

# A G E N D A

## FORT SMITH PORT AUTHORITY

MEETING – Thursday, July 26, 2012

Fort Smith City Offices  
623 Garrison Ave, 3<sup>rd</sup> Floor  
Planning Conference Room

TIME: 11:30 A.M.

1. Call to order and roll call
2. Introduction of new member, Jeff Taake.
3. Approve minutes of meeting of April 18, 2012
4. Reports:
  - a. Tonnage Report, Previous Quarter Activity
  - b. Financial Report
  - c. Operator's Report: Projects, operations, customers, issues, etc.
5. Unfinished Business:
  - a. Discussion regarding sheet piling at port property
6. New Business:
  - a. Discussion related to real estate property taxes on port property
7. Update from AOPOA conference in May, and the dinner sponsored by the Port Authority.
8. Other discussion items.
9. Next meeting: October 18, 2012
10. Adjourn

City of Fort Smith  
Port Authority Meeting  
11:30 a.m. Thursday, April 18, 2012  
City Administrative Office  
623 Garrison Ave, Fort Smith, Arkansas

MINUTES

The Fort Smith Port Authority held its regular quarterly meeting at 11:30 a.m. on April 18, 2012 at the City Administrative Offices, 3<sup>rd</sup> Floor Conference Room, 623 Garrison Avenue, Fort Smith, Arkansas.

Port Authority members present were Chairman Rick Parrish, Eddie Norman, and Larry Combs. Members Bob Worley and Rick Spearman were absent. Others present at the meeting were Marty Shell of Five Rivers Distribution, and Jeff Dingman and Stan Snodgrass of the City of Fort Smith.

Chairman Parrish called the meeting to order, and a quorum was noted present. Mr. Norman mentioned a correction for the minutes of the January 19, 2012 meeting, and then moved that the minutes be accepted as corrected. Mr. Combs seconded and the motion carried by unanimous vote.

Mr. Parrish asked port operator, Marty Shell of Five Rivers Distribution, to deliver the tonnage report for the First Quarter of 2012. Mr. Shell reviewed materials and tonnage reports for January, February, and March through the Ports of Fort Smith and Van Buren. Mr. Shell noted that a total of 44,281 tons of product moved through the Ports of Fort Smith and Van Buren in the First Quarter 2012, compared to 151,720 tons during the same period last year. Mr. Shell reported that the rails, docks & warehouses were currently full, and that some new business had been identified including some rock and an additional scrap customer. Some short term business has been picked up from Whirlpool.

Mr. Parrish asked Mr. Dingman to deliver the financial report. Mr. Dingman reported that the numbers given at the last meeting were in error, and that the current balance of cash on hand is \$3,926.26. As the Port Authority has agreed to host & sponsor a dinner for the AOPOA Navigation Conference to be held in Fort Smith in May, those available funds will be reduced by approximately \$1200. Mr. Parrish asked Mr. Dingman to inquire first with Fort Smith Transit to investigate the possibility of using the trolley bus to shuttle participants from the Holiday Inn to the Glass Pavilion for the dinner on the evening of May 8, and then also asked Mr. Dingman to ask the A&P Commission if they would agree to help sponsor the cost of the dinner. Mr. Dingman agreed to make such inquiries.

Mr. Parrish introduced the first item of Unfinished Business, that being an update on the investigation of needed repairs to the 800 or so feet of the Poteau River's banks alongside the port. Stan Snodgrass, Director of Engineering for the City of Fort Smith, reported that he had investigated the problem areas and studied the impact of both Mill Creek and the flow of the Poteau River and determined that much of the problems occurring on the riverbank are the result of the flow of the Poteau River. That said, Mr. Snodgrass showed drawings of a possible riprap solution to reinforce the 800 feet of riverbank along the port, and relayed that such a project for the length of the port property would likely cost around \$750,000. If a project were to be undertaken at that expense, Mr.

Snodgrass offered that it would be worth investigating the use of a sheet piling/backfill solution, which could conceivably be less costly.

Mr. Shell offered that, in his opinion, the heavy flow coming from Mill Creek during & after heavy storms certainly has to play a role in the riverbank problem. During heavy storms, Mill Creek will rise from less than 1 foot to more than 20 feet in a matter of a few hours. The flow will be very heavy, with large swells that will reach the height of the rail crossing. That water funnels through the improved portion of Mill Creek, then is constricted through the last few hundred feet of Mill Creek before gushing into the Poteau, where it will shoot across the channel, reflect off of the western bank of the river, then rebound into the riverbank along the port property, thereby exacerbating the problem of riverbank erosion in front of the port.

Mr. Snodgrass acknowledged Mr. Shell's assessment, but reiterated that the Mill Creek watershed is only 1% of the total watershed carried by the Poteau River. The sudden surge of drainage from heavy rainfall can certainly be problematic, but in his opinion the consistent flow of the Poteau River against that riverbank is likely to be more dominant factor. That assessment is key when the discussion turns to funding, and the possibility of using the city's 1% sales tax proceeds for streets, bridges, and related drainage. In Mr. Snodgrass' opinion, the use of that fund would not be appropriate to address such problems as the problems were more likely the result of the Poteau River's normal flow than anything caused by isolated heavy drainage events that may occur a few times throughout the year.

Mr. Shell differed in his opinion, again stating that if Mill Creek could be cleaned and shaped from the point where the city's project stopped to the Poteau River, it would allow for a more even flow during heavy rainfall than it does now, possibly reducing the velocity of the surge.

At the end of the discussion, the members asked Mr. Snodgrass if he would provide an estimated cost for a sheet piling project for their next meeting, to which Mr. Snodgrass agreed. Mr. Shell offered that a sheet piling solution would likely provide more useable dock space than the riprap solution, so if the projected cost of piling is similar to the cost of riprap, he would encourage to Authority to engage the sheet piling solution.

Also under Unfinished Business was a report as to inquiry into availability of the Beam property adjacent to the Port property along Navy Road. Mr. Shell and Mr. Combs both had some discussion with Steve Beam, the property owner, about his interest in possibly selling the property to the Port Authority for possible long-term expansion area. Mr. Beam instead countered that he would be more willing to build a warehouse on the property and lease it either to the Port Authority or to the port operator on a long term basis at just under \$15,000 per month. Mr. Shell reported that he did not have immediate need for inside storage at that expense, and that the best current use of the property for the foreseeable future would be as outside storage for steel or pipe. In his opinion, this would be an unnecessary expense at this point. Mr. Combs indicated that the property owner and potential buyers may have vastly different ideas of the property's value. The Port Authority asked Mr. Dingman to inquire as to the current assessed valuation of the property.

Mr. Parrish and Mr. Shell then encouraged the members to attend the AOPOA Navigation Conference to be held in Fort Smith on May 8 & 9. The dinner on May 8, of course, is the one being sponsored by the Fort Smith Port Authority.

Mr. Parrish offered comments on the 12' Channel initiative and meeting conducted by the Arkansas Land Commissioner's office. The Land Commissioner's office has taken a significant amount of interest in this topic, as have the joint forces of the Mayors of Fort Smith and Fayetteville, as the issue is important to the entire region. Less than 5% of the channel remains to be cleared to a minimum 12' depth, but the US Army Corps of Engineers doesn't have funds authorized to make it happen. The initiative will continue.

Mr. Shell relayed that he had obtained some information/documents from the Chamber of Commerce regarding the history of the Arkansas River Project dating back to 1951. He noted that he would be donating them to the UAFS library/historical archives for preservation and historical research.

The next meeting of the Port Authority will be held July 26, 2012. There being no further business, the meeting adjourned at approximately 12:15 p.m.

Respectfully submitted,

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Jeff Dingman  
Deputy City Administrator  
City of Fort Smith, Arkansas

Port Authority Tonnage Reports  
2012

City of Fort Smith - Port Authority  
Five Rivers Distribution, LLC

	January	February	March	1st Qtr Total		April	May	June	2nd Qtr Total	
				2012	2011				2012	2011
<b>Steel/other</b>										
Van Buren	15,844.48	10,576.16	14,302.15	40,722.79	31,177.85	17,123.32	13,074.06	14,977.15	45,174.53	23,462.57
Fort Smith	5,580.68	5,649.41	3,436.12	14,666.21	25,434.83	8,234.01	7,003.35	3,607.05	18,844.41	21,292.48
subtotal	21,425.16	16,225.58	17,738.27	55,389.00	56,612.68	25,357.33	20,077.41	18,584.20	64,018.94	44,755.05
Rate	0.1178	0.1178	0.1178			0.1178	0.1178	0.1178		
	2,523.88	1,911.37	2,089.57			2,987.09	2,365.12	2,189.22		
<b>Coal or sand</b>										
Van Buren		1,733.30		1,733.30	79,790.34	-	19,403.72	14,629.46	34,033.18	52,365.82
Fort Smith	895.03	697.75	797.60	2,390.38	15,317.31	599.15	2,378.34	401.08	3,378.56	10,874.33
subtotal	895.03	2,431.05	797.60	4,123.68	95,107.65	599.15	21,782.06	15,030.54	37,411.74	63,240.14
Rate	0.0522	0.0522	0.0522			0.0522	0.0522	0.0522		
	46.72	126.90	41.63			31.28	1,137.02	784.59		
total	2,570.60	2,038.27	2,131.20			3,018.37	3,502.14	2,973.81		
Monthly Rent	1,000.00	1,000.00	1,000.00			1,000.00	1,000.00	1,000.00		
				59,512.68	151,720.32				101,430.68	107,995.19
Excess Rent due	1,570.60	1,038.27	1,131.20			2,018.37	2,502.14	1,973.81		
Total minimum rent			3,000.00					3,000.00		
Total excess rent			3,740.08					6,494.32		
Total Royalty Due			3,740.08					6,494.32		
<b>25%</b>										
paid to operator by agreement	392.65	259.57	282.80			504.59	625.54	493.45		
Total earned by Operator this period			935.02					1,623.58		
<b>50%</b>										
held by Port Auth for improvements	785.30	519.14	565.60			1,009.18	1,251.07	986.91		
<b>25%</b>										
available to reimb Port Auth	392.65	259.57	282.80			504.59	625.54	493.45		
<b>75% paid to Port Auth by agreement</b>										
sum	1,177.95	778.71	848.40			1,513.78	1,876.61	1,480.36		
Total Earned by Port Authority this period		(b)	2,805.06					4,870.74		
Additional to be kept by operator			-					-		
Unencumbered Reserve (from previous quarter)		(b)	2,870.12					3,922.54		
Reserve for spending current quarter		sum (b)	5,675.18					8,793.28		
Expended from Reserve		AOPOA Dinner	(1,752.64)							
Unencumbered Reserve			3,922.54					8,793.28		

Port Authority Tonnage Reports  
Capital

**Five River Distribution, LLC  
Repair Reserve - Fort Smith Port**

	2012		
6/25/2008 Riverside furniture (rail stop)		\$	500.00
8/1/2008 American Track Generations (rail track repairs)			2,500.00
7/1/2008 Modern Fence (fence repairs)			11,142.49
10/30/2008 Arkoma Services (rebuild rail bridge)			38,660.00 X
2009 Hang Tin WH 1			4,698.37 -
2009 Pant & Thinner for WH 1			1,130.71 X
2009 Hang Tin WH 2			1,587.41 X
2/5/2010 Home Depot (supplies for new office floor)			48.18 X
2/7/2010 Home Depot (supplies for new office floor)			5.42 X
2/11/2010 Alford's House of Carpets (floor for office)			2,773.73 X
2/15/2010 Yeagers (supplies for new office floor)			16.87 X
9/13/2010 American Track Generations (rail track repairs)			1,516.64 X
9/28/2010 American Track Generations (rail track repairs)			4,365.77 X
3/14/2011 American Track Generations (rail bridge repairs)			5,277.00 X
7/21/2011 PA approved office improvements			11,410.97 X
10/20/2011 PA approved warehouse door/floor improvements			9,572.12 X
1/19/2012 Masonry Repair to NW corner wall, WH 2			2,350.00 X
1/19/2012 Tube City IMS (hauled slag)			1,018.35 x
1/19/2012 Larry Osborne (hauled slag)			1,050.00 X
5/16/2012 Grace Railroad Contractors (rail track repairs)	rotten ties		3,896.00 X
6/13/2012 Grace Railroad Contractors (rail track repairs)	replace add'l rotten ties		4,296.00 X
			<u>107,816.03</u>

5/6/2010 City reimbursement (for floor expense)	From unencumbered Port cash	2,844.20
1/12/2011 For 4Q 2010	25% deduct from Qtrly royalty payment	1,675.16
1/12/2011 City reimbursement	From unencumbered Port cash	671.82
7/20/2011 City reimbursement	From unencumbered Port cash	1,967.94
7/20/2011 For 1Q 2011 - Corrective adjustment	\$750 kept by Port	750.00
7/20/2011 For 2Q 2011 - Corrective adjustment	\$750 kept by Port	750.00
9/8/2011 City reimbursement (office improvements)	From unencumbered Port cash	11,410.97
10/18/2011 For 3Q 2011	25% deduct from Qtrly royalty payment	753.91
12/22/2011 City reimbursement (warehouse floor)	From unencumbered Port cash	3,500.00
1/19/2012 For 4Q 2011	25% deduct from Qtrly royalty payment	750.00
1/6/2012 City reimbursement (overhead door replacement)	From unencumbered Port cash	4,521.00
1/6/2012 City reimbursement (overhead door repairs)	From unencumbered Port cash	1,551.12
4/18/2012 For 1Q 2012	25% deduct from Qtrly royalty payment	935.02
7/26/2012 For 2Q 2012	25% deduct from Qtrly royalty payment	1,623.58

Port Has Reimbursed Five Rivers 33,704.72

Port Still Owes Five Rivers, as of: 74,111.31

7/20/2012

In contract signed in 2008, Five Rivers agreed to spend \$60,000 on improvements the first five years of the lease.

X Mitzi Kimbrough and/or Jeff Dingman examined invoice and agree with amount.

# Memo



To: Port Authority  
From: Jeff Dingman, Deputy City Administrator  
CC: (file)  
Date: 7/20/2012  
Re: Sheet Piling at Port

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At the April 18 quarterly meeting, there was discussion about various options for dealing with the erosion affecting the banks of the Poteau River along the port property. This discussion included talk of a project to riprap much of the eastern riverbank, and the rough cost estimate from the city's engineering department was approximately \$750,000 to \$1 million.

At the meeting, Stan Snodgrass was asked to provide an estimated cost for the use of sheet piling to shore up the riverbank at the next Port Authority meeting. Mr. Snodgrass evaluated several city projects where sheet piling was used, and in all such cases the sheet piling was rented and installed temporarily in order to conduct the projects. In the case of the port project, the piling would have to be purchased outright.

In any case, the city projects involving sheet piling sum up as follows: for a 20-foot pile, the (rental) cost is about \$200 per linear foot. For a 45-foot pile, which is more than likely what would be needed at the port, the (rental) cost is about \$400 per foot. Purchase price is estimated to be at least twice the cost of rental cost, but very likely could be more.

For 800 feet of 45-foot piling at \$800 per linear foot: \$640,000.

The funding source to support such a project has not been identified. The April 18 discussion contemplated incorporating such a project into the city's CIP plan and the using funds from the 1% sales and use tax that supports streets, bridges, and associated drainage. It is the opinion of staff at this time that such a project at the port property would be a stretch of the intended purpose of the sales and use tax and as such is not likely to be an allowable use of those funds.

# Memo



To: Fort Smith Port Authority Members  
From: Jeff Dingman, Deputy City Administrator  
Date: 7/20/2012  
Re: Real Estate Taxes on Port Property

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For the last few weeks city staff, the city attorney, and Five Rivers Distribution have been dealing with the issue of real estate taxes on Port Authority property. This item is included on your July 26 agenda for discussion.

Five Rivers Distribution received a Delinquent Tax Notice dated April 12, 2012 from the Sebastian County Assessor's office for 2009, 2010 and 2011 real estate taxes, a total due (with penalties) of \$32,711.90.

Five Rivers and the City had been operating under the assumption that the Port Authority property, being publicly owned, was exempt from real estate taxes. The assessor's office claims otherwise, claiming that since the Port Authority leases the publicly-owned property to a for-profit enterprise, it cannot be claimed as exempt from real estate taxes.

Daily & Woods, on behalf of the city, has been corresponding with the Assessor's office in order to re-establish the exemption. So far, the Assessor's office has not relented and claims that the taxes are due and payable immediately. Other ports in the state operate in similar fashion, and are considered exempt by their respective county's assessors. It is our contention that the lease is offered to Five Rivers well below market value in return for Five Rivers providing the public service of operating the port for the benefit of the businesses in the community.

The operator's agreement established with Five Rivers Distribution in 2008 includes a provision that contemplates that the property is exempt from real estate taxes. That same section also mentions that if real estate taxes are deemed payable, the operator is responsible for paying such real estate taxes. It is our understanding that the previous port operator did pay real estate taxes on the property, unbeknownst to the city.

Colby Roe of Daily & Woods will attend our July 26 meeting and provide an update as to the status of this action and options we have available at this time.



Jith Miller  
 P.O. Box 1358  
 Fort Smith, AR 72902  
 (479) 783-4163

# Delinquent Tax Notice

Sebastian County, Arkansas



10211647  
 PORT AUTHORITY OF FORT SMITH  
 200 NAVY DR  
 FORT SMITH AR 72901

Parcel	Year	Owner Name	Dist	Description	Valuation	Base Tax	Penalties	Interest	TotalDue
8883-0000-00760-00	2009	PORT AUTHORITY OF FORT SMI	99FS	20-08-32 20-08-32 24.71 Acres PT SW NE & PT SE NW & PT NE SW & PT NW SE	167245	8,780.36	882.04	1,366.37	11,028.77
		Ad Valorem 99FS						<b>Total:</b>	<b>11028.77</b>
8883-0000-00760-00	2010	PORT AUTHORITY OF FORT SMI	99FS	20-08-32 24.71 Acres PT SW NE & PT SE NW & PT NE SW & PT NW SE	183970	9,658.42	969.84	518.64	11,146.90
		Ad Valorem 99FS						<b>Total:</b>	<b>11146.9</b>
8883-0000-00760-00	2011	PORT AUTHORITY OF FORT SMI	99FS	20-08-32 20-08-32 24.71 Acres PT SW NE & PT SE NW & PT NE SW & PT NW	200690	10,536.23	.00	.00	10,536.23
		Ad Valorem 99FS						<b>Total:</b>	<b>10536.23</b>
<b>Total Parcels: 3</b>						<b>\$28,975.01</b>	<b>\$1,851.88</b>	<b>\$1,885.01</b>	

**Total Amount Due: \$32,711.90**

These taxes are past due and the above amount is good through 04/30/2012. After that date you will need to contact our office for the correct amount.