

MINUTES  
LAWTON ECONOMIC DEVELOPMENT AUTHORITY  
MAYORS CONFERENCE ROOM  
NEW CITY HALL  
SEPTEMBER 18, 2018, AT 2:00 P.M.

Fred Fitch, Chair, called the meeting to order at 2:00 p.m. in the Mayor's Conference Room. Meeting notice and agenda were posted on the City Hall bulletin board as required by State Law.

ROLL CALL:

PRESENT: Denham, David; Fitch, Fred; Fortenbaugh, Sean; Madigan, David; Means, David; Nance, Ron; Neal, Larry; Sheppard, Ernie.

ABSENT: Jackson, Keith.

OTHERS PRESENT: Jerry Ihler, City Manager; Richard Rogalski, Planning Director; Diane Branstetter and Kristin Huntley, Finance Department; Denise Ezell, City Clerk's Office.

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**INTRODUCTION OF GUESTS**

Fitch stated we have Ted Warkentin and Johnny Owens of Owens Commercial Properties, Kim McConnell from the Lawton Constitution, Randy Ray and Beth Reibschlager from Lawton Central Mall and C.J. See of GBT Reality.

**BUSINESS ITEMS**

1. Consider approving the minutes of August 16, 2018.

**Motion** by Denham, **Second** by Neal, to approve the minutes of August 16, 2018. **Aye:** Fitch; Fortenbaugh; Madigan; Nance; Neal; Sheppard; Denham. **Nay:** None. **Motion Passed.**

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

Huntley stated there is nothing from approval today.

3. Receive Financial Report and take action as deemed necessary.

Huntley stated at the end of August you had \$1,473,113.68 in the bank. We received the matching funds last week. We wired most of the matching funds, everything from the TIF Economic Development and the TIF Proportion fund to make the September note payment. Under liabilities you see our CCIDA loan the principal is down to \$1,444,303.40. On the income statement you see revenue is up 24.3% compared to 2017. Under expenses the bank services charges were the wiring fees, interest expense for August was \$128,095.06 and then the mowing for August. Total net income for August was \$315,819.61.

**Motion by Means, Second by Denham**, to accept the treasurer's report. **Aye:** Fortenbaugh; Madigan; Means; Nance; Neal; Sheppard; Denham; Fitch. **Nay:** None. **Motion Passed.**

4. Report on project activities, issues and programs including discussion and possible action on implementation and coordination.

Rogalski stated the biggest activity was the note payment. Viridian Coffee is developing and I have heard we have Letters of Intent on a couple more.

Warkentin stated that is correct.

5. Consider making a recommendation to the City Council regarding a request for economic development assistance submitted by GBT Realty Corporation for a proposed retail development located approximately at intersection NW 82<sup>nd</sup> and NW Cache Road, and convening in executive session as necessary to discuss any specifics of the request that are considered confidential by the developer/applicant.

Rogalski stated a portion of this discussion will be made in regular session and some of the elements will have to be discussed in executive session. GBT is a developer that is looking to put in about 113,000 square feet of retail on the south end of Lawton Market Place. This phase will go all the way to Cache Road.

See stated this is Phase II and we have that under contract as an option for Phase III.

Rogalski stated the entrance would extend to Cache Road. The developer has an application for development assistance according to Council Policy 1-10. They are requesting improvements for the widening of Cache Road and the relocation of the sanitary sewer line. The sewer to the stores to the north goes through the property and went south of both sides of the building. Then it jogs over to tie into the main line by Wolf Creek. Where it jogs over is in the way of one of their buildings. They want to relocate that section of the line. They are asking for \$1.35 million to be paid as a lump sum when the stores are 80% occupied and the first full year of sales tax generated by the property. They want the entire 4.125% or any percent that the city will receive from OTC. After the first year they are asking for an additional 1% for 6 years.

Fitch stated GBT is not the owner of the north section. They have nothing to do with Phase I of Lawton Market Place. This is for the property south of the existing buildings.

See stated GBT Realty is based out of Memphis Tennessee. I'm the Acquisition Director for Oklahoma, Texas and Arizona and we are about to pick up New Mexico. GBT is in the top 10 developers in the nation. There are only a few developers that are building shopping centers that is over 100,000 square feet. They made their bread and butter from Dollar Generals. They have over 382 million square feet of retail and are in 22 different states. We are a large developer. We have under contract 15 acres and then an additional 10 for Phase II. We are looking at bringing retailers to Lawton. Burlington Coat Factory, Ross and a couple other

retailers that we cannot disclose are looking at Lawton. This would be approximately a \$19.5 million of investment in a retail center. The market has changed and I'm sure you are all aware of the construction cost. Construction costs have gone up about 25%. This makes a deal hard to make because of what retailers are willing to pay. Today's market is completely different than the Target's and Walmart's. There are a handful of retailers that are moving right now and they are discount retailers such as Ross, Ulta, TJ Max, Marshall, 5 Guys and \$5 Below. They usually pay anywhere from \$9 to maybe \$14/\$16 dollars a square foot. You can't build a shopping center and make money on rent. Amazon is kicking everyone's rear end but discount retailers are moving. Ulta has had a tremendous success. They built 50 stores this year and project 88 for next year. It is a time you have to capitalize on what is moving. Out of the 22 deals GBT is doing not 1 of them doesn't have an incentive package. If you can show me where in the Oklahoma Statutes it is illegal to do incentives I would love to see it. It is not illegal. In Enid we got \$3.1 million in incentive. This was an agreement between the city and GBT. In Siloam Springs it was \$5.7 million. The owner of this property has taken a haircut. He wants to see economic growth in this town. He wants Burlington for the citizens of Lawton. He has been extremely workable and very friendly. We knew that our cost was going to be X amount. What we didn't realize is the soil in Lawton is clay and would cost an addition million for the parking lot. Enid went to BancFirst and they bonded against the project. Basically they borrowed money and will pay it back with the retail dollars over a certain amount of years. GBT did not receive a penny until the investment was built and it was 80% occupied. When that money was released the city was generating sales tax. We take a risk in your town as well.

Fitch stated this is different than when we talked before.

See stated it isn't.

Rogalski stated she is taking about the \$1.35 million. Once they are 80% occupied they want their payment of \$1.35 million.

See stated correct and the rest would be through sales tax.

Denham asked you want the city's entire portion of sales tax for a year.

See stated yes.

Denham stated it would be a year before the city received anything.

Fitch stated we discussed with her that the city receives 4.125% sales tax and 2.125% is committed to our capital improvement programs. We only have 2% that goes into the general fund. On the north end we committed 1% of the sales tax over 5 years or \$2.5 million whichever occurred first. That was only on improvements outside the property such as widening Cache Road and 82<sup>nd</sup> Street, a cut going across Quanah Parker on the north end by Target and the stacking lanes had to be enlarged. We were able to make these improvements because it was for the citizens. On the south end we are looking at about \$700,000. She had it estimated at \$350,000.

See stated I believe I sent an email to Chris, a local engineer, we needed a scope of work from the city. We have not received any type of scope of what the city is going to want to happen to Cache Road. Then we will go back and revise our numbers.

Fitch stated on the north end the city didn't pay for the cost up front. The developer paid for the improvements and we paid them back with the sales tax reimbursement of \$2.5 million. I believe you want the improvements up front.

See asked did you say they paid the city.

Ihler stated they paid for the improvements and then we paid them back.

Fitch stated we would have to do this the same way because the city doesn't have the \$700,000. I believe it came to about \$70,000 a year.

Rogalski stated this needs to be discussed in executive session.

Fitch stated okay. Dan Batchelor and Frank Jensen both agree that we can't do this because it is illegal within the State of Oklahoma. One of the cities she refers to did so due to a TIF District. I'm not certain how the others did it.

See stated neither Bartlesville, Owasso nor Enid was a TIF District. They got a loan and used their retail dollars to pay the bank.

Fitch stated the dollars went into infrastructure. Batchelor and Jensen have both looked at the statutes and they say we can't do it. This is one obstacle we have to get across. It would be good if you could get all the data you can from those 3 cities.

See stated here are 2 of the agreements. Can you get them to send me the statute? I have worked in Oklahoma, Texas, Arizona and Arkansas and Arkansas is the only state that limits cities to only investing into public infrastructure. In Enid we purchased an Atwood's building and started with Academy. If you invest in your city things will come. You have to start investing in Lawton. Once we built Academy we added Buckle and Ulta and doubled in size. We had to go back to the city and ask for an additional \$3.1 due to detention issues. GBT purchased more land and made a detention pond that served not just that area but a couple of other areas. I will tell you in the State of Oklahoma cities can incentivize. The cities of Gary and Grant donated land. You can get with a bank and bond with the retail as leverage. Does the 2.125 sales tax go to LEDA?

Fitch stated no. It is obligated to our capital improvement programs.

See asked what does that capital improvement do.

Fitch stated streets, our public safety building, new fire stations, and water and sewer lines.

Nance stated it was specifically voted on for specific projects.

Ihler stated the 2015 and 2016 CIP won't end until December 31, 2025.

Fitch stated until we could pass another CIP we are obligated. We only have 2% we can play with. The one time we did this we kept 1% and 1% went back to the developer. They paid for the improvements and we used the sales tax to repay them.

Rogalski stated our policy is based on the Local Development Act. Let me read what it says: "Unless the retail development is located in an urban renewal area, public infrastructure improvements that meet the following definition for "public use" are the only infrastructure item for which assistance that may be provided. "Public use requires that the work shall be essentially public and for the good of all inhabitants of the taxing body (city)...a public purpose affects the inhabitants of the ...taxing district as a community not merely as individuals." An example of an infrastructure item that would be public but not qualify is sewer or water main that can only serve the proposed development." This is a law.

See asked in your city.

Rogalski stated no. The Local Development Act is a state law and we have referenced it in our policy. I'm going by what legal is telling us.

See asked when was the policy written.

Rogalski stated the policy is probably 15 years old and we spoke with legal last week.

See stated statutes have changed over the last 10 years. Ricky Hays and I have been over the statutes and I will get back with him. I have done a lot of research in the past 2 days and didn't find anything. You would think if Enid was investing \$3.1 million they would have been sued. The same thing goes for Bartlesville. How old is your policy.

Rogalski stated it is dated February 24, 2009.

Nance asked can you elaborate on the aesthetics of the development. Is there anything you can compare to? Do you have pictures?

See stated go to GBTReality.com and you will see everything they have done. I'll compare it to the project to the north. They will build it so the aesthetics look good.

Sheppard asked did you buy all the land to the west.

Warkentin stated it is under contract.

Sheppard asked how about to the east.

Fitch stated there is one parcel that isn't for sale and BancFirst had the property on the corner.

See stated the corner parcel is the only parcel out of question.

Sheppard asked are you going all the way south to Cache Road.

See stated we will line it up to where it is all aesthetically pleasing.

Sheppard are the out parcels to the east under contract.

Warkentin stated they will control the out parcels also.

Sheppard asked so you have all the available land except for the BancFirst property.

See stated yes.

Sheppard stated the \$19.5 million is only for the building that is directly adjacent to the existing shopping center. Does it go all the way to Cache Road?

See stated no.

Rogalski stated here is a map of the property.

Warkentin stated the other retailers want to see what happens.

See stated if this parcel is done there are other retailers looking. Retail breeds retail. Growth brings growth. Word gets around when development is happening. One retailer is waiting to see if this kicks off and then we will have that one.

Sheppard asked are we looking at other proposals down the road for other buildings.

See stated not necessarily. This retailer can pay in the low \$20's. That makes all the difference in the world.

Sheppard asked per square foot.

See stated yes. This proposal is not a big box. It is more of a specialty retailer. That is different. They can pay the dollars where you already have infrastructure. I don't see where we will have to come back. Out parcels are sometimes the icing on the cake. I think we will need 3 or possibility 4.

Fitch stated you mentioned that in Enid after you did Academy you added other stores and came back and asked for more money.

See stated yes. That was different because it was going to be just a stand alone.

Sheppard stated it would help your case if we knew the overall picture and what your plans were rather than limiting it to what you are proposing right now. We need to see the whole picture.

See stated correct. The end parcel would be a completely separate component. We have the option to purchase it.

Sheppard asked what improvements are we looking at on Cache Road.

Rogalski stated the entire frontage. It would be 4 lanes and then transition. I'm giving an overview but Engineering will be looking at it. Sometimes there is a right turn lane.

Means asked will it revert back to 2 on the west side of the creek.

Ihler stated it would have to taper back in before the bridge.

See stated I'm an Oklahoma girl and I love doing developments in Oklahoma. I like bringing retail and quality of life to different cities. I mean no disrespect but I have done a lot of research online, looked at the quality of life in Lawton, compared you to other towns and you have zero growth. This past year you were in the negative. Elgin's growth rate is 4.68% and Cache is 2.89%. There is no reason Lawton isn't growing. You have a great university and you are an army town. Lawton is a great town. I believe it is your lack of investment. I knew this was a battle when I came to Lawton. I was told I wouldn't get anything that I might as well duck and run. I didn't want to run because I gave my ward to Warkentin, the owner of the property and a City Councilman that I was willing to fight to bring quality development to this town. The only way to grow is to start investing into retail. Retail is what grows and gives you money to invest into your police and fire. Dog parks are huge today. You have to attract a grocer to keep kids that go to college here to invest back into your town. There is no reason Lawton shouldn't be doing this. I assume you were aware that you have stagnate growth and you need some changes. I would like to be your change. I want to bring quality development/retailers and once you start it is going to spread like wild fire I promise you. I've been building since 2000 and have worked for GBT for 6 years. Their relationship with retailers is huge. I have stats here if you are willing to look at them. You have an opportunity to bring Burlington Coat Factory to Lawton. Your leakage is huge. There is over \$13 million in retail leaving your town and shopping elsewhere. I would think you would want to keep them here.

Sheppard asked have you talked with retailers and what do you hear from them.

See stated yes. Ross likes your town that is why they are willing to build another store.

Sheppard stated I'm referring to Target, Dicks and those types of places.

See stated I haven't talked with those. Ulta likes being here. When I hear a negative I go back and feed that to the retailer. They have mentioned they have a hard time finding help. This is your younger generation but they never have a problem replacing them. There is always

someone that needs a job. It says a lot about your town when you have a department store that wants to build a second store. It says a lot about your market and other retailers like to see this.

Fitch asked are there any other questions.

**Motion** by Means, **Second** by Neal, to convene into executive session. **Aye:** Madigan; Means; Nance; Neal; Sheppard; Denham; Fitch; Fortenbaugh. **Nay:** None. **Motion Passed.**

## **EXECUTIVE SESSION:**

1. Pursuant to Section 307B3 and C10, Title 25, Oklahoma Statue, consider convening in executive session for the purposes of conferring on matters pertaining to economic development, including requests for development assistance, financing, and the sale and/or acquisition of property with respect to the Lawton Downtown Redevelopment Project and other areas within Lawton, and take appropriate action, if necessary, in open session.

The Authority convened in executive session at 2::42 p.m. and reconvened in regular, open session at 3: 31p.m. Roll call reflected all members present except Jackson.

Fitch stated we did convene into executive session for the purpose of conferring on matters pertaining to economic development including the request for development assistance, financing, and the sale and/or acquisition of property with respect to the Lawton Downtown Redevelopment Project and other areas within Lawton. At this time we will take no action. We recommend staff make inquiry to the other cities to see exactly how they entered into their agreements with GBT Reality. Both Batchelor and Jensen have researched the statutes and found nothing that allows a city to engage in this type of development. Once we get the data gathered we will come back to you. I want to thank each of you for being there today.

## **DISCUSSION ITEMS AND REPORTS**

## **ADJOURNMENT**

There being no further business the meeting adjourned at 3:40 p.m.

**Motion** by Nance, **Second** by Means, to adjourn. **Aye:** Means; Nance; Neal; Sheppard; Denham; Fitch; Fortenbaugh; Madigan. **Nay:** None. **Motion Passed.**