MINUTES
LAWTON ECONOMIC DEVELOPMENT AUTHORITY
2ND FLOOR CONFERENCE CENTER
NEW CITY HALL
MARCH 14, 2013, AT 12:00 P.M.

Fred Fitch, Chairman, called the meeting to order at 12:00 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:	Fitch, Fred; Jackson, Keith; Means, David (entered late); Nance, Ron; Neal, Larry; Sheppard, Ernie; Wells, Doug.
ABSENT:	Denham, David; Madigan, David.
OTHERS PRESENT:	Bryan Long, City Manager, Frank Jensen, City Attorney; Rogalski, Richard; Denise Ezell, City Clerk's Office.

INTRODUCTION OF GUESTS

Fitch stated I would like to introduce our new member. Councilman Jackson has taken Councilman Zarle's position on the Authority.

BUSINESS ITEMS

Fitch stated we have a couple of member that needs to leave as quickly as possible so I'm going to begin with Item 4. I would like to say closing is scheduled for Tuesday March 19th and could take several days to get it all accomplished. I would also mention that we had a pre-construction meeting yesterday with all the architects, engineers, utility companies and builders. I believe everyone is now on the same sheet of paper and all was positive. There were some minor changes made to allow PSO to move some of the distribution lines off site to the east easement. We will then piggy tail back in to handle the north end of the project.

4. Project status and Pre-closing Report on the Phase II Retail Redevelopment for the Lawton Downtown Redevelopment Project.

Batchelor stated Councilman Jackson you are joining an amazing endeavor on behalf of the City of Lawton. I want to take a moment to recap how we got to where we are and then focus on what is immediately in front of us. Most of you have been with the project since inception and you know the story but I think it is worth pausing a moment to remember that the development immediately in front of us began with a $250,000 grant secured by the Lawton Chamber of Commerce and CCIDA in 2005 to develop a comprehensive plan for the city's downtown. In 2006 the City of Lawton adopted a Downtown Redevelopment Project Plan to be implemented through an agreement between the City of Lawton, Lawton Urban Renewal Authority and Lawton Economic Development Authority. The initial public investment of $500,000 from LURA financed the 2nd Street/C Avenue corridor plan. To move this project forward arrangements were made to acquire property in the twelve block area and hold a public invitation to soliciting redevelopers. We were in a time preceding our great recession when the economic development world was hot and there was a lot of demand and a lot of opportunity. Retailers were making commitments and lenders were lending to support these kinds of projects. Shortly after the City got into this redevelopment effort the economy went south. Retailers seized making commitments, funding was no longer available through either equity or loan financing and these projects become impossible to put together. Despite the best efforts of our then redeveloper a full project could not be brought together although an early commitment was obtained from Kohl's to become an anchor. As we began to emerge from the recession it became apparent that our economic world had changed. Retailers were no longer doing business on the same basis and the terms of lenders were tougher. Lenders required much stronger financial resources as a basis for borrowing for these projects. We narrowed the possibility of associating several potential developers to assume the primary responsibility in this project but for various reasons those did not work out until we found John Collett and his team out of Charlotte, North Carolina. Collett is a highly reputable retail redeveloper with a history of doing some fine projects in the State of Oklahoma. We put his team under contract in the Amended Redevelopment Agreement in July of last year and since that time we have been moving very rapidly to implement the project. We are at the point of completing all the complex documents, agreements, arrangements for utility relocations, construction coordination, retailer commitments and opening dates necessary to get to a closing on the retail development for next Tuesday March 19th. There are so many documents and pieces that the final signatures may take another two or three days. What is before you today are two specific agreements in their final form for execution and are key pieces for the legal framework for this development as well as a final resolution authorizing the Chairman to take all necessary steps to complete the closing. Another key to this endeavor is the complex public financing. At this point I would ask Smith to refresh our memories of the financing terms that will be put in place at closing.

Smith stated for Councilman Jackson's benefit the name of my firm in Edmond is Municipal Finance Services. We serve as a financial advisor for a number of cities around the state. We've been working with Lawton for about a year and a half on different types of capital project financing and refinancing. A year ago we were asked to step in and help bring the TIF financing to some kind of fruition. That is how we got involved. As most of you know we have a commitment from six of the local banks, Arvest, IBC, City National, Liberty, 1st National and BancFirst as the lead bank for $31.6 million for this project. Included in that is $11.5 for existing obligations that LEDA has. The City and the Authority authorized up to $37 million in obligations for this particular project. I'll pass these around for your information. We have been working with the banks and based upon the City actually being in a position to support any type of payment obligation that the Authority would have through the usage of a small portion of the City's sale tax and that was approved last August by the City Council. Basically that would be a reserve fund that would be established out of proceeds once the stores are open. That fund would be sitting there in case of a short fall from the revenues of the ad valorem, sales tax, state matching funds and other revenues. There is also a provision that the City would replace that reserve fund over an eleven month period if it were every hit. Our analysis indicates that based on the cash flows from the various stores and other revenue sources we would never have to hit the reserve fund and the City would not have to put up the sales tax. Due to this going on for the past five or six years the bankers insisted there be some level of support from the City. That is how the security will be set up. The banks attorney is Earl Skarky and he has reviewed the financing documents that are being prepared by Gary Bush our bond council. Bush is working on various security documents and has forwarded them to the banks and their attorneys. A final set of documents will be distributed tomorrow for review and we are scheduled to close on Tuesday. The existing note was due on March 5th and the banks don't want it to go much beyond the due date. We have worked out Plan B with the banks that if we don't get close on the 19th we are prepared to close on a portion of the financing that deals with the existing note.

Wells stated that is what about $500,000.

Smith stated no $12 million.

Wells stated not just the interest payment.

Smith stated no. It is a refinancing of the existing note under the security and collateral that is being proposed for the major financing. It would be a two step process. The good news is we will have a closing on Monday but it may be on just the refinancing. We will still be executing documents on the big piece. We will just roll the refinancing into the bigger piece so there would be just one obligation. If we refinance it would be distributed among the six banks. Only three of those banks, IBC, Arvest and BancFirst, are lenders on the original $12 million. The other thing I would call your attention to is the last page of the report. This is the sources and uses related to the major TIF financing. There is $31.6 million as the source and it is the loan amount from the banks. Collette will be acquiring about twenty-three acres as part of the retail development. Net proceeds from the land will be a little over $2.9 million. You see where it says gross land sale of $5,314,181. That was the agreed upon price. There were certain land credits such as Kohl's in the amount of $1,949,000 and if you recall Collett advanced $450,000 to LEDA for various costs.

Batchelor stated to cover the cost of ongoing environmental reviews and remediation and utility relocations that had to occur prior to beginning the hotel/conference center.

Smith stated those cost would be deducted from the gross land sale as acquisition cost and that is how we came up with $2,914,000. How are we going to use the funds? The 2012 note is $11,637,000 which is the principal plus the accrued interest through March 19th. Then there is $12,768,000 for infrastructure and project cost. There is 5% for retainage that will not be paid out until the very end of the construction process. We are also holding out $950,000 for the three out parcels that will probably be restaurants. We would not advance the $950,000 to Collett until he has sold some of the property.

Wells asked is that for the infrastructure on those parcels.

Smith stated no. It is for the land. The infrastructure would obviously already be there as part of the overall project.

Batchelor stated in fact we are holding it from other portions of the reimbursement as an incentive to complete the redevelopment of the out parcels.

Smith stated LEDA's arrangement with Collett is on a reimbursement basis. Collett has to submit a requisition to LEDA for reimbursement.

Wells stated then again since Jackson is new here he may understand this, I want to make sure that is for infrastructure and stuff that he is putting in that normally we would have to do or we have agreed to pay for.

Smith stated yes.

Wells stated sewer lines, water lines and that sort of thing.

Smith stated yes. There is an origination fee of 1% the banks are charging and the electric relocation cost. Councilman Jackson I'm sure you are aware this has been kind of an ongoing debate in regards to the cost sharing allocation. The latest agreement is PSO will pay $1.6 million and the City will pay $3.3 million. That could be on the high side because it will be based on actual cost so if it is less we would not drawn down the extra. Certain reimbursements will be coming back to the City and LEDA for prior expenditures. This project has been going for a long time and the City made interest payments on behalf of LEDA. There is a $600,000 note the City is carrying in regards to interest payments that were made. So there will be about a million that will come back to the City. There is a million in contingency as a fudge factor. It may or may not be needed but it is there and then we have the reserve fund. This fund is in the amount of $2,350,000 which is one year payments. LEDA will not be paying interest on that until the stores open. That amount is in the numbers but once the stores open the money will be drawn down and put in an account to serve as a reserve. They expect Kohl's to open in March of 2014 and the others in the same timeframe. Trying to determine when the revenues would come in we have estimated the stores would open in May. Due to a two month lag in sales tax the City would receive sales tax until July of 2014.

Wells asked when are we going to do to the $32 million note at the bank.

Batchelor stated the note goes into place at closing. Draw downs will occur periodically as the project advances.

Wells asked will a payment or an interest payment not be due before we start receiving any funds.

Smith stated there is a provision where we can advance interest out of the note proceeds.

Means asked at what percentage was the reserve set at.

Smith stated it is basically one year payment. The terms with the banks are we are locked in at 4% interest during the construction period. This is a taxable transaction and not a tax exempt transaction so the rates are going to be higher. We can't issue a tax exempt debt because it is for a private entity. Then the rate adjusts under the terms. It is going to be a Wall Street Journal prime plus 1.25%. Today that rate would be 4.5%. We ran our analysis at 5%.

Wells stated let me go back and ask one more question. Where in here are you showing the reserve for the interest payment you are talking about coming out of the loan.

Smith stated it will probably come out of contingency. There will be some sales and use tax during the construction that will be coming in.

Fitch asked we anticipated around $970,000 during construction.

Smith stated that includes the State match. Next is a mortgage registration tax. The banks will be taking a mortgage on the property and that is a dollar per thousand to be paid to the County. There are bond council fees, our firm, bank council and bank trustees. So that is the usage of the funds. Are there any questions.

Wells stated Jackson with the reserve funds we don't have to worry about anything out of the general fund unless the reserve fund drops down below that amount. That is why I was asking where the interest was coming from.

Sheppard asked what is the ultimate disposition of the reserve fund.

Smith stated if there is a reserve fund near the end of the maturity in 2032 it could be used to make the last payment or once the note is paid off it could be returned to LEDA for their use. Most communities use it to make the last payment. That shortens the term for one year.

That would be a decision we could make in eighteen or nineteen years. A couple of other critical deal points is the banks wanted to make sure the note would be paid off as quickly as possible and so we provided in the documents that every year the excess revenues generated half of those are automatically applied to the principal outstanding. We are making sure we pay this off as soon as possible. The other is this note is pre-payable at anytime. You can pay down extra if you wanted. Five or six years down the road if the situation is favorable it is possible you could go out and restructure and refinance the notes. It gives you that flexibility.

Batchelor stated the other half of excess revenues will be available to you for further economic development activities to advance the interest of the City of Lawton.

Wells stated it could also be used to support the general fund of the City of Lawton.

Batchelor stated no this could not. The investments that you create can be used to support the general fund.

Wells stated so as it stand right now the general fund of the City does not get anything from this project until the note is paid off is what you are saying. Whether it is ten, fifteen or nineteen years.

Batchelor stated that is correct. It is important to know that in the terms of dedicated funds that the development generates are available for the purposes in accordance with your ordinance such as capital improvements funds for example.

Wells stated if by off chance something should not work out like we hope it is going to work out how does this affect the City's bond rating since the full phase in credit of the City is being put up for the $31 million.

Smith stated if for some reason we needed to have this subsidized….

Wells stated I'm just saying how are people going to look at the City having a $31 million dollar debt that they could possibly be responsible for.

Smith stated well actually the debt is going to be under LEDA it will not going to be the City's debt.

Wells stated except the auditor every year includes it inside the audit.

Smith stated they do. The agreement the City has in support of the sales tax is a year to year agreement. We went over that with the Council last year. So the only significant obligation the City would have on the debt payment associated with that fiscal year. I don't think there is an issue. I don't believe this will have an impact upon the City's credit rating. I really don't.

Wells stated and you don't think it will cost us any additional percentages on any notes.

Smith stated no. We have a revenue stream from the TIF and debt coverage. We looked at the revenues verse the debt payments and there was a 1.25 or 1.45 coverage based upon the revenues coming in. That gives us a good cushion. I just don't see any impact on the City's credit or borrowing ability unless there is a default.

Batchelor asked I would like to direct your attention to the redevelopment plan. You approved this updated plan at the last meeting. This plan is now being implemented and placed under the development. This represents a significant piece of the implementation of the Ft. Sill Regional Growth Management Plan. It also is a piece that enables this project to qualify as a Military Growth Impact project and it has a lot of inter-relationships with other considerations. This location represents the capturing of a prime opportunity for long term benefit for the City of Lawton. This project becomes a beginning and leverage point for future investors. It increase the desirability of future development of all kinds such as simple city residential developments and apartment units. The desirability of living close to the center of Lawton has vastly increased with the implementation of the development. It would be difficult for me to convey to someone who is not acquainted with the process how complex and challenging this is. I want you to know and appreciate that this required not only a vision but longevity of attention by the community as a whole but especially by those charged with trying to bring it into reality. Some of those key members are trustees of this Authority. Developments with long range centralistic benefit for the community are not easy to do. It takes a vision, community support and attentive leadership. Often the implementation of a project like this will take longer than an elected official will hold office. It requires a continuity supplied by citizens like you who are willing to serve on a voluntary unpaid board and stay with the vision through its rough and difficult points. This Authority has done that. You deserve an immense amount of credit. It is also important to note this could not have happen without an exceptional team working together. I want to express my personal and professional appreciation to Rick Smith, Gary Bush, Mayor Fitch, Richard Rogalski, Frank Jensen, and Steven Greb. You have a wonderful team to compliment your vision and consistency. It is no small matter to have gotten this far. There are many reasons why we might have stumbled and fallen by the wayside but we haven't yet. We are still alive and on the verge of closing the major component of this phase of the project. Are there any questions.

Wells stated I would like to make a comment. I complimented Rogalski the other night at Council meeting because he does wonderful things for the citizens of Lawton. I hate to say it this way but this was unusual for the past Planning Directors. He is doing exceptional work here. Rogalski, the City Attorney and the City Attorney's office are examples of what public employees should be.

Jackson stated one comment that I might make is I want you to understand I was on the Council when this began. I was one of the minds that had the inception of this in the very beginning and I went to the Chamber of Commerce to discuss it with them at that time. So I kind of have been involved. I was at the meeting with Ruhl and Ruhl and lots of developers at that time. We went through the process and so I'm not new to the project. Since we had the economic downfall crisis you guys have changed the situation.

Batchelor stated you guys have just done something miraculous to stay with it when there were so many reasons to become discouraged.

5. Consider adopting a resolution approving the Reciprocal Easement Agreement for the Lawton Town Center by and among Lawton Town Center, LLC, Lawton Lodging, LLC, the Lawton Economic Development Authority, and the City of Lawton, for the Lawton Downtown Redevelopment Project.

Fitch stated Council acted on this item Tuesday. We are accepting their passage.

Batchelor stated previously you authorized the finalization and execution of a Reciprocal Easement Agreement which is critical to the project. Now we have the final version and we wanted to bring it back to you for your approval and questions.

Motion by Wells, **Second** by Means, to approve a resolution approving the Reciprocal Easement Agreement for the Lawton Town Center by and among Lawton Town Center, LLC, Lawton Lodging, LLC, the Lawton Economic Development Authority, and the City of Lawton, for the Lawton Downtown Redevelopment Project. **Aye**: Fitch; Jackson; Means; Nance; Neal; Sheppard; Wells. **Nay**: None. **Motion Carried**.

6. Consider adopting a resolution approving the Property Restrictions Agreement for the Lawton Town Center by and among Lawton Economic Development Authority and Lawton Town Center, LLC, for the Lawton Downtown Redevelopment Project.

Batchelor stated again you had given an authorization for the execution of the Property Restrictions Agreement. It has been modified. In a way it is more favorable with respect to the usage. The restrictions contained in this agreement are those required by the key retailers but they have become more flexible. It represents an improvement and Jensen and I are pleased. This does represent the final version so I would ask for your approval.

Wells stated it appears that some of the things that I found rejectable last time and was told they were deal breakers were taken out. So it looks like a good agreement now.

Means asked is this just binding on these particular sites.

Batchelor stated these properties plus this next phase of the retail.

Means asked the office site.

Batchelor stated it does not affect the office site.

Smith stated in terms of our most recent financial analysis and cash flow we have taken the office building out. Not that we don't believe it is going to happen we just wanted to see what it would look like without that property. We wanted to see the revenues that would be generated for the economic development sales tax that we talked about before. So the most recent cash flow analysis doesn't not have the office site in it.

Wells stated I hate to say this but it would be advantageous to us if it doesn't happen.

Smith stated absolutely. It would be a real plus.

Motion by Wells, **Second** by Neal, to approve a resolution approving the Property Restrictions Agreement for the Lawton Town Center by and among Lawton Economic Development Authority and Lawton Town Center, LLC, for the Lawton Downtown Redevelopment Project. **Aye**: Jackson; Means; Nance; Neal; Sheppard; Wells; Fitch. **Nay**: None. **Motion Carried**.

7. Consider adopting a resolution approve closing on the Phase II Retail Redevelopment for the Lawton Downtown Redevelopment Project.

Batchelor stated this is the final authorization necessary to close this transaction which we expect to occur over the next few days with an effective closing date of March 19th. I mentioned the quality of the team and I should have mentioned the quality of the team we are working with on behalf of the redeveloper and redeveloper's lender. John Collett, Ty Covington, Mike Robbe, Wells Fargo and their council, have been great to work with. This is a tremendous highly skilled team that we have working on this project. It is also worth noting the quality of the retailers. This mix of retailers brings to the table not only strong businesses but strong financial statements and credit records which make them very desirable long term players. One of the benefits on closing is it becomes a reality. Until you close there is always the question "is it going to happen". That question is answered by closing, transferring title of the property, closing on the financing, commencing construction and then your world improves greatly by removing the significant uncertainty. It puts John Collett and his team in a position to move forward on obtaining commitments for the next retail phase. With this closing behind them they will began to do the preliminary contracts and efforts immediately. They will carry this project forward with them to the annual meeting of International Council of Shopping Center held in May in Las Vegas.

Motion by Wells, **Second** by Means, to approve a resolution closing on the Phase II Retail Redevelopment for the Lawton Downtown Redevelopment Project. **Aye**: Means; Nance; Neal; Sheppard; Wells; Fitch; Jackson. **Nay**: None. **Motion Carried**.

1. Consider approving minutes of February 19, 2013.

Motion by Means, **Second** by Jackson, to approve minutes of the February 19, 2013 meeting as written. **Aye**: Means; Nance; Neal; Sheppard; Wells; Fitch; Jackson. **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 a check for $8,370.70 to Mackey Law Firm, to Pinnacle for $489.84 and Furrh and Associates for $655.59

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

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

Fitch stated Furrh had to leave but she did hand out February's report.

Motion by Sheppard, **Second** by Means, to accept the financial report of February 2013. **Aye**: Nance; Neal; Sheppard; Wells; Fitch; Jackson; Means. **Nay**: None. **Motion Carried**.

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 at this time we have nothing to enter into Executive Session for.

DISCUSSION ITEMS AND REPORTS

Fitch stated I want to express my thanks to all who have been involved in this endeavor. LEDA, LURA, CCIDA, Chamber, Batchelor and his office, City of Lawton Legal Staff, Richard Rogalski and his staff, Rick Smith, Gary Bush and the media. We are finally at a point I believe we can answer any question you might have. This has been a true test of perseverance and all of you are to be commended for staying on the ship and keeping it on course. Also thanks to the hotel group and all those gentlemen that came to the table. John Collett and his organization bring tremendous creditability to this project. It has been tough but when our backs were against the wall we pushed forward. Today we are here on what we set out to do years ago and I'm excited about it.

ADJOURNMENT

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