

MINUTES
Lawton Economic Development Authority
Special Meeting
February 26, 2024—2:00 PM
2nd Floor Conference Room
City Hall - 212 SW 9th Street
Lawton, Oklahoma 73501

Fred Fitch, Chair, called the meeting to order at 2:00 PM. in the 2nd floor conference room of City Hall.

STATEMENT OF COMPLIANCE WITH OKLAHOMA OPEN MEETING ACT, 25 O.S. 301-314

Meeting notice and agenda were posted by the City Clerk's Office as required by State Law.

ROLL CALL:

PRESENT: Fred Fitch, David Means, Larry Neal, Randy Warren*, David Madigan, Ron Nance, George Gill, Ernest Sheppard, Jason Hensley

ABSENT: None

OTHERS PRESENT: Richard Rogalski, LEDA Executive Director; Susan Schlecht, Finance; Tim Wilson, Acting City Attorney; Tammy Branstetter, City Clerk's Office; Rusty Whisenhunt, Public Utilities Director; Mitchell Dooley, Parks & Recreation Deputy Director; Kim McConnell, Lawton Constitution; Seth Marsicano, KSWO 7 News

*Arrived at 2:02PM

INTRODUCTION OF GUESTS

None.

BUSINESS ITEMS

1. Consider approving the minutes of the October 10, 2023, meeting.

Motion by Madigan, Second by Gill, to approve the minutes of the October 10, 2023 meeting.

AYE: Gill, Warren, Madigan, Nance, Sheppard, Fitch, Neal, Hensley, Means. **NAY:** None.

MOTION PASSED.

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

Schlecht presented the following invoices for the period of January 19 – February 26, 2024:

- February 2024 Cash Transfer (Transferred on 2/7/2024)- \$285,225.00 transferred from TIF 2 to apportionment fund
- Consultant Fee (Invoice dated 1/01/2024)- \$4,141.94 to Richard Rogalski Consulting
- Consultant Fee (Invoice dated 1/31/2024)- \$6,420.00 to Richard Rogalski Consulting

- TIF 2 January 2024 Legal Expense (Invoice dated 2/13/2024)- \$1,020.00 to Center for Economic Development Law
- Bank Trust Fee (Invoice dated 12/22/2023)- \$2,500.00 to Bank of Oklahoma

Motion by Madigan, Second by Hensley, to approve the expenses from January 19 – February 26, 2024 as presented. **AYE:** Gill, Warren, Madigan, Nance, Sheppard, Fitch, Neal, Hensley, Means. **NAY:** None. **MOTION PASSED.**

3. Receive Financial Report(s) and take action as deemed necessary.

Schlecht presented the Balance Sheet for January 2024, the Income and Expense Activity Report for January 2024 and the LEDA Loan Statement for the time period of September 2, 2023 through August 31, 2024. A copy of the Financial Report may be obtained from the City Clerk's Office upon request.

Madigan noted that the property tax income came in earlier than it did last year.

Rogalski said much of this incoming revenue is from the Republic TIF district. He noted that this income comes from the State, and they're a notoriously slow payer.

With regards to the Authority's long-term liabilities, Madigan asked what the \$160,000 due to the LEDC is for.

Rogalski said this is repayment for roadway installation at the new Pepsi Co plant in TIF District 4 – it will be paid back with incoming tax revenue generated by TIF District 4.

Motion by Sheppard, Second by Means, to approve the Financial Report as presented as presented. **AYE:** Gill, Warren, Madigan, Nance, Sheppard, Fitch, Neal, Hensley, Means. **NAY:** None. **MOTION PASSED.**

4. Consider approving an engagement letter with Hatch, Croke & Associates, P.C. for bookkeeping services, preparation of financial statements, and compilation services for the year ending June 30, 2024, and take action as deemed necessary.

Chairman Fitch thanked Schlecht for the great job she has done. He noted that because the Authority's financials are becoming so complex, it's time to start looking for some outside assistance.

Chairman Fitch said this engagement letter does not provide a dollar amount. Scott Hatch has advised he would not be able to give a dollar amount before knowing what all he will be dealing with.

Chairman Fitch noted that both CCIDA and the LEDC use Scott Hatch for their financials.

Rogalski said the FISTA uses Scott Hatch.

Madigan said the FISTA, the Chamber of Commerce and the Airport Authority use Scott Hatch.

Hensley said the United Way also uses Scott Hatch.

Madigan said hiring an outside agency to handle the Authority's financials is a good separation of powers.

Rogalski said that managing the Authority's financials was a lot of work when they had only TIF 1 and TIF 2 as active districts. He noted that it's gotten even more complex with the activation of additional TIF districts.

Sheppard asked if Scott Hatch will be attending meetings on a monthly basis.

Rogalski said it's not likely to be Scott Hatch, but rather a financial advisor from his office that will attend Authority meetings on a monthly basis.

Chairman Fitch noted that Scott Hatch's office would first begin by compiling and reviewing the Authority's financial data. This would take place over the next few months. Once all the data has been reviewed, Scott Hatch's office would be able to provide a more concrete dollar value for a contract. The proposed contract would come back to the Authority for final approval.

Motion by Warren, Second by Gill, to approve the engagement letter with Hatch, Croke & Associates, P.C. for bookkeeping services, preparation of financial statements, and compilation services for the year ending June 30, 2024. **AYE:** Gill, Warren, Madigan, Nance, Sheppard, Fitch, Neal, Hensley, Means. **NAY:** None. **MOTION PASSED.**

5. Discuss a request from Lawton Lodging, LLC, to extend the term of the Amended Function Space License Agreement, which provides for the rebate of the Hotel Occupancy taxes collected at the Hotel-Conference Center located at 135 NW 2nd Street.

Chairman Fitch said this Agreement is due to expire in March of this year.

Rogalski noted that the TIF 2 District was activated in June of 2010, and it's a 25-year TIF. However, the occupancy tax increment was only set up for 12 years. Therefore, TIF 2 is no longer collecting occupancy tax revenue. Because of this, Rogalski said the Authority no longer has the means to give Lawton Lodging this rebate. Rogalski said if the Authority wishes to extend this rebate, they will not need City Council's approval. However, Rogalski said it's important to note that the City no longer gets the state match for these taxes. As the downtown TIF 2 District is reviewed and amended going forward, the City may or may not wish to extend the hotel occupancy tax increment, at which point they would begin receiving State matching funds again.

Madigan asked if this issue would be handled by the Authority or the City Council.

Rogalski said this would be a City Council business item, and their decision will direct the Authority on how to move forward.

Chairman Fitch said he and Richard will be meeting with City staff regarding this issue.

Madigan asked how much money Lawton Lodging has received over the specified 10 year period.

Rogalski said they've received \$2.01 million thus far.

No action was taken on this item.

6. Consider dedicating a Right of Way Easement to the City of Lawton for future roadway and utility installation along SW 112th Street and take action as deemed necessary.

Rogalski said this property is now in the Authority's name. He said the Authority now needs to dedicate the 60 foot right of way to the City to allow for utility installation.

Chairman Fitch noted that CCIDA is aware of the need for this utility installation.

Rogalski said that per the Agreement, both the Authority and CCIDA have agreed to dedicating easements as necessary for utility installation.

Motion by Gill, Second by Hensley, to dedicate a Right of Way Easement to the City of Lawton for future roadway and utility installation along SW 112th Street. **AYE:** Gill, Warren, Madigan, Nance, Sheppard, Fitch, Neal, Hensley, Means. **NAY:** None. ***MOTION PASSED.***

7. Discuss and receive an update on the resolution approved during the October 19th, 2023, LEDA meeting which authorized the preparation of bid packets related to certain capital improvement projects and take action as deemed necessary.

Wilson provided background information regarding this item. He said Resolution 23-04 authorized the preparation of bid packets related to certain capital improvement projects, specifically the McMahon Auditorium renovation project and a landfill expansion project. A copy of Resolution 23-04 may be obtained from the City Clerk's Office upon request.

Wilson said that initially the City's bond counsel thought these projects would be handled through the Authority. Wilson noted that the Authority passed the Resolution with wanting some clarification from bond counsel regarding the Authority not being held liable for any incurred debt.

Wilson said City staff worked with the City's bond counsel to look closely at some of the previous financing that had been done on the CIP, and it was determined that the Lawton Industrial Development Authority (LIDA) currently has two outstanding notes on the CIP. They have an issuance from 2019 that will expire later this year for approximately \$7.6 million, and they also have a 2017 issuance for \$31 million that will mature in 2026. Wilson said the City's bond counsel believes that LIDA would be in a better position to finance this money better than LEDA, and it would cause all three debts to be on parity together.

Wilson said that staff is recommending the CIP projects be handled through LIDA instead of LEDA. He said LIDA will vote to approve going out for bids for these projects at a future meeting.

Wilson said no action needs to be taken at this time. He said based on what happens with LIDA, staff may be bringing back a resolution to resend Resolution 23-04.

8. Review and discuss Draw Request #1 from Westwin Elements in the amount of \$593,366.69 and take action as deemed necessary.

Rogalski provided background information on this item. A copy of Draw Request #1 from Westwin Elements may be obtained from the City Clerk's Office upon request.

Gill asked if City inspectors should be signing off on draw requests.

Rogalski said not at this point. He noted that the Authority does not need to take action on this item today, but rather review the draw request and provide staff with further direction on how they would like to proceed. He said staff does not have yet have all the required documentation for this item to be approved today.

With regards to retainage, Gill said it's normal to require a 5-10% retainage. He asked why the contractor working for Westwin has listed zero retainage. He asked if this is because the contractor is not owned by Westwin.

Rogalski said Westwin is acting as the general manager for the project. He said there are two contractors who have done work specifically for this draw request – T & G Construction and Elite Star Construction.

Gill said we still have inspections that should be signed off on. He was told there would be three inspectors that would inspect Westwin construction.

Rogalski said there are multiple inspectors who will be inspecting the construction. He said there are City inspectors who are ensuring all building code requirements are being met.

Gill asked if there is a specific inspector assigned to the completion process.

Rogalski said the Authority members will get a final inspection report. He said Rusty Whisenhunt, Public Utilities Director and graduate construction manager from Oklahoma State University, will be conducting inspections. Mr. Whisenhunt has 40 years of experience in construction management. Rogalski said he will also be assisting with inspections. Rogalski said he, Whisenhunt and a few other City staff members have a monthly project status meeting with Westwin.

Gill asked if the final version of Draw Request #1 will be presented to the Authority for approval.

Rogalski said yes – once the inspections have been completed and all required documentation has been submitted, the Authority will vote to approve or disapprove the request. Once the Authority receives the final request, they have 15 days to respond. To meet this deadline, the Authority may have to call a special meeting here and there.

Chairman Fitch noted that the idea of hiring an outside agency to assist with construction inspections was brought up, but ultimately it was decided that Richard and Rusty's experience would be sufficient.

Gill said he is comfortable with Richard and Rusty overseeing inspections, but he asked if a 5-10% retainage should be added to each pay estimate.

Rogalski said our contract with Westwin states we retain 10%, regardless of what Westwin's agreement may be with their contractor.

Rogalski noted that while he and Rusty may be suitable to oversee project construction of the pilot plant, the Authority may want to look at hiring a full-time inspector to oversee project construction for the full-scale commercial plant if it is indeed built in Lawton.

Madigan said that whatever process the Authority ultimately decides upon to approve these draw requests needs to remain consistent. He said that the Authority, CCIDA and the City of Lawton promised that a third-party inspector would be hired for Westwin construction inspections. He said it's critical that one be hired if the commercial plant is built here.

Gill said he would like for Westwin to have future draw request submissions timed to where they coincide with the Authority's monthly meeting if possible. He also said the draw requests should notate the City's 10% retainage requirement.

Whisenhunt noted that the waterline has been installed and Westwin now has water on site.

No action was taken on this item.

9. Consider approving a Redevelopment Agreement by and among the City of Lawton, the Lawton Economic Development Authority, the Lawton/Fort Sill Economic Development Corporation, and Fischer59 Properties, LLC, for the development of a distribution center within the Airport Industrial Park.

Rogalski noted that staff had anticipated this Agreement being ready before the meeting today, but it's currently still going through the process of revisions. The final version will be brought before the Authority for approval at a future meeting.

No action was taken on this item.

REPORTS

1. Receive a report from the LEDA Executive Director.

Rogalski said the TIF 3 revenue is starting to flow in. Staff has been making distributions to the eligible taxing entities as specified in the Agreement. He said it's also time to start paying the City of Lawton back for their infrastructure investments.

Rogalski said there were multiple notice issues with the rezoning of the property that Westwin is located on. To avoid any further confusion, Rogalski said staff is going to hold off a while on conducting this public hearing.

ADJOURNMENT

Motion by Gill, **Second** by Warren, to adjourn the February 26, 2024 meeting. **AYE:** Gill, Warren, Madigan, Nance, Sheppard, Fitch, Neal, Hensley, Means. **NAY:** None. ***MOTION PASSED.***

There being no further business, the meeting adjourned at 3:01 PM.