MINUTES
LAWTON ECONOMIC DEVELOPMENT AUTHORITY
2ND FLOOR CONFERENCE CENTER
NEW CITY HALL
NOVEMBER 19, 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; Neal, Larry; Sheppard, Ernie; Wells, Doug.
ABSENT:	Nance, Ron.
OTHERS PRESENT:	Rogalski, Richard, Planning Department; Frank Jensen, Legal Department, Denise Ezell, City Clerk's Office.

INTRODUCTION OF GUESTS

BUSINESS ITEMS

1. Consider approving minutes of September 5, 2013.

Motion by Wells, **Second** by Means, to approve minutes of September 5, 2013 as written. **Aye**: Fitch; Jackson; Madigan; Means; Neal; Sheppard; Wells; Denham. **Nay**: None. **Motion Passed.**

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

Rogalski stated all our accounts are doing fine. I don't know if there are any other items for the contingency fund. The developer has spent less than half of his available funding. You see the buildings going up and we are making great progress. There is $367,000 remaining in the PSO reimbursement fund since their last draw and I don't believe we will see another draw from them.

Fitch stated yesterday they were working on distribution lines by the buildings. We are liable for some of that cost but I think the developers are responsible for the final hook ups. Draw request were for $2.9 million and they paid $1.5 million. If this is complete it looks good.

Rogalski stated I'm trying to make inquiries to see if they are complete. There was a disbursement made on the Lawton Economic Development fund which was a reimbursement to the City of Lawton.

Fitch asked does anyone have any questions in regards to this report. Thank you.

3. Report on the status of sales and use tax reporting activities and the apportionment of sales and use taxes in connection with the construction of the Hotel-Conference Center

and retail portions of the Lawton Town Center Project and other funding and financing activities of the Amended Lawton Downtown Economic Development Project Plan.

4. Consideration and possible action approving the application by the City of Lawton for state local government matching funds pursuant to the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act and the certification of the apportionment of local sales taxes by the City of Lawton for the period ending June 30, 2013.

(These two items were combined)

Batchelor stated I have distributed the consolidated report and worksheet that indicates the local sales and use taxes which have been reported in connection with the project. This represents an effort on the part of this project to ensure that purchases that are made for which taxes could be charged are purchased in such a way that the taxes are attributable to the City of Lawton. For that to occur under the interstate rules it is the point of delivery of the materials that control the tax rates and the jurisdiction that is entitled to those collected taxes. These reports represent the taxes that we know have been documented whether they have already been paid or in some cases use taxes are still due. On sheet one you see the sales and use tax totals through June 30, 2013 came to $30,888.77. We ran that total up through our current reports and it grows to $63,627.68. In the construction and development process there are accumulative delays before you are able to pin down that taxes have been paid for the benefit of the project. The contract has to be let and then the sub-contractor purchases the material. Those reports don't flow up the chain until a month or two after they have occurred. They don't hit the payment and reporting level until they get to the general contractor. If they don't have the reports they notify the sub-contractor to inform them they have failed to give sufficient information. There are time elements consumed in the process. By the time we get a certification from the redeveloper and it gets into our reporting system it is several months after the actual purchase. These are the reports we have to this point and they are sufficient and doubly so because we have an approved application by the State for matching funds. Our first semi-annual application is for $30,888 and automatically the state matching funds becomes twice that. Rick Smith's firm is consolidating numbers, reviewing them and giving us their independent certification each month on the amount of sales and use tax that have been adequately documented.

Fitch stated you may recall we choose to use Rick Smith and his firm at a cost of $1500 a month.

Batchelor stated this is a pioneering effort in many respects. There was one other project in which we utilized this approach but it was not very systematically applied. While the number may not be huge it is important for the financing of this project that we capture every dollar and eligible revenue that was generated in order to give maximum support and creditability to the funded financing.

Sheppard asked what do you think the final numbers are going to look like.

Batchelor stated several hundred thousand dollars. Our biggest concern about this process is not what we do see but are there activities out there that are not showing up on the report. Soon we should be able to compare total contractor cost to those cost that represent purchases of materials and supplies. We should get a sense of whether a reasonable portion of those activities are being reported.

Sheppard asked will you have a way to go back.

Batchelor stated we have legal leverage with the redeveloper. If there is a moderate amount of loss we would not be inclined to worry about it but if there is a sufficient gap then we would come back to you asking if it were sufficient enough that we should offset any financial obligation that we have against the redevelopers. We have hold backs with the redeveloper and future revenue streams in connection to the hotel conference center so if appropriate we could establish offsets against those payment obligations. We have leverage but it is too early to say whether there will be a need for that. I would just alert you to the fact we cannot truly tell whether we are getting reports on all the materials that are purchased or not.

Denham stated there are no changes on the use taxes due. Do we think they will eventually be paid?

Batchelor stated they will be paid. They have a legal obligation to pay them. What happens with use taxes if a purchase is made from a supplier in another state that is not a part of the interstate compact the seller simply doesn't charge taxes and the buyer/sub-contractor is obligated to pay the taxes by filing out a use tax return with the State of Oklahoma? The fact that it shows up here means the purchase transaction has been reported but we don't have evidence that the contractor has remitted the use tax payment to the State of Oklahoma.

Madigan asked looking at the numbers for September for the hotel conference center would you say they are about done.

Fitch stated there are still a lot of dollars there. They will start bring things in the middle of December or the first of January to finish the conference center. They want to move into a temporary office inside the conference center. The fourth, third and second floor are all sheet rocked and taped and bedded. They are putting the finish on the walls and paint on the fourth floor. They have tiled the floors and will start hanging doors. They started at the top and came down. They will be ready to start moving furniture by the end of December.

Sheppard asked $2.5 is what percentage of the total purchase.

Batchelor stated I don't know the answer to that. All we know is the hotel is further along in the construct payment process. We also know that hotels typically have a very large purchase near the end for furniture and fixtures.

Sheppard asked what was the total cost for the hotel conference center.

Fitch stated almost $30 million.

Madigan stated this seems awful light.

Batchelor stated that is correct. We have a lot of numbers that aren't there.

Fitch stated when they start the kitchen and all the stainless you will see lots of dollars.

Batchelor stated one thing we have not gotten from Sam Kumar that we are receiving from Collett is the redeveloper's umbrella certification. The hotel conference center report looks good but it has not been accompanied by an umbrella certification. We have notified them we want this certification because it is the only evidence we have that follows the pieces of the project. I don't know that any have been omitted but I don't know that they are all there.

Fitch stated this is something none of them are accustomed to doing but they have all adapted very well.

Wells asked on the retail development side why is nothing showing for July.

Batchelor stated we just don't have anything for July. I don't know the answer to why.

Motion by Wells, **Second** by Means, to approve the application by the City of Lawton for state local government matching funds pursuant to the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act and the certification of the apportionment of local sales taxes by the City of Lawton for the period ending June 30, 2013. **Aye**: Jackson; Madigan; Means; Neal; Sheppard; Wells; Denham; Fitch. **Motion Passed**.

Neal asked can you tell us of any of the little stores that will be coming in.

Fitch stated at this time I can't mention names.

Wells asked will there be any sit down restaurants.

Fitch stated there will be 2 located at Jefferson's Funeral Home and Adams Corner site.

Madigan asked can you give us an update on the west side of 2nd Street.

Fitch stated Collett had expressed desire to go there but wants to get the east side complete first. It is a little premature to say he is ready to go with the west side. He needs to get a cash flow started. I don't want LEDA to have to purchase the property. I would rather the developer do all the purchasing. Are there any other question.

DISCUSSION AND REPORTS

ADJOURNMENT

Motion by Wells, **Second** by Jackson, to adjourn. **Aye**: Madigan; Means; Neal; Sheppard; Wells; Denham; Fitch; Jackson. **Motion Passed**.