

MINUTES
LAWTON ECONOMIC DEVELOPMENT AUTHORITY
CITY MANAGER'S CONFERENCE ROOM
JUNE 17, 2010 AT 2:00 P.M.

Fred Fitch, Chairman, called the meeting to order at 2:00 p.m. in the City Manager's Conference Room. Meeting notice and agenda were posted on the City Hall bulletin board as required by State Law.

ROLL CALL:

PRESENT: Denham; Drewry; Fitch; Madigan; Means (entered late); Nance; Neal.

ABSENT: Sheppard; Zarle.

OTHERS PRESENT: Larry Mitchell, City Manager; Scott Meaders, City Attorneys Office;
Denise Ezell, City Clerks Office.

INTRODUCTION OF GUEST

Fitch stated we have no guest with us today.

BUSINESS ITEMS

1. Approve Minutes from May 20, 2010.

Motion by Nance, **Second** by Neal, to approve the minutes of May 20, 2010 as written.
Aye: Drewry; Fitch; Madigan; Nance; Neal; Denham. **Nay:** None. **Motion Carried.**

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

Fitch stated we have requisition and invoices for demolition, relocation, and a couple of acquisition, for approval. I'll pass these are for everyone to review.

Motion by Denham, **Second** by Drewry, to approve invoices, requisitions, and all other submitted materials for payment. **Aye:** Fitch; Madigan; Means; Nance; Neal; Denham; Drewry. **Nay:** None. **Motion Carried.**

3. Receive Treasurer Report from Kimberly Furrh and take action as deemed necessary.

Furrh stated in the Statement of Financial Position at the end of May 31 we have \$505,852.02 in the checking account and our line of credit is at \$10,412,220.56. On the Statement of Revenue and Expense for Income we have interest earned in the amount of \$90.27 and we spent \$107,841.46. We should be receiving rent income in June or July.

Mitchell stated LURA has agreed to transfer the rental income quarterly. We should receive a payment in July. All the agreements are in place to release the BEDI grant and LURA invoiced to the City of Lawton for \$500,000. The money will be wired from the Federal HUD agency to the City of Lawton and then transferred to LURA. LURA can use the money to assist

with site cleanup and acquisition. A year ago we felt the tank removal at the old gas stations would be eligible for the indemnity funds of the Oklahoma Corporation Commission. Due to budget shortfalls and the drop in collections on royalties from oil and gas the indemnity funds are losing revenues. A portion of those funds rolled over into the indemnity fund. Unless the project site is a high priority or requires the State to address it due to health or safety issues the Corporation Commission is closing the case and it is not eligible to receive money through that fund. We are obligated to pick up the expense.

Fitch asked what was the cost of this cleanup.

Mitchell stated about \$48,000.

Fitch asked for just the tank removal.

Mitchell stated and for soil testing and well sampling.

Drewry asked do we have to remove the tanks.

Mitchell stated yes.

Drewry stated I was told you could just fill them with sand.

Madigan stated that use to be an option.

Fitch asked did we have to do a Phase II.

Mitchell stated no. We have been given a full release on Adam's Corner. They removed the tanks and did a sink and monitoring well.

DISCUSSION ITEMS AND REPORTS

1. Update of Right-of-Way and Union Pacific Railroad

Mitchell stated Union Pacific is reviewing the three (3) appraisers we recommended and they will select one (1) to do the work. I have worked with Doug Fagan for two (2) years and he never mentioned that Union Pacific has an internal value assessed to the property. They have a formula they want the appraiser to use to appraise the property. He also talked about a quarter enhancement value. You take the fair market value and multiply it by what the railroad calls the enhanced community value. When I hear back from them we will proceed with the appraisal. ODOT is in our corner and doesn't appreciate what the railroad is trying to do.

Nance asked did they give you an idea as to what their internal value was.

Mitchell stated no. Two (2) other things I want to tell you is we are expecting the Commissioners Report on the Jefferson property this week. It was due thirty (30) to forty-five (45) days from when the work was assigned and it has been forty-five (45) days. Once the

appraisal is done they will report the finding to the Court and the Court will set value. We think the Jefferson's will appeal.

Meaders stated the Commissioners Report will be a figure and they can take exception to that figure. If they take exception it could go to jury trial.

Mitchell stated I'm not going to get into a discussion with Meaders, but my understanding is there are two (2) ways they could appeal. They can appeal the report itself or say there was something flawed in the report. If that happens it is a different process, but eventually you get to where you are going. The other process is if they agree with the report they can go to jury trial to argue the money. They feel the property is worth ten (10) times more than what we appraised it for. Even if the Report came back double of our appraisal they won't accept it.

Means stated if I'm not mistaken if they don't win by 20% they have to absorb the cost.

Meaders stated there is something to that effect, but I'd have to look it up. They would have to get a judgment by the jury in excess of 20% or above and the other side would be entitled to attorney fees.

Mitchell stated here is an executive summary prepared by Dan Batchelor that we gave to the three (3) lending institutions. We are waiting for their response. The summary states twenty 20% of future revenues would go to pay off the letter of credit. We all recognize the cost for purchasing and assembling the twelve (12) blocks is going to be higher than what we will be able to sell the property to Ruhl and Ruhl for. This 20% will cover any gap. There is 40% for redeveloper financing assistance. In the development agreement LEDA agreed to issue a TIF note to Ruhl and Ruhl to help underwrite his site development cost. Thirdly is to capture revenues for other projects. Once Phase IA gets underway there will be other projects in other areas we will need revenues for. We hope to have the banks response shortly and then we will finalize the loan documents for the conference center. Batchelor and Shon Erwin have been reviewing the terms and conditions of the agreement. Hopefully within the next thirty (30) days we will finalize the loan and have it here for your approval and then to CCIDA for their approval.

Fitch stated we meet with CCIDA next week do you think the documents will be ready to give to them at that time.

Mitchell stated Batchelor and Erwin are meeting tomorrow. There isn't an issue with how the note is structure it is just the terminology and mechanics.

Fitch asked has Council approved the TIF Amendments.

Mitchell stated yes and those will be integrated into the loan documents. One of the amendments was to capture the hotel/motel tax to help fund the conference center. I believe the Chamber has passed a resolution indorsing this idea.

Denham stated it was in general support of the conference center. I don't know that was included.

Mitchell stated I haven't seen the resolution, but it was my understanding there was reference to those revenues.

Denham stated I don't recall that part. The reason for only twenty (20) percent to reimburse the banks is because we are selling the land.

Mitchell stated yes. Here is a copy of the map and it is looking pretty pink. There is one (1) vacant lot in Block 45 and we have filed that with the Court. There is an absentee landowner living out of state with partial interest in the property. Once that is complete we will be ready to transfer the property to Ruhl and Ruhl. This is the site for the hotel/conference center. Once this is secure we will proceed with closing streets and alleys and relocating utilities.

Denham asked it appears the church is empty so when will we start removing asbestos.

Mitchell stated today.

Nance asked have you heard from Scott after he went to the ICSC meeting.

Mitchell stated yes. It is looking very promising. The one big box has had an internal committee reviews and one (1) committee has signed off. The other committee is meeting either today or tomorrow. Also discussion with another big box has been reopened. Scott and the retailer want to be able to make the announcement and hopefully it will be soon.

Denham asked what projects are we going to shoot for as far as reimbursement on 1786.

Mitchell stated Phase IA.

Denham asked can removals of the tanks be reimbursed.

Mitchell stated we will be able to capture State sales tax and then be reimbursed for those cost. We are waiting for the Department of Commerce to write the administrative policies on how to submit the application. This will probably take sixty (60) to ninety (90) days.

Denham asked do we have to tell them how much we are trying to recapture.

Mitchell stated yes. It has to be project specific. Hypothetically if you take Exhibit B and look at the projected sales tax revenues from the hotel/conference center and then project the State sales tax for the project we could capture a portion of that sales tax to cover those expenses.

Denham asked the increments are one in the same because they are zero.

Mitchell stated correct.

Denham stated that is 100% of the sales tax just the hotel/conference center. Once we get the retail establishment that will qualify also.

Fitch stated correct.

Mitchell stated I would say hypothetically that number could double.

Denham stated and that would not go towards using any of our TIF funds.

Mitchell stated correct.

Denham stated we can use state money for additional cost.

Mitchell stated yes, but it has to be project specific in regards to revenue and expenditures. So you have to match both to qualify.

Denham stated with the frustration we have had dealing with the Assessor and the Oklahoma Tax Commission we want to make sure we are out in front this time instead of trusting somebody else.

Mitchell stated we will have similar frustrations with the Department of Commerce. It is to our benefit Dan Batchelor helped draft the language in the bill

Fitch asked is there anything else. Appreciate each and every one of you being here.

ADJOURNMENT

There being no further business meeting adjourned at 2:40 p.m.