MINUTES
LAWTON INDUSTRIAL DEVELOPMENT AUTHORITY
SPECIAL MEETING
FEBRUARY 14, 2017 - 5:00 P.M.
SECOND FLOOR CONFERENCE ROOM NEW CITY HALL

The meeting was called to order at 5:00 p.m. by Michael Tenis, Chairman. Notice of meeting and agenda were posted on the City Hall notice board as required by law.

ROLL CALL
PRESENT: Givens, Onreka; Jackson, Keith; Johnson, Albert (enter late); Tenis, Michael; Warren, Randy.
ABSENT: None.
OTHERS PRESENT: Jerry Ihler, City Manager; Frank Jensen, City Attorney; George Hennessee, Public Works; Denise Ezell, City Clerk's Office.

BUSINESS ITEMS:

2. Consider the Minutes of the June 10, 2014 meeting.

Motion by Tenis, **Second** by Givens, to approve the minutes of June 10, 2014. **Aye**: Jackson; Tenis; Warren; Givens. **Nay**: None. **Motion Passed**.

3. Consider authorizing the Lawton Industrial Development Authority (the "Authority"), through its financial advisor Bank of Oklahoma Financial Securities, to take the actions necessary to solicit the sale of and receive bids on a Sales Tax Revenue Note, Series 2017 (the "Note") in the aggregate principal amount not to exceed thirty one million dollars ($31,000,000) for the financing of certain public safety facilities and paying costs of issuance related thereto; waive competitive bidding with respect to soliciting the sale of the Note and authorizing the Note to be sold on a negotiated basis; authorize a Sales Tax Agreement by and between the City of Lawton, Oklahoma (the "City") and the Authority pertaining to a year-to-year pledge of certain sales tax revenue in connection with soliciting the sale of the Note; authorize a Series 2017 Note Indenture approving the issuance and securing the payment of the Note in connection with soliciting the sale of the Note; affirming that the organizational document creating the Authority will be subject to the provisions of the Note Indenture once approved; approve disbursements of the proceeds of the Note once approved; authorize and direct execution of the Note and other documents relating to the transaction once approved; and authorize officers of the Authority to take any action necessary and execute all related instruments and documents to effect said issuance upon final approval of the sale of the Note.

Jensen stated this item relates to the 2015 sales tax that was approved by the voters for a safety facility. This was a big capital improvement project. After a lengthy design process we are ready to initiate financing for up to $31 million. I want to explain why we are at the Lawton Industrial Development Authority verses the Lawton Water Authority or any other Trust. When you look at the trust indenture for the Lawton Water Authority it was originally created for just water and then amended to define the phase "utility systems". That is limited to water, sewer and refuge. The BOK financial advisor indicated it should be a Lawton Water Authority item. This is not a water, sewer or refuge project. When the Lawton Industrial Development Authority was created it was limited to industrial development. The trust indenture has been amended two (2) or three (3) time. The last amendment is the reason this is before LIDA today. In the indenture under purposes it reads like this "The purpose of this trust are to promote, encourage and further the accomplishment of all activities where are or may become of benefit to the Beneficiary and which have a public function or purpose, including, but not limited to:" there are several things listed but I'm only going to read the most relevant one. "The provision to such extent and in such manner as is now or hereafter shall be a property public function of the Beneficiary" meaning the City of Lawton "of such activities and facilities as are or may be deemed a property public function of the furtherance of the general welfare health, safety, economic, environmental, governmental operation efficiency, education, scientific, transformational, recreational, and cultural development of the Beneficiary and its inhabitants." What that means is anything that a municipality can do as a lawful municipal function LIDA can do. I don't know why this was broadened this way many years ago. I expressed my strong opinion with the financial advisor that this needs to be LIDA. You are not approving any financing today. You would be approving and authorizing the financial advisor, BOK, to solicit bids, receive bids and then present them for up to $31 million. The timetable would be sometime in March.

Ihler stated they plan to receive bids the end of March.

Jensen stated they want at least 30 days or a little more. The plan is to solicit, receive and evaluate bids. Then the items would have to come back for the actual approval of financing to LIDA and City Council would award a bid. Once the bid is awarded we would head towards a closing of the transaction. That will take until April or May. Once the transaction is closed we proceed with having funds available to do the project. The sales tax proposal that was approved contemplates some projects could collect enough money in a relativity short period of time. For the big ones there is language that says the funds are to be deposited into a dedicated account and it can be used for debt services. Debt services mean taking out financing like we are proposing today.

Ihler stated the design is 95% complete and should be complete near the timeframe of the financing. We would go out to bid in the April timeframe and award in May or June. We will award the project in the June timeframe and the goal is to start construction and issue a Notice to Proceed in July.

Tenis asked are there any questions from anyone.

Warren stated I do. This goes back to what Jensen was saying and I didn't understand from the very beginning when I first read this. We have never done this before so why are we doing this now? We have built buildings, we have built fire stations, and we have done a lot of project that we have had to sell bonds on.

Jensen stated this is different than selling bonds. When you sell bonds those are backed by property taxes.

Warren stated wrong words. We haven't done this before so why are we doing it now.

Jensen stated we did some financing with LIDA in 2014. I don't remember the projects.

Warren stated that was when we borrowed money against the property on 67th Street to do City Hall. What I'm asking is why suddenly are we doing this through LIDA rather than the Council doing it. We have done it before so why are we doing it this way.

Jensen asked do you mean Council doing it.

Warren stated yes.

Jensen stated the Council sets up Trust as financial agents. The only reason the Lawton Water Authority was created was for financing purpose but, it is limited to those purposes. Council set up LIDA for industrial development purposes.

Warren stated the agenda item for Council says LIDA is doing this because it would negatively impact Council's financial position if they did it. What does that mean?

Jensen stated I don't remember that language being in the item. The reason Council is doing this is because they set up trust as a financing mechanism. Council will do an agreement between the City of Lawton and LIDA, for the benefit of whoever buys the note, to place the sales tax revenue from the 2015 sales tax to pay for this.

Ihler stated I believe the Finance Director used the wording "negatively impact" because we have not collected the funds up front for the $31 million. We are going to borrow the money and pay it back with the sales tax collection. If we tried to do it now it would negatively impact us because we don't have the funding. We haven't collected enough.

Jackson stated Warren is asking how would it negatively impact our budget.

Ihler stated we don't have $31 million dollars to be able to go forward and we haven't collected enough from the 2015 sales tax. If I remember right the school gets a portion of that up front.

Jackson stated he is referring to the phrase "Financing of the Public Safety Facility, in the form of the Note referenced above, is necessary in order not to negatively impact the City's present financial position and/or ongoing operations."

Ihler stated I think he is saying we could not fund it out of the budget.

Jensen stated there are other smaller projects underway that will be grabbing some of the funding.

Jackson stated my next question is what difference does it makes whether we do it through the City or through LEDA. Through the city is it just simply because we don't have it in the budget.

Jensen stated that is a different question. This sales tax was approved by the voters. We have to have a financing mechanism. Oklahoma is on a pay as you go basis so there isn't going to be a debt limitation issue. Chris Canter and bond council said they expect to see the financing done by one of the Trust. A Trust doesn't have to worry about Oklahoma's debt limitations where you pay as you go. It is customary and they expect it. If they don't see it they will question why we are doing it differently compared to what they have always seen. A Trust is always out front and the City backs it with the proceeds of a sales tax or bond. This is what they expect. This is what both the financial advisor and bond council wants to see so we get the kind of bids we want to receive. Hopefully we will receive some good ones so we can evaluate and award one.

Warren stated so you are saying that prior Councils have never solicited the sell and received bids for a sales tax revenue note.

Jensen stated if they are doing some kind of financing they have gone through one Trust or another. They have always done that. I can't give you all the examples.

Jackson stated I remember going through the Water Authority before.

Jensen stated when we had a different bond council there were times you could have questioned whether it should have been the Water Authority. I'm the one that raised this issue on the Water Authority for this type of project. This does not meet the scope of the definition of utilities systems in the Lawton Water Authority. I don't want to have to defend a claim that the Lawton Water Authority wasn't the appropriate Trust. I know LIDA is and that is why we are here today.

Warren stated if I make the leap and accept that, which I kind of understand what you are saying, how would a bond council look at it more positively for LIDA than an entity that actually takes in money.

Jensen stated in the case of any of these projects the same thing happens. If we have sales tax proceeds there is a pledge of revenue by an agreement. That agreement is mentioned in both this item and the item going before Council. Because the City of Lawton receives the sales tax they pledge up to $31 million dollars of that tax collection to whatever Trust.

Warren stated it looks like to me LIDA is going to sell these notes and Lawton Water Authority is going to raise the money. When you are looking at the budget where is the financial tracking. Where is it tracked so you see where the money travels?

Jensen stated the Trust is acting as the financing entity. The agreement states "authorizing a Sales Tax Agreement by and between the City and the Authority pertaining to a year-to-year pledge of certain sales tax revenues in connection with soliciting the sale of the Note". The tracking is the money goes into a CIP account after it is collected by the City. The City has to pledge to LIDA that we are going to be allocating up to $31 million dollars into LIDA's hand to finance this transaction once it is closed. This sales tax agreement is not going to be approved tonight. It will be approved when we actually award a bid. Once you award a bid all the documents that will implement the transactions, including the sales tax agreement, have to be approved by both LIDA and the City.

Warren stated I guess I'm still not able to make the leap. I understand how the Lawton Water Authority can do this because they have an income stream.

Jensen stated the Lawton Water Authority does receive its own revenue and it is called the "enterprise fund". When they finance something that doesn't use their revenue, which has happened frequently over the years, they have to have the same kind of pledge from the City. The Waurika surcharge is one thing but, a southeast water treatment plant is another. If they are using their own funding that is a totally different transaction. When they are not using their own funding they have to have the same kind if sales tax agreement or property tax backing.

Warren stated in the 4 years that I've been on this Authority I've never seen a budget or audit that this entity has had. Will we have to have an audit now? I don't understand how we can facilitate a financial deal when we don't have any kind of information on where the money is coming from or where it is going.

Jensen stated it is coming from the 2015 sales tax. The Trust audits like LEDA, Lawton Water Authority and LETA are being done under the umbrella of the City of Lawton. The Museum Authority and the Airport Authority still do their own. Ihler is that correct.

Ihler stated yes.

Jensen stated we started doing that about 2 years ago. They started this with the last Finance Director to save time and money. We will have to audit the use of these funds.

Jackson stated so to satisfy the concerns or legalities of bond council we have to use LIDA as a flow through.

Jensen stated it was my point and not a concern of the bond council.

Jackson stated but you referenced them a while ago.

Jensen stated that is correct. Here is a copy of an email they sent to me. It says that LIDA has the best power to do this transaction and not the Lawton Water Authority. I raised that issue myself and Ihler was there when I did. I don't want to do a transaction that could be challenged on a technicality. Bond council agreed since LIDA's powers are as broad as they are.

Warren stated I guess I'm just not able to make the connection. When we did the deal on the land with the theatre we had collateral. If we sell these notes then LIDA owes $31 million. We have to collect that $31 million from the City of Lawton. What happens if the City of Lawton can't pay that money?

Jensen stated the City of Lawton must pay that money. It is in the agreement or they will be in breach. The financial advisor will be at the Council meeting and I assume he will talk about a debt service schedule. They have projected out what will be necessary knowing that there are other projects to come out of the 2015 sales tax. They have projected what the financing needs will be and what the revenue needs will be. There will be a certain period they will recommend for the note and the money to be collected. By state law and under this agreement it has to go into a CIP account to be turned over to LIDA to satisfy its debt service. LIDA has no assets, other than that, for anyone to go after. They don't need any when being used as the financing agent.

Warren asked why haven't we done this in the past.

Jensen stated LIDA did the Bridge Loan.

Tenis stated the $2.5 million.

Jensen stated we had to have a supporting agreement from the City to pay the money.

Jackson stated Warren you can't not do a project out of fear of not colleting enough money to pay the debt. We all operate off…..

Warren stated I still don't understand why suddenly we have to do it a different way.

Jackson stated I don't know that it is sudden. I recall several times using the Water Authority and he is saying that the definition doesn't work under the Water Authority anymore. Now the definition falls under LIDA.

Jensen stated I'm saying it won't work for a project like this. There have been some in the past where there was water and non-water. LIDA is the best Trust in existence right now to do this project. There is no question in my mind about that. In other circumstances it would be the Lawton Water Authority. With the TIF District it was the Lawton Economic Development Authority. It depends on what we are talking about.

Tenis asked is there any other discussion.

Motion by Jackson, **Second** by Givens, to approve the Lawton Industrial Development Authority (the "Authority"), through its financial advisor Bank of Oklahoma Financial Securities, to take the actions necessary to solicit the sale of and receive bids on a Sales Tax Revenue Note, Series 2017 (the "Note") in the aggregate principal amount not to exceed thirty one million dollars ($31,000,000) for the financing of certain public safety facilities and paying costs of issuance related thereto; waive competitive bidding with respect to soliciting the sale of the Note and authorizing the Note to be sold on a negotiated basis; authorize a Sales Tax Agreement by and between the City of Lawton, Oklahoma (the "City") and the Authority pertaining to a year-to-year pledge of certain sales tax revenue in connection with soliciting the sale of the Note; authorize a Series 2017 Note Indenture approving the issuance and securing the payment of the Note in connection with soliciting the sale of the Note; affirming that the organizational document creating the Authority will be subject to the provisions of the Note Indenture once approved; approve disbursements of the proceeds of the Note once approved; authorize and direct execution of the Note and other documents relating to the transaction once approved; and authorize officers of the Authority to take any action necessary and execute all related instruments and documents to effect said issuance upon final approval of the sale of the Note. **Aye**: Johnson; Tenis; Warren; Givens; Jackson. **Nay**: None. **Motion Passed**.

Jackson stated I would like to say for those who are concerned about the timeliness of the project this is of great interest to everyone here and on Council. There has not been a moment that City staff hasn't been working on putting a design together. We are moving as fast as I feel they can more. Do you agree?

Hennessee stated yes.

Jackson stated I see and hear the comments about why wasn't it built last year.

Ihler stated when you are looking at a $31 million dollar project that includes over 100,000 square feet, a Police Department, Fire Station, jail and Municipal Court, you are looking at 15 to 18 months for a design timeframe. The design started in October 2015 and will be done in about 18 months. We are looking at a construction timeframe of about 2 years.

Jensen stated I want to thank everyone for being here. This was an important meeting.

4. Adjournment

There being no further business the meeting adjourned 5:33 p.m.

Motion by Warren, **Second** by Jackson, to adjourn. **Aye**: Tenis; Warren; Givens; Jackson; Johnson. **Nay**: None. **Motion Passed.**