



# ***AGENDA***

**FORT SMITH BOARD OF DIRECTORS  
SPECIAL MEETING**

***FEBRUARY 24, 2011 ~ 6:00 P.M.***

**FORT SMITH PLANNING DEPARTMENT  
CONFERENCE ROOM  
623 GARRISON AVENUE, ROOM 331**

## **SPECIAL MEETING**

ROLL CALL

1. Ordinance providing for the levy of a tax on the gross receipts or gross proceeds received by restaurants, cafes, catering cafeterias, delicatessens, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, and grocery store-restaurants from the sale of prepared food and beverages for on-premises or off-premises consumption; to declare an emergency and prescribing other matters pertaining thereto ***\*\*Third and final reading \*\****

ADJOURN

## **MEMORANDUM**

**TO:** Ray Gosack, City Administrator  
**FROM:** Sherri Gard, City Clerk  
**DATE:** February 18, 2011  
**RE:** Special Meetings - February 22 and 24, 2011

At the February 15, 2011 regular meeting, Directors Tyler, Good, Weber and Merry called a special meeting for 12:00 Noon, Tuesday, February 22, 2011 at the Fort Smith Public Library Community Room to allow for the second reading of the following item:

- Ordinance providing for the levy of a tax on the gross receipts or gross proceeds received by restaurants, cafes, catering cafeterias, delicatessens, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, and grocery store-restaurants from the sale of prepared food and beverage for on-premises or off-premises consumption; to declare an emergency and prescribing other matters pertaining thereto.

The previously scheduled study session will occur immediately following the special meeting.

At the February 15, 2011 regular meeting, Directors Tyler, Good, Weber and Merry also called a special meeting to allow for the third and final reading of the above noted ordinance. Said special meeting is scheduled for 6:00 p.m., Thursday, February 24, 2011, at the City of Fort Smith Planning Department Conference Room, 623 Garrison Avenue.

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

AN ORDINANCE PROVIDING FOR THE LEVY OF A TAX ON THE GROSS RECEIPTS OR GROSS PROCEEDS RECEIVED BY RESTAURANTS, CAFES, CATERING CAFETERIAS, DELICATESSENS, DRIVE-IN RESTAURANTS, CARRY-OUT RESTAURANTS, CONCESSION STANDS, CONVENIENCE STORES, AND GROCERY STORE-RESTAURANTS FROM THE SALE OF PREPARED FOOD AND BEVERAGES FOR ON-PREMISES OR OFF-PREMISES CONSUMPTION; TO DECLARE AN EMERGENCY AND PRESCRIBING OTHER MATTERS PERTAINING THERETO.

BE IT ORDAINED AND ENACTED by the Board of Directors of the City of Fort Smith, Arkansas that:

**Section 1:** As authorized by Act 185 of the 1965 Acts of Arkansas, as amended, specifically that portion of the Act codified at A.C.A. § 26-75-602(c)(2) (Supp. 2009), there is hereby levied a tax of one percent (1%) upon the gross receipts or gross proceeds received by restaurants, cafes, cafeterias, delicatessens, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, and grocery store-restaurants or establishments of any kind or nature from the sale of prepared food and beverages for on-premises or off-premises consumption within the City of Fort Smith, Arkansas, said tax to be effective June 1, 2011.

(1) Prepared food and beverages, as used in this ordinance, shall have the same meaning as Prepared Food as defined and described by Emergency Rule 2007-3, in its entirety, promulgated by the Arkansas Department of Finance and Administration on May 11, 2007 (effective July 1, 2007), or as thereafter amended by the State of Arkansas.

(2) The tax levied by this subdivision of this Section shall not apply to gross receipts or gross proceeds of organizations qualified under 26 U.S.C. § 501(c)(3).

**Section 2:** All taxes, interest, penalties, and costs derived from the one percent (1%) tax levied by Section 1 of this Ordinance shall be deposited in the Fort Smith Advertising and Promotion Fund for purposes permitted by Act 185 of the 1965 Acts of Arkansas, as amended.

*Approved as to form  
48C  
Publish 1 time*

**Section 3:** This Ordinance and the tax levied herein are subject to referendum in the manner prescribed in Amendment 7 to the Arkansas Constitution.

**Section 4:** If any provision of this Ordinance or the application thereof to any person, entity, or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**Section 5:** The codifier of the Fort Smith Code of Ordinances is instructed to codify Sections 1 and 2 within Chapter 13, Article V, of the Fort Smith Code of Ordinances.

**Section 6:** It has been found, and it is hereby declared, that the ability to use and spend the funds credited to the City Advertising and Promotion Fund in accordance with the purposes prescribed herein is necessary to continue the development of the City and for the welfare of the inhabitants thereof. The immediate effectiveness of this Ordinance, therefore, is necessary for the preservation of the public peace, health and safety, and an emergency is declared to exist so that this Ordinance shall be in effect from and after June 1, 2011.

**Section 7:** The prepared food and beverages tax enacted by this Ordinance shall be reviewed by the Board of Directors no later than five (5) years after its enactment to determine if the tax shall continue, if the tax rate may be reduced, or if the tax should be otherwise modified as the board deems proper.

This Ordinance adopted this \_\_\_\_ day of \_\_\_\_\_, 2011.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk