MINUTES
LAWTON ECONOMIC DEVELOPMENT AUTHORITY
2ND FLOOR CONFERENCE CENTER
NEW CITY HALL
SEPTEMBER 5, 2013, AT 12:00 P.M.

Fred Fitch, Chairman, called the meeting to order at 12:20 p.m. in the New City Hall. Meeting notice and agenda were posted on the City Hall bulletin board as required by State Law.

ROLL CALL:	
PRESENT:	Denham, David; Fitch, Fred; Jackson, Keith; Madigan, David; Means, David; Nance, Ron; Neal, Larry; Sheppard, Ernie; Wells, Doug.
ABSENT:	None.
OTHERS PRESENT:	Rogalski, Richard, Planning Department; Frank Jensen, Legal Department, Denise Ezell, City Clerk's Office.

INTRODUCTION OF GUESTS

Fitch stated today we have Steve Roberson from the Lawton Constitution. We appreciate you being with us today.

BUSINESSITEMS

1. Consider approving minutes of June 20, 2013.

Motion by Wells, **Second** by Denham, to approve the minutes of June 20, 2013 as written. **Aye**: Fitch; Jackson; Madigan; Means; Nance; Neal; Sheppard; Wells; Denham. **Nay**: None. **Motion Passed**.

2. Consider approving invoices, requisitions, and all other submitted materials for payment and take action as deemed necessary.

   Fitch stated we have no invoices or requisition to take action on.

3. Receive Treasurer's Report and take action as deemed necessary.

   Fitch stated Furrh is not with us today so we will not be receiving a report.

4. Report on Lawton Downtown Redevelopment project activities, issues and programs including discussion and possible action on implementation and coordination.

Fitch stated we continue to have our weekly conference calls with the developers for the retail and the hotel. There were rumors the hotel ceilings were wrong and they would have to shut down to redo them. They were 6" shy of getting the ductwork through some areas. They had to change the roof in those areas to 8'6" and the interior ceiling to 8'6" or 9'. This did not delay them. They had a little problem getting the roofer out there but he is on site and doing well. They will start the roofing and putting in the windows. In about 2 weeks there will be approximately 100 employees on the jobsite. They are on target for a March opening. The retail is progressing well. Kohl's is breaking ground on their pad and they will be building their own building. Bed, Bath and Beyond, Ulta and Dicks Sporting Goods will start 3 to 4 weeks after Kohl's. CB Ellis is doing the small tenants for Collett and we know they have signed a few tenants. PSO will start moving the transmission lines. The hotel will start the south parking lot in about 10 days. They haven't finalized the concrete box so it can be covered. The corner of 2nd and Gore will be cleaned up to look a lot better. Things are going well. There were plans that came in today that Rogalski and I will be reviewing this afternoon. The final architectural renderings for the retail will go to LURA for their approval.

5. Consideration and possible action approving resolution engaging Municipal Finance Services, Inc. to review and report tax increment revenues eligible for apportionment to City of Lawton, Increment District No. 2.

Fitch stated we have to maintain records and compile the sales tax revenue that is being collected in the 12 block area. During the construction phase this is a very important responsibility. There is a possibility of $975,000 of sales tax that could be collected during this time. This is rather tedious work. We had set it up within the Finance Department and without going into details, you have all read the paper, there has been some changes made. Batchelor and I are not comfortable leaving it within the city. We have visited with Rick Smith of the Oklahoma Municipal Finance Group and he has given us a quote. Rogalski, Batchelor and I will be able to sleep at night knowing that this is being done and being done correctly. I had great concerns of it being taken care of within the city's finance department. That is public information and that is the way I feel.

Batchelor stated we think during the construction phase where the generation, collection and reporting of sales and use tax is especially difficult. We are dealing with contractors who are purchasing materials and supplies from people who have no obligation to report sales and use tax. It has to be carried out and enforced by the series of contractual agreements. The money is collected and reported from other parties that have no direct relationship with us. Even though the amount of taxes that will be generated during the construction phase is small compared to what will be generated once you have sales activity it is important to our financing. Every dollar generated gives us a state matching dollar. We recommend during this phase we use a third party to track it. Rick Smith and his firm have been financial advisors on financing the project and they understand the importance of this financing piece. You have a Resolution before you which would authorize engaging them at a flat fee of $1500 per month for the construction phase. Attached to the Resolution is the most current project construction budget. I have highlighted those that reflect increases in cost on the part of the developer. LEDA's cost are not affected because of the way our agreements are structured. Any increase will be the responsibility of the developer. Related to this activity are the sales and use taxes generated. The last page of the handout indicated our calculations on the taxes generated and reported through July. There may be other taxes generated during this period that have not been reported. You see the breakdown is the TIF revenues received based on the number that are actually collected, reported and remitted to the Oklahoma Tax Commission. The $7000 represents items which the contract/sub-contractors have taxes due and must file a return with the state. Once the evidence is received that those have been filed then those are additional amounts. This gives you an indication of where we are based on the evidence at the end of the first semi-annual fiscal year period which ended on June 30th. We will prepare the application for the state matching fund which is the first process of obtaining the funds. Those applications will be filed on a semi-annual basis. We are told the increase over the original budget is due to two factors. First is the limited number of qualified sub-contractors and the other is the tremendous amount of construction activity that has been generated in the wake of the tornados. The area where the increase is the highest is in electrical.

Jensen asked will there be a letter of engagement with Rick Smith.

Batchelor stated yes.

Sheppard asked is there a termination or does it end when the construction ends.

Batchelor stated for the current construction phase and then we would recommend looking at it again.

Sheppard asked what constitutes the end of construction.

Batchelor stated when a Certificate of Occupancy is issued. I would recommend that it may be terminated by either party on a 30 day notice basis.

Denham asked who compiled these numbers.

Batchelor stated my office. The City and LEDA has received copies of all the report. We have attended to all the initial review and provided instructions to each of the developers, contractors and sub-contractors. This does require some supervision. We believe the hotel developer has pretty well gotten the kinks out of their system. We still have to educate and guide the retail folks. These are responsibilities that contractors usually don't assume.

Fitch stated this has made me aware that the State of Oklahoma and the different municipalities are missing out on a lot of taxes.

Batchelor stated Texas is not a party of the uniform agreement on collection and remittance of sales and use taxes. If the contractor purchases materials from Texas they are not under the rule of law. If you purchase in Texas for deliver in Lawton the taxes in Lawton apply. Unless you are one of the states that is a party to the interstate agreement then the seller has no obligation to collect and remit those taxes to Oklahoma. The obligation falls on the purchaser to file a use tax. We have required the contractors and sub-contractors to do two things. First is to contract the purchase of those materials for delivery to Lawton and second is to pay and remit the taxes and report to us. If they haven't been collected by the seller the contractor is suppose to file the use tax return. They are supposed to pay and report to us and that is how we track them.

Nance asked are we anticipating a million dollars in taxes on the construction.

Fitch stated $975,000 is what we were anticipating during the construction.

Batchelor stated that is with the completion of all phases and the matching state funds.

Denham asked if we approved this Resolution then Municipal Finance will take over from this point.

Batchelor stated they will track the accounting and we will provide advice and monitoring. It would be a mistake for us not to continue oversight but we don't run number the way they do. We think this would be the most efficient and reliable approach.

Denham stated we don't want to spend $1500 a month to collect $2000 or $2500.

Fitch stated this is for the construction phase only. When they open they will submit a tax report to the state.

Denham asked will Furrh or the City of Lawton take over then.

Fitch stated they are required to submit those to us.

Batchelor stated your accounting is a lot easier then. You don't have to look for holes in the report.

Denham stated so we can do that in house.

Fitch stated yes. Maybe by then we will have things squared away in finance and possibility Rogalski or his staff can help. It will be much simpler and less time consuming.

Batchelor stated at that time the reports come to the city and the city gets use to incorporating the revenues into their accounting system. The moment it is determined what portion of the revenue flow is LEDA's those will be placed into a separate account. They are not revenues of the city and do not flow though the general operating budget of the city. The flow is much smaller and the process is newer so it will give everybody a chance to get use to the system and work out the bugs to minimize the risk of revenue loss.

Denham asked does LEDA get the state match or does that go to the general fund.

Fitch stated LEDA.

Batchelor stated on the report you see we broke out the part that belongs to the city and the part that goes to LEDA.

Wells asked are we saying we will collect $41,000 or $21,000.

Batchelor stated we collected $41,000. We put LEDA revenues into a separate column from the City's portion.

Sheppard stated the "use taxes due" means we have not collected that portion.

Batchelor stated correct. We have a report that says the contractor purchased it and taxes are due but we haven't seen evidence of it being paid.

Sheppard stated if those taxes are in Texas will they be submitted to us.

Batchelor stated yes. The buyer will pay the taxes and file a tax return with the State of Oklahoma.

Sheppard asked will he pay double taxes.

Batchelor stated no. If he buys in Texas for delivery in Oklahoma they cannot charge any Texas tax.

Nance asked do we anticipate there will be a lot of use tax due. In my business if we buy in Texas they charge Lawton taxes.

Batchelor stated they can do that and some do accommodate.

Wells stated I'm still confused. On the "City Sales Tax TIF" are you saying they spent money in the city and it is going to be kept in the general fund.

Batchelor stated the city's portion of 4% is split out. There is 2% under the TIF column and 2.?? under the city.

Wells stated I got it.

Motion by Madigan, **Second** by Means, to approve a resolution engaging Municipal Finance Services, Inc. to review and report tax increment revenues eligible for apportionment to City of Lawton, Increment District No. 2. **Aye**: Jackson; Madigan; Means; Nance; Neal; Sheppard; Wells; Denham; Fitch. **Nay**: None. **Motion Passed**.

EXECUTIVE SESSION

1. Pursuant to Section 307B3 and C10, Title 25, Oklahoma Statutes, consider convening in executive session for the purposes of conferring on matters pertaining to economic development, including the purchase/transfer of property, incentive proposals, redevelopment rights, and financing in connection with the Lawton Downtown Redevelopment Project, and take appropriate action in open session as necessary.

Fitch stated there is no reason to convene into executive session.

Addendum

1. Consideration and possible action approving post-closing submissions by Lawton Town Center, LLC.

Batchelor stated we now have an updated plan with respect to the retail facilities. Wells Fargo would like to have an updated approval letter from LEDA in order to assure the developer is complying with the terms of the loans. It would include approval of the updated plan and the real authority for this is LURA. Our recommendation is to issue the approval letter approving the updated items subject to LURA's approval. That affects not only the plans but it also affects the budget.

Fitch stated this is a timing issue. Wells Fargo needs this and LURA will not meet until the third Tuesday. We are trying to get this done as quickly as possible.

Batchelor stated anything LURA does not accept would not be accepted. They could require additional requirements or modifications.

Madigan asked could you send us a draft of the letter.

Batchelor stated sure.

Motion by Wells, **Second** by Madigan, to approve post-closing submissions by Lawton Town Center, LLC subject to the Lawton Urban Renewals Approval. **Aye**: Madigan; Means; Nance; Neal; Sheppard; Wells; Denham; Fitch; Jackson. **Nay**: None. **Motion Passed**.

DISCUSSION ITEMS AND REPORTS

Rogalski stated here is the expenditure report.

Madigan stated I appreciate you taking the time to do this. Is it possible to incorporate how we are doing percentage wise to completion? It is hard when you are just seeing number without seeing if we are on track.

Rogalski stated yes.

Fitch stated we do have a cap.

Madigan stated I just hate to get down the road and then all the sudden realize we are over budget. If you don't' have that percent of completion and inspecting it then you could realize you are in trouble.

Rogalski stated the developer is finalizing the cost for vertical construction and that is the big item here. Now that is finalized I can put that in. PSO is another item we want to know where they are and it hasn't been easy to find that out. Distribution is about done but the transmission is just beginning. I'm trying to track down that schedule. At the next meeting I should have the percentages.

Madigan stated great report I appreciate it.

Batchelor stated it appeared on the last PSO invoice it contained large amount of materials purchases.

Rogalski stated they have been purchasing materials for the transmission relocation. They pre-purchase those materials. Last week they promised they would be digging holes this week for the foundation and I haven't verified that yet.

Fitch stated part of the deal was they would bill us for materials.

Batchelor stated the agreement sets up a quarterly billing rate.

Rogalski stated they will be cleaning up the corner of 2nd and Gore and 1st Street will be filled in so they can start paving.

Fitch asked is the storm water drainage completed now.

Rogalski stated it is to be done by next Tuesday.

Fitch stated the hotel will be completing their parking lot.

Sheppard asked what about the planters on 2nd Street. Is the city maintaining those?

Rogalski stated yes. The contractor cut the sprinkler system and all the plants died. They are responsible for fixing it and replacing all the plants. Once that is complete the city will began maintaining them again. The old coke site got out of hand so I had LURA's contractor go out and clean up that corner.

ADJOURNMENT

Motion by Wells, **Second** by Jackson, to adjourn. **Aye**: Means; Nance; Neal; Sheppard; Wells; Denham; Fitch; Jackson; Madigan. **Nay**: None. **Motion Passed.**