MINUTES
LAWTON URBAN RENEWAL AUTHORITY

Minutes of the Lawton Urban Renewal Authority meeting held May 21, 2013 in the 2nd Floor Conference Room, City Hall, 212 SW 9th Street, Lawton, Oklahoma.

The meeting was called to order at 1:26 p.m. by Chairman Ernest Sheppard.

Notice of the meeting and agenda were posted on the City Hall bulletin board as required by State law.

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1. **ROLL CALL**

MEMBERS PRESENT: John P. Purcell, Jr.
Albert Johnson
Jerry Evers
Ernest Sheppard
Jacob Brox

MEMBERS ABSENT: None

OTHERS PRESENT: Richard Rogalski, Executive Director
Steven Greb, Assistant City Attorney
John C. Mackey, Legal Counsel
Cindy Augustine, Planning & Subdivision Administrator
Kristin Duggins, Financial Services
Jackie Monette, Recording Secretary

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2. CONSIDER APPROVAL OF THE MINUTES OF THE APRIL 16, 2013 MEETING OF THE LAWTON URBAN RENEWAL AUTHORITY.

MOTION by Purcell, SECOND by Johnson, to approve the minutes of the April 16, 2013 meeting of the Lawton Urban Renewal Authority.

VOTE ON MOTION: AYES: Johnson, Evers, Sheppard, Brox, Purcell. NAYS: None. MOTION CARRIED 5 – 0.

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3. CONSIDER A RESOLUTION APPROVING THE EXPENDITURES AND ACCEPTING THE FINANCIAL STATUS REPORT OF THE LAWTON URBAN RENEWAL AUTHORITY FOR THE MONTH OF APRIL, 2013.

The balance in the bank as of March 29, 2013 was $44,510.53. After deposits of interest and disbursements, the bank balance as of April 30, 2013 was $44,395.97.

MOTION by Evers, SECOND by Brox, to adopt LURA Resolution No. 13-06, approving the expenditures and accepting the financial status report of the Lawton Urban Renewal Authority for the month of April, 2013.

VOTE ON MOTION: AYES: Evers, Sheppard, Brox, Purcell, Johnson. NAYS: None. MOTION CARRIED 5 – 0.

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4. CONSIDER SENDING AN INVOICE TO THE LAWTON ECONOMIC DEVELOPMENT AUTHORITY FOR REIMBURSEMENT OF EXPENSES INCURRED TOWARD THE ACQUISITION OF REAL PROPERTY WITHIN THE PHASE 1A ACQUISITION AREA.

A check request for settlement of LURA v. Jefferson, et al (Case No. CJ-2009-1291) was submitted by Jack Mackey. During the course of the condemnation suit, the commissioners' valuation of the property located at Lot 4, Block 43, North Addition was the amount of $67,000.00. LURA deposited those funds into the court and obtained title to the property through the condemnation case. Mr. Jefferson disputed the amount and requested a jury trial for a redetermination of the value paid for the property.

At the April 18, 2013 LURA meeting, Jack Mackey and Richard Rogalski were given full discretionary authorization to settle the case outside of court. Mackey negotiated with Mr. Jefferson and agreed to pay an additional $5,000.00 for the property, and, in return, Mr. Jefferson would withdraw his request for a jury trial. The property is located within the 12 block Phase 1A acquisition area. Per the Memorandum of Understanding between LURA, LEDA and the City of Lawton, LEDA will reimburse LURA for the expenses incurred toward the acquisition of real property within this area.

MOTION by Johnson, SECOND by Purcell, to authorize the Chairman to send an invoice to the Lawton Economic Development Authority in the amount of $5,000.00 for reimbursement of expenses incurred toward the acquisition of property formerly described as Lot 4, Block 43, North Addition.

VOTE ON MOTION: AYES: Sheppard, Brox, Purcell, Johnson, Evers. NAYS: None. MOTION CARRIED 5 – 0.

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5. CONSIDER SENDING AN INVOICE TO THE LAWTON ECONOMIC DEVELOPMENT AUTHORITY FOR LEGAL EXPENSES INCURRED FOR THE SETTLEMENT NEGOTIATIONS ON THE PROPERTY FORMERLY DESCRIBED AS LOT 4, BLOCK 43, NORTH ADDITION.

An invoice has been submitted, covering the time frame from February 28, 2013 through May 3, 2013, for the payment of attorney's fees and court costs associated with the settlement negotiations on the property formerly described as Lot 4, Block 43, North Addition. Per the Memorandum of Understanding between LURA, LEDA and the City of Lawton, LEDA will reimburse LURA for the expenses incurred toward the acquisition of real property within this area.

MOTION by Purcell, SECOND by Evers, to authorize the Chairman to send an invoice to the Lawton Economic Development Authority in the amount of $2,784.00 for reimbursement of legal expenses incurred for the settlement negotiations on the property formerly described as Lot 4, Block 43, North Addition.

VOTE ON MOTION: AYES: Brox, Purcell, Johnson, Evers, Sheppard. NAYS: None. MOTION CARRIED 5 – 0.

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6. CONSIDER APPROVAL OF THE RETAINER AGREEMENT FOR PROFESSIONAL AND LEGAL SERVICES BETWEEN THE LAWTON URBAN RENEWAL AUTHORITY AND JOHN C. MACKEY, (WADE & MACKEY LAW FIRM) FOR VARIOUS MATTERS INVOLVING REAL PROPERTY AND TO PROVIDE NECESSARY ADVICE AND COUNSEL ON REAL PROPERTY ISSUES AS DETERMINED BY LURA, AND AUTHORIZE THE CHAIRMAN AND SECRETARY TO EXECUTE THE AGREEMENT.

On June 19, 2012, LURA entered into an agreement with John C. Mackey (Wade & Mackey Law Firm) to provide legal services for various matters involving real property and to provide necessary advice and counsel on real property issues as needed by the Lawton Urban Renewal Authority. This agreement expires on June 30, 2013. The Agreement includes compensation at the rate of One Hundred Sixty and NO/100 Dollars ($160.00) per hour for Mr. Mackey, court costs, mileage at the rate of thirty-six cents ($0.36) per mile, and any other similar expense items which are incurred by Attorney in the Matter. The Attorney shall be compensated at the rate of One Hundred and no/100 Dollars ($100.00) per hour for travel time. This Agreement with John C. Mackey (Wade & Mackey Law Firm) will expire on June 30, 2014, and may be extended as necessary.

MOTION by Brox, SECOND by Johnson, to approve entering into a Retainer Agreement for Professional and Legal Services with John C. Mackey (Wade & Mackey Law Firm) for various matters involving real property and to provide necessary advice and counsel on real property issues as determined by LURA, and authorize the Chairman and Secretary to execute the Agreement.

VOTE ON MOTION: AYES: Purcell, Johnson, Evers, Sheppard, Brox. NAYS: None. MOTION CARRIED 5 – 0.

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7. CONSIDER APPROVAL OF THE RETAINER AGREEMENT FOR LEGAL SERVICES BETWEEN THE LAWTON URBAN RENEWAL AUTHORITY AND JOHN C. MACKEY, JR. (MACKEY LAW FIRM) FOR THE PROSECUTION OF EMINENT DOMAIN CASES TO OBTAIN REAL PROPERTY AS DETERMINED BY LURA FOR FISCAL YEAR 2013-2014, AND AUTHORIZE THE CHAIRMAN AND SECRETARY TO EXECUTE THE AGREEMENT.

On June 19, 2012, LURA entered into an agreement with John C. Mackey, Jr. (Mackey Law Firm) to provide all legal services reasonably necessary relating to the prosecution of various eminent domain cases to obtain real property as determined by LURA. The current agreement expires on June 30, 2013. John C. Mackey, Jr. has agreed to provide the same services to the Authority for any new or existing eminent domain cases as required. The Agreement includes compensation at the rate of One Hundred Sixty and NO/100 Dollars ($160.00) per hour for Mr. Mackey, court costs, mileage at the rate of thirty-six cents ($0.36) per mile, and any other similar expense items which are incurred by Attorney in the Matter. The Attorney shall be compensated at the rate of One Hundred and no/100 Dollars ($100.00) per hour for travel time. The new Agreement with John C. Mackey, Jr. will expire on June 30, 2014.

MOTION by Brox, SECOND by Purcell, to approve entering into a Retainer Agreement for Professional and Legal Services for various eminent domain cases to obtain real property as determined by LURA with John C. Mackey, Jr. (Mackey Law Firm) and authorize the Chairman and Secretary to execute the Agreement.

VOTE ON MOTION: AYES: Johnson, Evers, Sheppard, Brox, Purcell. NAYS: None. MOTION CARRIED 5 – 0.

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8. CONSIDER APPROVAL OF THE RETAINER AGREEMENT FOR PROFESSIONAL AND LEGAL SERVICES BETWEEN THE LAWTON URBAN RENEWAL AUTHORITY AND JOHN C. MACKEY, JR., (MACKEY LAW FIRM) FOR VARIOUS MATTERS INVOLVING REAL PROPERTY AND TO PROVIDE NECESSARY ADVICE AND COUNSEL ON REAL PROPERTY ISSUES AS DETERMINED BY LURA, AND AUTHORIZE THE CHAIRMAN AND SECRETARY TO EXECUTE THE AGREEMENT.

On June 19, 2012, LURA entered into an agreement with John C. Mackey, Jr. (Mackey Law Firm) to provide legal services for various matters involving eminent domain cases for real property. As additional legal services may be required involving necessary advice and counsel on real property issues as needed by the Lawton Urban Renewal Authority, an agreement needs to be executed, stipulating the terms. The Agreement includes compensation at the rate of One Hundred Twenty and NO/100 Dollars ($120.00) per hour for Mr. Mackey, court costs, mileage at the rate of thirty-six cents ($0.36) per mile, and any other similar expense items which are incurred by Attorney in the Matter. The Attorney shall be compensated at the rate of One Hundred and no/100 Dollars ($100.00) per hour for travel time. This Agreement with John C. Mackey, Jr. (Mackey Law Firm) will expire on June 30, 2014, and may be extended as necessary.

MOTION by Purcell, SECOND by Evers, to approve entering into a Retainer Agreement for Professional and Legal Services with John C. Mackey, Jr. (Mackey Law Firm) for various matters involving real property and to provide necessary advice and counsel on real property issues as determined by LURA, and authorize the Chairman and Secretary to execute the Agreement.

VOTE ON MOTION: AYES: Evers, Sheppard, Brox, Purcell, Johnson. NAYS: None. MOTION CARRIED 5 – 0.

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9. CONSIDER APPOINTING A PANEL TO HEAR AN APPEAL BY LITTLE BLESSINGS LEARNING ACADEMY OF LURA'S DENIAL TO EXTEND THE 18-MONTH TIME PERIOD FOR SUBMISSION OF CLAIMS FOR RELOCATION EXPENSES ASSOCIATED WITH THE PROPERTY FORMERLY DESCRIBED AS LOTS 9-11, BLOCK 45, NORTH ADDITION, AND TAKE APPROPRIATE ACTION AS NECESSARY.

On January 25, 2013, Pinnacle Consulting Management Group, Inc. received invoices and receipts that Little Blessings Learning Academy desired to claim as eligible relocation expenses. After being informed that said claim was beyond the 18-month period for such submission, the applicants asked for an extension of same. At the March 12, 2013 and April 16, 2013 LURA meetings, documentation was presented and the situation was discussed with the Authority, LURA's relocation specialist and the business owners. At that time, LURA voted unanimously to deny the request to extend the 18-month time limit, and therefore would not reimburse the submitted claims.

According to 49 CFR Part 24, § 24.10, "(b) *Actions which may be appealed.* Any aggrieved person may file a written appeal with the Agency in any case in which the person believes that the Agency has failed to properly consider the person's application for assistance under this part. Such assistance may include, but is not limited to, the person's eligibility for, or the amount of, a payment required under § 24.106 or § 24.107, or a relocation payment required under this part. The Agency shall consider a written appeal regardless of form."

As the Authority and Staff that normally hear and consider appeals, in accordance with LURA Policy 08-02, were present at the meeting where the initial request was denied, it would be prudent to appoint a panel of three parties that were not present at said meeting. The Executive Director suggests appointing a staff member from the Planning Division, the City Attorney's Office and the City Manager's Office to review the appeal of LURA's decision at the April 26th meeting.

Rogalski stated that Jim Russell is the acting Assistant City Manager and would be a good representative from that office to be on the panel.

Purcell asked if the Board should be specific as to the person that will sit on the panel.

Mackey stated that the members of the panel should be a little more vague by stipulating a representative from the various divisions within the City. He stated that it will allow a substitute from that office to be on the panel should there be a conflict in scheduling.

Rogalski stated that the representative from the City Attorney's Office could be either Frank Jensen or Scott Meaders. He added that the representative from Planning would be Debbie Dollarhite.

Evers asked if the panel would have all of the information that LURA was provided at the time the decision to deny the request was made.

Mackey stated that the panel will have all of that information and probably some additional documentation. He stated that the panel would have to be fully aware of all of the details on the matter.

Johnson stated that he doesn't see why LURA should have to issue a waiver of the 18-month time limit to Little Blessings Learning Academy. He stated that the request to LURA was denied by the Authority on the grounds that there was no good reason for the delay. He stated that the delay by Mr. & Mrs. Mitchell appears to be negligence on their part and not LURA's responsibility.

Greb stated that Federal Regulations require that there be some sort of appeal process available on all decisions made.

Mackey added that, if the panel decides to uphold LURA's decision to deny the waiver, the Mitchell's could even make a judicial appeal.

Johnson stated that the allegation was that Mr. and Mrs. Mitchell had no access to assistance in locating a replacement site.

Mackey stated that all of the evidence provided showed that they did have access to assistance. He added that he does not feel that they have any grounds for an appeal.

Chairman Sheppard stated that they didn't really give any valid reason for not submitting claims in the allotted time period.

MOTION by Purcell, SECOND by Brox, to appoint a staff member of the City Planning Division, City Attorney's Office and the City Manager's Office to review the appeal by Little Blessings Learning Academy in association with the acquisition of the property formerly described as Lots 9 – 11, Block 45, North Addition, and to provide the appellant with a final determination.

VOTE ON MOTION: AYES: Sheppard, Brox, Purcell, Johnson, Evers. NAYS: None.
MOTION CARRIED 5 – 0.

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10. CONSIDER ACCEPTING QUITCLAIM DEEDS FROM HABITAT FOR HUMANITY TO THE LAWTON URBAN RENEWAL AUTHORITY ON VARIOUS PROPERTIES IN THE LAWTON VIEW ADDITION AND AUTHORIZE STAFF TO RECORD THEM WITH THE COUNTY CLERK.

On October 23, 2006, the Lawton Urban Renewal Authority entered into an Contract for Sale of Land for Private Redevelopment with Lawton-Fort Sill Habitat for Humanity for various properties in the Lawton View Addition. LURA executed Quitclaim Deeds for the properties which were recorded in the Comanche County Clerk's Office. The Contract and Quitclaim deeds contained a reversionary clause, wherein the properties conveyed would revert back to LURA if construction was not completed within five (5) years from the date of execution of the Contract.

The following properties have not been developed, and are subject to the reversionary clause:

Lots 3 & 4, Block 98, Lawton View Addition
Lots 3, 4, and 10 thru 16, Block 111, Lawton View Addition
Lots 1 thru 5 and 10 thru 16, Block 112, Lawton View Addition

Habitat for Humanity has executed and submitted Quitclaim Deeds in favor of LURA on these properties.

MOTION by Evers, SECOND by Purcell, to instruct Staff to accept the Quitclaim Deeds from Habitat for Humanity and forward them to the Comanche County Clerk's Office to be recorded.

VOTE ON MOTION: AYES: Brox, Purcell, Johnson, Evers, Sheppard. NAYS: None.
MOTION CARRIED 5 – 0.

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11. CONSIDER SETTING A DATE FOR A PUBLIC SURPLUS AUCTION TO DISPOSE OF LURA OWNED PROPERTIES WITHIN THE LAWTON VIEW ADDITION AND PROVIDE ADDITIONAL DIRECTION TO THE EXECUTIVE DIRECTOR AS DEEMED NECESSARY.

On April 16, 2013, LURA directed staff to begin the process of disposing of LURA owned properties in Lawton View Addition. Said properties have been included in various development contracts in the past, to include those with Zoe Ministries and Habitat for Humanity, but progress has been extremely slow. As directed, staff contacted Zoe Ministries, Habitat for Humanity, the Lawton Airport Authority, and Verde Investments to determine interest and to help establish a minimum bid amount. Zoe Christian Center Ministries has submitted an offer of $100 per lot. The Lawton Airport Authority and Verde Investments have expressed interest in some or all of the lots but have not yet submitted an offer. Also, the City has received several additional inquiries from others that may be interested in said properties. Some consideration should be made as to how to "package" the buildable lots for auction. Staff has provided sketches of three possible options. All property owners adjacent to non-buildable lots have been notified, and we are currently waiting to hear back from interested parties. Disposition of any lots not receiving interest from adjacent owners should be discussed.

LURA Policy 4-01 states that public notice of sale will be advertised on the properties, and a notice will be published in the local newspaper at least 15 calendar days prior to the auction.

Rogalski stated that Barbara McNally from the Airport Authority would like to have a little more time before the properties are put up for auction. He stated that they are interested in the six lots on SW Bishop Road. He added that the Notice would have to be published at least fifteen days prior to the auction.

Mackey stated that the Airport Authority will probably pay more per lot than what would be offered at an auction. He added that, being government entities, it may be possible to negotiate a price without putting the properties up for auction.

Ms. McNally stated that the Airport Authority would only pay fair market value for the properties and understands that there may be some difficulty determining what that is.

Rogalski stated that letters were mailed to property owners living adjacent to the non-buildable lots on May 13th. He added that there has been an offer of $700 submitted by one of the property owners.

Ms. McNally asked if the Airport Authority could have thirty days to come up with a plan for the purchase of the property.

Chairman Sheppard stated that it could be possible to set up an auction not less than thirty days from today's date. He stated that all of the lots should be put in the auction.

Mackey stated that, if it isn't possible to determine fair market value, a deal may not be able to be negotiated.

Rogalski asked how the properties should be packaged for sale.

Mackey stated that many real property auctions offer several packaging options for purchase. He added that the most lucrative offer would be accepted.

Chairman Sheppard asked if they should be grouped by buildable lots.

Rogalski stated that they could be grouped that way, by blocks or just individual lots. He asked if he should contact auctioneers about the properties.

Chairman Sheppard stated that he would like Staff to contact Bridges and any other auctioneers to see what needs to be done and when an auction can be held.

Mackey stated that there would be the cost of advertising, and the auctioneer would also be paid a percentage of the sales price of the lots.

Chairman Sheppard asked if an auctioneer can be selected without the need for an RFP?

Mackey stated that LURA's purchasing policy allows for services within a certain cost to be selected by written quotes and not a formal RFP.

MOTION by Brox, SECOND by Purcell, to authorize the Executive Director to solicit for an auctioneer and schedule an auction for the sale of all of the surplus property described in LURA Resolution No. 2013-05 for a date no sooner than thirty days from today.

VOTE ON MOTION: AYES: Purcell, Johnson, Evers, Sheppard, Brox. NAYS: None. MOTION CARRIED 5 – 0.

12. REPORTS AND COMMENTS

Rogalski stated that Cindy Augustine has been working on the Lawton View properties that will be going to auction and will continue to do so throughout the sale of the properties.

13. ADJOURNMENT

There being no further business the meeting was adjourned at 2:02 p.m.

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Ernest Sheppard, Chairman

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Jerry Evers, Secretary

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