, §§ 2-26—2-47, and enacted a new Art. II as set out herein. Former Art. II pertained to the same subject matter. See the Code Comparative Table for complete derivation.

Cross reference— Elections, Ch. 8.

State Law reference— Board of directors, A.C.A. § 14-48-110 et seq.

Sec. 2-26. - Regular meetings of the board of directors.

In 2015, all regular meetings of the Fort Smith Board of Directors shall be held at 6:00 p.m. at the Fort Smith Public Schools Service Center, Building B, 3205 Jenny Lind Road, on the first and third Tuesday evenings of each month.

(Ord. No. 94-12, §§ 1, 2, 12-4-12; Ord. No. 62-13, § 1, 11-19-13; Ord. No. 65-14, § 1, 11-18-14)

Editor's note— Ord. No. 94-12, §§ 1, 2, adopted Dec. 4, 2012, repealed former § 2-26, and enacted a new § 2-26 as set out herein. Former § 2-26 pertained to the same subject matter and derived from Ord. No. 24-10, § 1, adopted May 18, 2010; Ord. No. 60-10, adopted Nov. 16, 2010 and Ord. No. 92-11, adopted Nov. 15, 2011.

Sec. 2-27. - Special meetings.

Special meetings of the board of directors may be called by a majority of the board of directors as follows:

- (1) On oral motion stating the time, date, place (if then known) and item or items of business on the agenda for the proposed meeting adopted by the board of directors at any regular meeting or special meeting of the board which is attended by all directors and the mayor. The city clerk shall confirm the meeting called by notice to each director, the mayor, and the city administrator of the time, date, place and item or items of business on the agenda for the meeting called.
- (2) When four (4) or more members of the board of directors are present and all members of the board and the mayor, whether present or absent, consent in writing to the holding of the meeting. The written consent shall contain the time, date, place and item or items of business on the agenda, and shall be recorded in the minutes of the board by the city clerk. Absent members and the mayor may give written consent to the meeting by facsimile or electronic mail addressed to the city clerk.
- (3) When four (4) or more members of the board of directors give notice to the city clerk, either orally or in writing, of the time, date, and item or items of business on the agenda for the special meeting. Oral notice received by the city clerk shall be reduced to writing and recorded in the minutes of the board. Written notice of the special meeting of the board shall contain the time, date, place and item or items of business on the agenda, and shall be either delivered to each member of the board, the mayor and the city administrator at least twenty-four (24) hours before the time of the meeting called, or shall be sent by electronic mail or facsimile to each member of the board of directors and to the mayor to addresses or facsimile numbers provided by each for this purpose at least forty-eight

FORT SMITH MUNICIPAL CODE – CHAPTER 2 (Procedural Ordinances)

(48) hours before the time of the meeting called. The city administrator may request all members of the board of directors to call a special meeting for any specified purpose by notice to each member of the board of directors and the mayor of the time, date, place and item or items of business on the agenda of the proposed meeting. The requested meeting may be called by four (4) or more members of the board of directors as provided in this subsection.

(4) If an emergency event, which could not have been reasonably anticipated but which, because of its importance and pressing urgency, requires immediate consideration, the board of directors may have a special meeting at any time and at any place when at least four (4) or more directors are present, and after written notice has been given of the time, place and item of business for consideration to each director, and to the news media by the most expeditious manner possible, at least two (2) hours prior to the meeting. Expeditious manner shall be deemed satisfied if attempted contact is by e-mail, telephone and facsimile copy. Any action taken at such meeting shall be reported promptly to the mayor and to all members of the board of directors who were absent, and any action taken shall be an item of business on the agenda at the next regular or special meeting of the board of directors duly called for reconsideration at the request of any member of the board of directors.

(5) The city clerk shall prepare and give all notice required by this section and the Freedom of Information Act of 1967 [A.C.A. § 25-19-101], and when required such notice shall be given to each member of the board, the mayor, the city administrator, the public and the news media pursuant to the Freedom of Information Act of 1967 [A.C.A. § 25-19-101]. Said notice shall include the time, date, place and item or items of business on the agenda for the meeting called.

(6) No special meeting of the board of directors shall be called to order until the two-hour notice of the meeting is first given to the public and the representatives of the news media as required by the Freedom of Information Act of 1967 [A.C.A. § 25-19-101 et seq.]. The mayor and each member of the board of directors shall be deemed to have consented to any special meeting of the board of directors and its consideration of the items of business stated on the agenda at the beginning of the meeting if they are present at the beginning of the meeting and do not object to the holding of the meeting.

(Ord. No. 24-10, § 1, 5-18-10)

Sec. 2-28. - Executive sessions.

(a) Executive sessions of the board of directors shall be scheduled as the last item of business on a regular or special meeting agenda, subject to the provisions of subsection 2-37(a) for re-arranging the order of the meeting agenda.

(b) Except as otherwise specifically provided by law, executive sessions will be permitted only for the purpose of discussing or considering employment, appointment, promotion, demotion, disciplining or resignation of any public officer or employee.

(c) Any item of business arising at a study session, regular or special meeting of the board, requiring the consideration of the board in executive session shall be automatically postponed for executive session at the next regular or special meeting of the board. A motion duly adopted to consider an item of business in executive session shall automatically postpone consideration of the item of business. All seven (7) directors may concur with adding the item to the agenda of the meeting in progress for an executive session before adjournment of the regular or special meeting in progress. If consideration at the regular or special meeting in progress does not occur, the matter shall be scheduled for an executive session at the next regular or special meeting.

FORT SMITH MUNICIPAL CODE – CHAPTER 2 (Procedural Ordinances)

(d) Any decision of the board of directors made in executive session, which decision is required by the Freedom of Information Act of 1967 [A.C.A. § 25-19-101 et seq.] to be presented and voted on at the public meeting, shall be the subject of formal action by the board which shall reconvene in public session after the executive session.

(e) Only the members of the board, the mayor, and the city administrator shall regularly attend executive sessions of the board. Persons specifically requested to attend a particular meeting may do so as allowed by the Arkansas Freedom of Information Act, and such person or persons shall leave the meeting at the conclusion of the matter pertaining to them.

(Ord. No. 24-10, § 1, 5-18-10)

Sec. 2-29. - Study session meetings.

(a) The board of directors may hold study session meetings at such times, under such circumstances and on such conditions as the board may prescribe for the purpose of informing themselves of the business and affairs of the city, provided no official action of the board of directors shall be taken at such meetings. The city clerk shall not be required to keep minutes of study session meetings.

(b) The city clerk shall prepare and give notice of study session meetings. Such notice shall be given to each member of the board, the mayor, the city administrator, the public and the news media pursuant to the Freedom of Information Act of 1967 [A.C.A. § 25-19-101]. Said notice shall include the time, date, place and item or items of business on the agenda for the meeting called.

(c) The regularly-scheduled study session meeting shall precede the regular meeting of the board by at least five (5) days.

(d) To the extent practical, items of business or matters which are complex or involve policy decisions shall be presented at a study session meeting together with a briefing of relevant facts and circumstances prior to being placed on the agenda of a regular meeting. Additionally, the city administrator shall provide a list of all then-known items contemplated to be on the next regular meeting agenda.

(e) The time and place of study session meetings shall be determined by a majority of the members of the board, and notice given as herein provided.

(f) Only the city administrator, the mayor, or a member of the board of directors may invite persons to address the board of directors at a study session, and a majority of the board of directors may limit the time of a presentation, or deny any presentation to the board. In all controversial and complex matters, such a briefing may be a condition precedent to further consideration of the item of business. The city administrator or his staff shall undertake reasonable efforts to give notice of the study session to persons having an existing direct interest, as contrasted with a general interest, in the item of business under study by the board of directors at a study session, and the board of directors may to permit such directly interested persons to make informed presentations to the board if requested to do so.

(g) The study session meeting room shall be so arranged as to encourage and facilitate communication between the mayor, the members of the board of directors, the city administrator and any invited guests.

(Ord. No. 24-10, § 1, 5-18-10)

FORT SMITH MUNICIPAL CODE – CHAPTER 2 (Procedural Ordinances)

Sec. 2-30. - Personnel to attend study session meetings.

(a) The city administrator or the deputy city administrator and city clerk or assistant city clerk shall attend all study session meetings of the board. The city administrator shall also require the presence at the study session meetings of other employees of the city having relevant superior personal knowledge or expert opinion of matters to be presented to the board for consideration.

(b) The board of directors may on a motion duly adopted require the qualified and licensed attorneys at law contracted to provide legal services pursuant to sections 2-111—2-113 of this Code, or in his absence an assistant qualified and licensed attorney at law contracted to provide legal services pursuant to sections 2-111—2-113 of this Code, or any other municipal employee to attend study session meetings of the board.

(Ord. No. 24-10, § 1, 5-18-10)

Sec. 2-31. - Formulation of agenda.

Each item of business for consideration by the board of directors at any regular, special, study session or executive session meeting of the board shall be first placed on a written agenda. The agenda shall be formulated and disseminated according to the following directions:

(1) The preparation of the agenda for each regular, special, study session or executive session meeting of the board of directors shall be the duty of the city clerk, under the supervision of the mayor.

(2) An item of business may be placed on the agenda for any regular, special, study session or executive session meeting of the board at a study session meeting preceding the meeting of consideration by the city administrator, or by the concurrence of any two (2) members of the board. An item of business may be placed on the agenda for any regular, special, study session or executive session meeting of the board at any time by the city administrator provided notice of the specific subject of the addition to the agenda is given to the mayor and the members of the board of directors at least forty-eight (48) hours before the meeting of consideration.

(3) An item of business may be placed on the agenda at least forty-eight (48) hours prior to the time of the meeting of consideration by four (4) members of the board upon notice to the city clerk of the name of the proposed directors and the specific subject of the items of business to be considered. The city clerk shall immediately notify the directors, the city administrator and the mayor of the specific subject of the addition to the agenda.

(4) Any item of business may be denied a place on or removed from the agenda by notice of four (4) directors to the city clerk prior to the date of the meeting of the proposed consideration. The city clerk shall immediately notify the city administrator, the mayor, the directors and other interested persons of such action.

(5) An item of business requiring immediate action by the board may be placed on the agenda within forty-eight (48) hours or at the meeting of consideration by notice from all seven (7) members of the board to the city clerk pursuant to subsection (c) above or by unanimous vote of the entire membership of the board. An absent member of the board may express consent to consideration by those present in writing, or by facsimile or electronic mail communicated to the city clerk.

(6) An item of business presented at a regular or special meeting of the board, not placed on the agenda of the meeting at which presented, shall be automatically placed on the agenda of the following regular meeting unless its place on the agenda is denied, or it is removed as provided in this article.

FORT SMITH MUNICIPAL CODE – CHAPTER 2 (Procedural Ordinances)

(7) Any ordinance or resolution placed on the agenda of any regular or special meeting of the board requiring by its terms the appointment by the board of a person and the insertion of a person's name in the ordinance or resolution shall be automatically referred to and constitute a call of an executive session prior to adjournment of such meeting, and formal action on the ordinance or resolution shall take place in public session after the executive session.

(Ord. No. 24-10, § 1, 5-18-10)

Sec. 2-32. - Briefing of board by the city administrator.

(a) The city administrator may present to the board of directors at any meeting any matter without detailed briefing for the purpose of determining whether the board desires that the matter be staffed and the board thoroughly briefed at a subsequent meeting of the board, or not. Available information relevant to the question of further consideration and briefing should be presented.

(b) It shall be the duty of the city administrator to keep the members of the board advised of all facts and circumstances pertaining to or affecting the legislative policy of the city, and it shall be the duty of the city administrator and his staff to investigate, assimilate relevant information, and brief the board of directors on all matters requiring consideration and legislative action by the board.

(c) Before any complex or controversial item of business is placed on the agenda of a regular, special, study session or executive session meeting of the board by the city administrator, the city administrator and his staff shall first present to the board so much of the following as is relevant and feasible:

- (1) Statement of the problem or the issue presented.
- (2) A statement of all pertinent and relevant facts together with available documentation.
- (3) Any expert opinion concerning the item of business for consideration.
- (4) Copies of other municipal legislation affecting the item of business.
- (5) Copies of pertinent comparable legislation in other municipalities.
- (6) Statement of the intended results of any proposed legislation or statement of policy on the problems sought to be eliminated, or the good to be accomplished by the proposed legislation.
- (7) A statement of the obstacles to accomplishment of the desired objective.
- (8) A statement of the possible solutions with advantages and disadvantages of each.
- (9) The course of action recommended by the city administrator, if any, and his reasons therefor.

(d) It shall be the duty of the city administrator and his staff to present to the board the same information outlined in this section for each item of business initiated by members of the board at their request, or by citizens presenting complex or controversial items of business, provided the city administrator may require as a condition precedent to his presentation of an item of business initiated by a citizen that the initiating person attend a meeting of the board and make a presentation of relevant facts and circumstances to the board and such other of the staff briefing requirements outlined in the preceding subsection as is relevant and reasonable.

(e) The majority of the board may, by vote, if timely done pursuant to section 2-31, place a complex or controversial item of business on the agenda at the request of the city administrator without the complete and thorough briefing to the board required by this section.

FORT SMITH MUNICIPAL CODE – CHAPTER 2 (Procedural Ordinances)

(f) All or any part of the information to the board required by this section may be furnished either orally or in writing to each member of the board prior to or at the presentation of the item of business for a place on the agenda.

(g) The city administrator shall request the board of directors to authorize the necessary staff, equipment and material to perform the duties prescribed by this article.

(Ord. No. 24-10, § 1, 5-18-10)

Sec. 2-33. - Meeting material, equipment and supplies.

(a) The city clerk shall have present at each meeting of the board of directors a copy of Robert's Rules of Order, a copy of this Code, and at the meeting of initial consideration, a copy of every other contract, resolution or ordinance of the city directly affecting matters of consideration by the board. The city administrator shall advise the city clerk prior to each meeting of the subject of matters proposed for consideration by the board which are not known by the city clerk to be already on the agenda. The city clerk shall provide necessary supplies for each director at each meeting. The city administrator shall have present at the meeting of initial consideration every legal opinion, and other letters, documents, charts, maps or photographs not in the possession of the city clerk directly affecting new matters of consideration by the board at each regular, special, study session or executive session meeting of the board, except where impractical because of the complexity or bulk of the documents, in which case available summaries shall be utilized.

(b) Upon request by any director, the city administrator and his staff shall have present at any subsequent meeting of consideration the relevant documents described in subsection (a) above.

(Ord. No. 24-10, § 1, 5-18-10)

Sec. 2-34. - Presiding officer; vote; mayor's veto; overriding veto.

(a) The mayor shall preside at all regular, special, and study session meetings, including executive sessions, of the board of directors but shall not have a vote on any matter coming before the board. The mayor shall have the power of veto over all decisions made by the board of directors, except with respect to matters relative to city personnel, but a veto by the mayor may be overridden by the affirmative vote of five (5) or more members of the board of directors. In the absence of the mayor, the assistant mayor or vice mayor shall have the same duties and authority as chairman without veto, and also shall have the right to vote as a director.

(b) In the absence of both the mayor and the assistant mayor or vice mayor the board of directors shall elect from its membership a person to serve as chairman of the meeting. Such election of a chairman shall not occur before the designated starting time of the meeting and shall not occur before a quorum is present.

(Ord. No. 24-10, § 1, 5-18-10)

Sec. 2-35. - Rules of order.

(a) Robert's Rules of Order shall govern the proceedings of all regular, special, agenda and executive meetings of the board of directors, except as modified by A.C.A. tit. 14, ch. 48 [§ 14-48-101 et seq.], and the provisions of this article. The city administrator shall provide a copy of Robert's Rules of Order to each member of the board of directors, the mayor and the city clerk.

FORT SMITH MUNICIPAL CODE – CHAPTER 2 (Procedural Ordinances)

(b) The mayor, assistant mayor or vice mayor, or other person presiding over the meeting shall have the affirmative duty and authority to require the members of the board of directors and other persons present at the meeting to comply with the rules of order. The chairman of the meeting shall constantly maintain the decorum of the meeting, and shall have authority to order the removal of persons not on the board of directors violating the rules of order or disturbing the meeting. The chairman of the meeting may require the city administrator to provide a person having police authority to be present at a meeting to assist in the performance of the duties of the presiding officer. It is the purpose of this subsection to require the chairman of the meeting to enforce the rules of order and to maintain the decorum of the meeting without a request for rule compliance or objection to rule violation by a member of the board of directors. If a member of the board of directors believes there is a violation of the foregoing by a citizen, he or she may make a motion to end the presentation or assert a point of order. If said motion receives a second, there shall immediately be taken a vote of the board of directors on the motion to end the presentation. The chairman may enforce the point of order or may submit same to a vote of the board of directors.

(c) A majority of the board may on a motion, without second, order the previous question, which shall have the effect to cut off all debate and bring the board to a direct vote upon the immediate question or questions on which it has been asked and ordered. The previous question may be asked and ordered upon a single motion, a series of motions allowable under the rules, or an amendment or amendments, or may be made to embrace all authorized motions or amendments and include the item of business to its passage or rejection. It shall be in order, pending the motion for the previous question, or after the previous question shall have been ordered on its passage, for the mayor to entertain and submit without debate a motion to commit, with or without instructions, to a standing or select committee. All incidental questions of order arising after a motion is made for the previous question, and pending such motion, shall be decided, whether an appeal or otherwise, without debate.

(d) No member of the board of directors shall speak or debate on any item of business, which is not on the agenda at any regular meeting of the board of directors, except on a motion to add the item of business to the agenda as provided in this article, without the unanimous consent of the members of the board who are present.

(e) The minutes of each regular or special meeting of the board of directors shall be accurately summarized by the city clerk, reduced to writing, and a copy provided to each member of the board of directors and the mayor prior to the next regular meeting. No minutes of any past meeting of the board of directors shall be read at any subsequent meeting unless a reading is requested by a member of the board of directors.

(f) The chairman of each meeting of the board shall rotate the opportunity to first speak or debate on successive items of business among the members of the board.

(g) All special and standing committees of the board shall be appointed by the chairman of the meeting, subject to the approval of a majority of the board, which approval shall be recorded.

(h) The membership of standing committees shall terminate on December 31 of each year and new members appointed at the next regular meeting of the board. Special committees shall terminate upon the presentation to the board of a committee report stating that it is final or at the expiration of one (1) year, whichever event occurs first.

(i) The referral of a matter or item of business to a committee shall have the effect of requiring the city administrator and his staff to fully support the committee in its work.

(Ord. No. 24-10, § 1, 5-18-10)

FORT SMITH MUNICIPAL CODE – CHAPTER 2 (Procedural Ordinances)

Sec. 2-36. - Presentation of information requiring no board action.

(a) Any information or report may be presented to the board of directors by the city administrator, by the mayor, or by a member of the board at any meeting of the board. No official action shall be taken on such matter unless first placed on the agenda as provided herein.

(b) Any member of the board may request the city administrator to remain after any meeting for the purpose of informing the city administrator of specific citizen complaints or other matters not requiring the attention of the entire board and the city administrator and his staff shall note the complaints or matters presented for action under section 2-45, or for other appropriate action, and the director presenting the complaint or the matter shall be advised of the action taken.

(Ord. No. 24-10, § 1, 5-18-10)

Sec. 2-37. - Agenda consideration at opening of meeting; public comment on agenda items.

(a) After each regular or special meeting of the board of directors is called to order and the roll is called, the mayor shall inquire of the members of the board of directors if any director desires to present any item of business or other matter to the board during the meeting, or which is not already on the agenda of a regular or special meeting. If the mayor receives an affirmative response, the subject of all such items of business or matters for consideration shall be promptly determined. No person, except a member of the board of directors, shall be permitted by the mayor to discuss any item of business or other matter presented at the meeting for a place on the agenda until the item of business is placed on the agenda, or other matter is approved by the board for presentation at the meeting. The mayor shall submit separately to the board for vote without motion each item of business or other matter proposed by a director. A director presenting items requiring board action, but not placed on the agenda of the meeting at which presented, shall be told by the mayor that the item will be on the agenda for the next regular meeting of the board, unless removed by a majority of the board. At each regular or special meeting of the board the mayor may then ascertain the number of persons present for each item on the agenda and shall rearrange the order of the agenda subject to the approval of the board, so that the business of the largest groups of people present is first on the agenda.

(b) After a motion is made and seconded for approval of each item on the agenda of any regular or special meeting of the board, and before such item is discussed by members of the board, the mayor shall inquire of those present if anyone has a statement to make concerning the item under consideration. An applicant before the board may have up to five (5) minutes to make an opening presentation. If a group of citizens opposes the applicant, they may have up to five (5) minutes to make an opposing presentation. Each side shall have up to three (3) minutes to make a rebuttal presentation. All other comments from citizens shall be limited to no more than two (2) minutes per citizen. Any of these time limits may be extended by a consensus of the members of the board. Citizen comments must be relevant to the agenda item under consideration.

(Ord. No. 24-10, § 1, 5-18-10)

Sec. 2-38. - Ordinances and resolutions—Passage; one subject, title rule.

(a) All ordinances, resolutions or orders for the appropriation of money shall require for their passage or adoption the concurrence of a majority of the board of directors. All by-laws and ordinances of a general or permanent nature shall be fully and distinctly read on three (3) different days, unless five (5) members of the board of directors shall dispense with the rule. The affirmative

FORT SMITH MUNICIPAL CODE – CHAPTER 2 (Procedural Ordinances)

vote of at least five (5) directors to suspend the rule shall dispense with the requirement to fully read the item and with the requirement of voting on three (3) different days. No ordinance shall contain more than one (1) subject which shall be clearly expressed in its title.

(b) The formality of suspending the rules regarding readings on successive dates shall not be required in the event of a unanimous vote of the entire board.

(c) If a by-law or ordinance is duly adopted, or amended, and a director voting against the measure states consents to dispensing with the rules, such director's vote on the measure adopted shall be recorded for the measure to reflect the unanimous vote required by subsection (b) above.

(d) If it shall be necessary for the preservation of the public peace, health and safety that a measure shall become effective immediately, and the measure contains an emergency section, a separate roll call vote by yea and nay shall be had on the emergency section. Five (5) or more votes in favor of the emergency shall be required. If the emergency section is not adopted, the remainder of the measure shall be considered passed.

(Ord. No. 24-10, § 1, 5-18-10)

Sec. 2-39. - Same—Voting requirements.

(a) On the passage of every ordinance, resolution or order to enter into a contract by the board of directors, the yeas and nays shall be called and recorded; and to pass any ordinance, resolution or order, a concurrence of at least four (4) members of the board of directors shall be required.

(b) When a motion for passage or adoption of an item of business which is the subject of an ordinance or resolution on the agenda at any regular, or special meeting of the board of directors is duly seconded, the ordinance or resolution shall be read prior to the first vote, subjected to any other parliamentary procedure including subsidiary and privileged motions, and then put to vote to end that only one (1) vote shall be taken on each main motion.

(Ord. No. 24-10, § 1, 5-18-10)

Sec. 2-40. - Salaries.

(a) The mayor shall receive compensation in the amount of ten thousand dollars (\$10,000.00) per year. Additionally, the mayor shall receive as reimbursement for vehicle expense the sum of four hundred fifty dollars (\$450.00) per month.

(b) Each member of the board of directors shall receive compensation in the amount of one thousand dollars (\$1,000.00) per year. A member's compensation shall be reduced by one-twenty-fourth (1/24th) for each regular meeting at which a member is absent. No such compensation shall be paid for attendance at any special meeting called by the board of directors. Each member of the board of directors shall receive as reimbursement for vehicle expense the sum of four hundred dollars (\$400.00) per month.

(Ord. No. 24-10, § 1, 5-18-10)

Sec. 2-41. - Actual expenses.

(a) The mayor and the members of the board of directors shall be reimbursed for actual out-of-pocket expenses incurred in the performance of their official duties, and they shall be reimbursed for

FORT SMITH MUNICIPAL CODE – CHAPTER 2 (Procedural Ordinances)

personal automobile use on city business requiring travel more than twenty-five (25) miles one (1) way from the principal office location of the city.

(b) Application for reimbursement shall be made within thirty (30) days of the date the non-travel expense is incurred or within two (2) weeks of the date the travel is concluded and the application shall be supported by appropriate vouchers in the same manner as provided by the city administrator for reimbursement of expenses of other municipal personnel. Reconciliation of travel advances shall be made within two (2) weeks of the date the travel is concluded. In addition, the application for reimbursement shall state the date and item of municipal business requiring the expenditure or travel. All travel expense reimbursements and travel advances shall be made in accordance with the city's travel policy.

(c) To the extent feasible, the city administrator shall establish a procedure for providing direct services and supplies to the mayor and the members of the board necessary to an efficient and economical performance of their official duties.

(Ord. No. 24-10, § 1, 5-18-10)

Sec. 2-42. - Administrative assistance to the board of directors.

(a) The city administrator shall provide such secretarial assistance to the board of directors and the mayor as is prescribed by the board for its members and the mayor. The city administrator shall provide adequate office space and the necessary furniture, equipment and supplies for one (1) member of the board, or the mayor to work effectively on city business. Available personnel, supplies, space, furniture and equipment now utilized by the mayor may be designated and assigned to the requirements of this section.

(b) Each member of the board of directors shall be provided with supplies, documents and information necessary to the proper performance of the duties of director in preparation for and in attending meetings of the board.

(c) Official stationery bearing the names of the mayor and the members of the board shall be provided to the board.

(d) The city administrator shall provide to each member of the board of directors on request an appropriately designed identification card for use by the members of the board on official business.

(e) Directors and the mayor may request information that is routine and readily available from any department or office head of the city. The department or office head shall furnish all available information and facts requested by the directors and mayor to the city administrator, who shall then forward such information and facts to all directors and the mayor. Requests from directors or the mayor for information that is not routine or is not readily available shall be made through the city administrator.

(f) Directors and the mayor may request information directly to the internal auditor, who will respond directly to the requesting director or mayor.

(Ord. No. 24-10, § 1, 5-18-10)

Sec. 2-43. - Reserved.

Editor's note— Ord. No. 35-13, § 1, adopted Aug. 20, 2013, repealed § 2-43, which pertained to director approval procedure of city administrator personnel action and derived from Ord. No. 24-10, § 1, adopted May 18, 2010.

FORT SMITH MUNICIPAL CODE – CHAPTER 2 (Procedural Ordinances)

Sec. 2-44. - Citizen complaints and citizen initiated items of business.

(a) Any citizen having a complaint or an item of business with the city should present the complaint or the item of business to the city administrator's office for action prior to presentation of the complaint or item of business to the board of directors at a meeting. Before presentation of the complaint or item of business to the board of directors, the aggrieved citizen shall first notify the city administrator, or his designated representative, of the nature of the complaint, and the city administrator shall immediately cause an investigation to be made of the complaint or requested item of business and notify the citizen and board of directors of the results of the investigation and recommended action, if any. A citizen who remains aggrieved by the action of the city administrator may then present the matter to the board of directors at any subsequent regular meeting after giving notice to the city administrator at least seven (7) days before the regular meeting. The matter shall be scheduled as an item of business on the regular meeting agenda. The city administrator shall provide the board of directors with a briefing report on the citizen's request, any action taken by the city administrator or his staff, and other information deemed relevant by the city administrator. The citizen shall have up to three (3) minutes to present his or her request at the regular meeting. The board of directors may extend this time limit by its concurrence. After considering the citizen's request, the board of directors may:

- (1) Take any action it deems appropriate, consistent with applicable law;
- (2) Determine to not consider the matter any further;
- (3) Request additional information from the citizen or the city administrator;
- (4) Defer the matter for further consideration at a study session meeting or a subsequent regular meeting.

If the board of directors determines to not consider the matter any further, the city administrator shall not schedule on a regular, special or study session meeting agenda any identical or substantially similar request made by any citizen within one (1) year of the board of directors' determination to not consider the matter any further.

(b) Following adjournment of the regular board meeting held on the first Tuesday of each month (or, if applicable, to its rescheduled date), the board shall conduct an informal town hall meeting at which citizens may introduce matters involving city government to the board of directors. Each citizen shall have up to five (5) minutes to present his or her matters. If a matter presented by a citizen requires consideration of possible action by the board of directors or the city administrator, the matter shall be handled in accordance with subsection 2-44(a).

(Ord. No. 24-10, § 1, 5-18-10; Ord. No. 32-12, § 1, 4-17-12)

Sec. 2-45. - Record of action requested by the board.

The city clerk shall maintain a list of the items of business for which a member of the board has requested a staff briefing or other action, and a list of all items referred to the city administrator or other city official for action, the date of the request or referral, and the name of the person making the request or presenting the item referred, and the anticipated date for a report on the action requested. The date of the subsequent report or briefing shall be noted on the list.

(Ord. No. 24-10, § 1, 5-18-10)

FORT SMITH MUNICIPAL CODE – CHAPTER 2 (Procedural Ordinances)

Sec. 2-46. - Notice.

Unless otherwise specifically provided in this article, any notice to the city clerk required by this article may be given orally or in writing. Notice received orally shall be first recorded in writing by the recipient. All notices shall be immediately communicated to the city clerk, who shall maintain a permanent record of all notices in the minutes of the meetings of the board. Unless otherwise specifically provided in this article, the city clerk shall give written notice of each item of business placed on the agenda of any regular, special, study session or executive meeting of the board to the members of the board, the mayor and the city administrator at least four (4) days prior to the date of the meeting of consideration. Actual notice of any item of business subsequently placed on the agenda as provided herein shall be immediately given by the city clerk to each member of the board, the mayor and the city administrator by the most effective and expeditious means available.

(Ord. No. 24-10, § 1, 5-18-10)

Sec. 2-47. - Effect of noncompliance with article; procedures.

(a) Failure to comply with the provisions of this article shall not invalidate any action of the board which is otherwise in accordance with the law of this state, unless a member of the board states the objection at the time of the action, or files an objection to the action of the board at or prior to the next regular meeting of the board. If a member of the board makes or files an objection to a proceeding, the facts and grounds for the objection shall be stated by the objecting director and referred by him to the qualified and licensed attorneys at law contracted to provide legal services pursuant to sections 2-111—2-113 of this Code for opinion, which shall be presented to the board as an item of business on the agenda at the second regular meeting following the challenged action.

(b) If the opinion of the qualified and licensed attorneys at law contracted to provide legal services pursuant to sections 2-111—2-113 of this Code states that the challenged action violates the provisions of this article, the matter challenged shall automatically be reconsidered by the board.

(c) If the opinion of the qualified and licensed attorneys at law contracted to provide legal services pursuant to sections 2-111—2-113 of this Code states that the challenged action does not violate the provisions of this article, no further consideration of the challenged action shall be required.

(d) At the adjournment of the second regular meeting following the challenged action, all violations of the provisions of this article shall be deemed waived, the action taken confirmed, and no violation of this article shall be grounds for invalidating any action of the board thereafter, if the action otherwise complies with the laws of this state.

(Ord. No. 24-10, § 1, 5-18-10)

Sec. 2-48. - Reserved.

Editor's note— Ord. No. 11-13, § 2, adopted Feb. 19, 2012, renumbered § 2-48 as § 2-232.

Secs. 2-49—2-65. - Reserved.



SS#2

**To: Jeff Dingman
Acting City Administrator**

**From: Claude Legris
Executive Director
Fort Smith Advertising and Promotion (A & P) Commission**

**Copy: Mayor Sandy Sanders
Chairman
A & P Commission**

**Tim Seeberg
Manager
Fort Smith Convention Center**

Date: 1/7/2016

Re: Report of Convention Center 2015 Accomplishments

Although some financial research is still being compiled by staff for fiscal year 2015, we are able to report another successful year of operation of the Fort Smith Convention Center.

We appreciate the continued support of the City Board in helping us to make a significant contribution to our local economy.

Manager Tim Seeberg and I look forward to addressing the next City Board Study Session with more specific information regarding the accomplishments by the Convention Center division of the Advertising and Promotion (A & P) Commission.

Fort Smith Convention & Visitors Bureau

2 North B Street • Fort Smith, Arkansas 72901
479-783-8888 • 1-800-637-1477 • Fax 479-784-2421
E-Mail: tourism@fortsmith.org • URL: <http://www.fortsmith.org>

Memo



To: Honorable Mayor & Members of the Board of Directors
From: Jeff Dingman, Acting City Administrator
Date: 1/7/2016
Re: Prepared Food Tax

Discussed at June & August, 2015 study sessions, and then mentioned again briefly during the November deliberations for the FY2016 city budget is the possibility of implementing a Prepared Food Tax. The topic was deferred for discussion until after the first of the year.

Prepared Food Tax revenues are authorized by state law and specifically intended for use in supporting tourism and promotion activities. The revenues from a Prepared Food Tax would flow directly to the A&P Commission, who could then support operations and capital improvement of the Fort Smith Convention Center. Doing this would free up the \$777,000 currently authorized from the City's General Fund to subsidize operations of the convention center, and also possibly allow for capital improvements at the center, such as the replacement of furniture and mechanical equipment, which the city's General Fund cannot provide.

The \$777,000 could then be specifically applied to the LOPFI contribution fund, thereby reducing the need to further cut service levels from the city's General Fund departments. As you are aware, the General Fund budget for FY2016 is \$3.3 million less than the FY2015 budget, but we still have work to do in order to meet a 15% fund balance.

Attached for your review are projections for a one-half cent Prepared Food Tax, which show that it could generate as much as \$917,609 per year. Such a tax is collected by restaurants and other venues selling prepared food for immediate consumption. A significant portion of the revenue from a Prepared Food Tax collected at restaurants in Fort Smith would be derived from non-residents, from both visitors and local residents that reside outside the city limits. The discussion around implementation of such a tax in the current environment would be centered on the fact that the tax would replace the General Fund's subsidy of the convention center and allow the city a significant source of general funds to apply to its liability for the police & fire pension programs.

Operating a convention center is a typical use for A&P funds derived from such a tax. For the past few years, the city's General Fund budget has contributed to other tourism related projects that could also be eligible for A&P funding. Using Prepared Food Tax revenues for these purposes could provide further relief to the city's General Fund and further stimulate our growing local tourism economy.

The city contracted with the A&P Commission to operate the convention center for the city in 2012. That arrangement is working well and the convention center continues to bring business and visitors to the city that support a large number of hospitality jobs. Even with this success, convention centers usually operate at a direct deficit, but their purpose is to generate economic activity in a community, resulting in major contributions to the tax base. Every convention center in Arkansas, except the one in Fort Smith, is supported by a prepared food tax.

Efforts to reduce the General Fund operating budgets while maintaining levels of service must be augmented by increases in General Fund revenues in order to meet the Board's expressed interest of proactively addressing the projected funding requirements for the police and fire pension program and achieving the standards set forth in the city's financial performance policies.

The LOPFI fund needs approximately \$2 million per year in order remain solvent for the foreseeable future. This liability is a sizeable issue that will require one or more significant revenue sources, such as a prepared food tax, fees for business licenses, and/or increases in utility franchise fees. The collaborative efforts of the Board and staff to reduce the operating budgets as much as possible while mitigating impacts on service levels will continue, but those efforts will not provide the required amount of funding needed to address the LOPFI issue.

Please contact me if you have questions regarding this agenda item.

City of Fort Smith, Arkansas
 Sales Tax from Prepared Food Entities
 For the Years Ended December 31, 2014 and December 31, 2015

NAICS Code	NAICS Classification	2% Sales Tax Collections	
		2014	2015
7221	Full-Service Restaurants	3,458,575	3,250,413
7222	Limited-Service Eating Places	256,537	478,204
7223	Special Food Services	112,667	55,338
	Total	3,827,780	3,783,955
	3% Collection Fee to State	(114,833)	(113,519)
	Net Taxes to City	3,712,947	3,670,436

Estimate for Prepared Food Tax Revenue:

1% Tax	\$	1,856,473	\$	1,835,218
1/2% Tax	\$	928,237	\$	917,609

Source: NAICS data provided by the Arkansas Department of Finance and Administration.

Note: The city assesses 2% local sales and use taxes. Therefore, the amount of collections is combined.



January 6, 2016

TO: Members of the Board of Directors
Members of the Plumbing Advisory Board

RE: Appointments:

The terms of Mr. Charles Shank and Mr. Matthew Blaylock of the Plumbing Advisory Board will expire February 28th, 2016. In accordance with Ordinance No. 2926 applications for these prospective vacancies are now being received. Applicants must be residents and registered voters in the City of Fort Smith.

Please submit applications to the city administrator's office no later than the close of business on February 9th, 2016. A list will be compiled for review by the Board of Directors. Applications are available on the City of Fort Smith website. Go to www.fortsmithar.gov and click on boards and commissions.

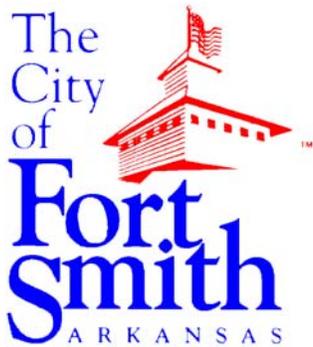
Sincerely,

A handwritten signature in blue ink that reads "Jeff Dingman".

Jeff Dingman
Acting City Administrator

623 Garrison Avenue
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www.fortsmithar.gov

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Mayor – Sandy Sanders

Acting City Administrator – Jeff Dingman

City Clerk – Sherri Gard

Board of Directors

Ward 1 – Keith Lau

Ward 2 – Andre’ Good

Ward 3 – Mike Lorenz

Ward 4 – George Catsavis

At Large Position 5 – Tracy Pennartz

At Large Position 6 – Kevin Settle

At Large Position 7 – Don Hutchings

AGENDA~ Summary

Fort Smith Board of Directors STUDY SESSION

**January 12, 2016 ~ 12:00 Noon
Fort Smith Public Library
3201 Rogers Avenue**

CALL TO ORDER

- All present
- Mayor Sandy Sanders presiding

1. Annual compliance of Act 235 of 2015 to assemble and organize the governing body of the City of Fort Smith for 2016

Settle/Good placed an ordinance on the January 19, 2016 regular meeting agenda to amend Section 2-37(b) to reflect that after introduction of an item on any regular or special meeting and public comment, a motion and second will be required to proceed with Board discussion on the item. .

Regarding Section 2-28(b), it was requested that legal review be solicited to determine if such is necessary due to the City Administrator currently maintaining hire/fire authority.

2. Report of Convention Center 2015 accomplishments
Presentation only by Tim Seeburg, Convention Center Manager
3. Discuss enactment of prepared food tax ~ *Discussed at the September 22, 2015 study session* ~
Due to time restraint, this item was deferred to the next study session (January 26, 2016).
4. Review preliminary agenda for the January 19, 2016 regular meeting
Regarding the resolution authorizing an agreement for insurance broker services, Lau/Good requested discussion prior to consideration of the item include existing insurance coverage, what other insurances offer, and minimum coverage standards required by the State of Arkansas.

OTHER

1. Good/Settle placed review of City Administrator personnel authority on a future study session.

ADJOURN

1:10 p.m.