

ABILENE CITY COMMISSION - STUDY SESSION AGENDA
ABILENE PUBLIC LIBRARY - 209 NW FOURTH STREET
January 6, 2015 - 7:00 pm

1. **PUBLIC COMMENTS.** Persons who wish to address the City Commission may do so when called upon by the Mayor. Comments on personnel matters and matters pending before court are not permitted. Speakers are limited to three minutes. Any presentation is for informational purposes only. No action will be taken.
2. **SPECIAL LEGISLATIVE DISCUSSION.** State Senator Tom Arpke and State Representative John Barker have been invited to attend the Study Session to preview the 2015 Kansas Legislative Session that begins January 15, 2015.
3. **ITEMS TO BE PLACED ON THE REGULAR AGENDA**
 - a. A Resolution establishing the Business Referral Program for the City of Abilene, Kansas.
4. **ITEMS PROPOSED FOR THE CONSENT AGENDA**
 - a. Approval of designation of 2007 Ford Aerolite, previously used for public transportation, as surplus and authorizing its disposal by public sale.
5. **ITEMS FOR PRESENTATION AND DISCUSSION**
 - a. Appointed Boards and Commission Annual Reports:
 - i. Airport Board
 - ii. Kids Council
 - iii. Library Board
 - b. Request from Eagles Lodge AERIE #2934 concerning special assessments to be certified against 1701 N. Buckeye Avenue
 - c. Discussion of the Time for Future Study Sessions
 - d. City Manager's Report
6. **REPORTS**
 - a. **October 2014 Sales Tax Report** - The City received \$162,162 in total sales tax for retail sales occurring during the month of September The General Fund will receive \$100,098, which is compared to \$113,096 from the prior month. Year-to-date the General Fund has collected \$1,158,337, which is 2.3% greater than the \$1,132,445 collected during the same period last year.
7. **ANNOUNCEMENTS** *(Meetings at Abilene Public Library unless otherwise provided)*
 - a. City Commission Meeting, January 12 at 4:00 pm
 - b. Planning Commission, January 13 at 4:30 pm
 - c. Heritage Commission, January 15 at 4:00 pm
 - d. Recreation Commission, January 19 at 5:30 pm (Community Center)
 - e. Economic Development Council, January 20 at 4:00 pm
 - f. Commission Study Session, January 20 at 7:00 pm

RESOLUTION NO. _____

A RESOLUTION ESTABLISHING A BUSINESS REFERRAL PROGRAM FOR THE CITY OF ABILENE, KANSAS

WHEREAS, the Economic Development Council is charged with developing policies for the City Commission's review and consideration for the purposes of retaining and expanding existing businesses and seek to increase the number of small firms through entrepreneurship;

WHEREAS, the Economic Development Council has review and recommended approval of a Business Referral Program as an incentive to promote business investment in Abilene; and

WHEREAS, the City of Abilene desires to establish its Business Referral Program as a tool to promote the recruitment of new businesses in Abilene.

NOW, THEREFORE BE IT RESOLVED, by the City Commission of the City of Abilene, as follows:

Section 1. Business Referral Program. That the Business Referral Program ("Program") of the City of Abilene, Kansas, is hereby established and funded as provided herein. The City Manager shall be charged with administering awards through this Program, provided sufficient funds are available.

Section 2. Appropriation of Funds. That the Program shall be funded with \$10,000 from the General Fund cash balance as allowed by policy. Following expenditure of the funds dedicated to this purpose, the Program shall be discontinued until such time as the City Commission may evaluate the Program and decide to appropriate additional funds to the Program.

Section 3. Reporting. The City Manager shall provide the City Commission and Economic Development Council with a quarterly report of the use of funds distributed by this Program. Such report shall be presented to the City Commission so that funds may be accounted for and to assist the City Commission in determining if the Program should be continued.

Section 4. Implementation. The City Manager, or designee, shall be authorized to implement the aforementioned Program in compliance with the guidelines as attached hereto as **Exhibit A**, and as provided in applicable resolutions, ordinances, and laws.

Section 5. Effective Date. That the effects of this Resolution shall be in full force after its approval by the City Commission.

PASSED AND APPROVED by the Governing Body of the City of Abilene, Kansas this ___ day of January, 2015.

CITY OF ABILENE, KANSAS

By: _____
Brenda Finn Bowers, Mayor

ATTEST:

Penny Soukup, City Clerk

EXHIBIT A

Business Referral Program

City of Abilene, Kansas

January 12, 2015



Business Referral Program

DRAFT

The City of Abilene will pay a referral fee of up to \$2,000 to residents who refer a business prospect to the City and that commits to locating a business presence in Abilene subject to the following terms and conditions:

1. Business prospects must originate from outside Dickinson County, must invest a minimum capital investment of \$100,000 and create a minimum of three new jobs in order to be considered a prospect for this Program. Businesses must locate within the existing corporate limits of the City of Abilene.
2. Residents referring eligible businesses will receive a \$500 Referral Fee. Residents referring an eligible business categorized in a designated Target Industry by either the City of Abilene or the State of Kansas will receive a \$2,000 Referral Fee. The North American Industry Classification System (NAICS) will be considered the objective criteria for the purposes of determining the eligibility of the increased Referral Fee.
3. Citizens making a referral to the City must provide contact information for a representative of the business able to discuss the real estate and infrastructure needs of the business. Such information must be provided after the Program's effective date of January 12, 2015, but before the Program's expiration date of December 31, 2015, or prior to the distribution of funds appropriated for the Program. The City, or other agency designated by the City Manager, will follow-up with any business referred to the City to determine if the business has any interest in locating a presence in Abilene.
4. The Referral Fee will not be paid to referring residents until the business prospect locates a physical presence within the corporate limits of Abilene meeting the criteria set forth for the Program. The relocation or establishment of a physical business presence must occur within twelve months of the initial referral.
5. A business may only be referred to the City once per year. Referrals will be considered on a first-come-first-served basis. Referrals will be considered from the date of received by the City.
6. The Program is subject to funds being appropriated and available. Once all designated funds have been awarded, the Program will not be reauthorized during the calendar year. The Program may be ended without notice. Any Referrals made prior to termination date of the Program will still be eligible to receive the Referral Fee.

DRAFT

7. Participants must be verified residents of Dickinson County with no outstanding tax liabilities or other delinquencies. Individuals owning property in Dickinson County but not residing in Dickinson County are not eligible to participate.
8. Questions may be directed to City Manager David Dillner at (785) 263-2550 or by email at citymgr@abilenecityhall.com.

Memo

Date: December 12, 2014

To: David Dillner, City Manager and City Commission

From: Jane Foltz, Director Abilene Parks and Recreation

Re: Surplus Property

Staff is requesting that the 2007 Ford Aerolite public transportation bus be classified surplus property and be sold through Purple Wave. We have replaced this vehicle with a new 2015 Ford Advantage public transportation bus.

Year: 2007 Make: Ford Model: Aerolite Mileage:129,583

VIN: 1FDWE35L77DA3249

I am waiting on the release of lein from the State of Kansas giving the City of Abilene sole ownership. Once this is received we will be able to put the vehicle up for sale.

RELEASE OF LIEN

STATE OF KANSAS, Shawnee COUNTY, ss.

The lien of Kansas title in the name of :

City of Abilene

For the following described vehicle, year 2007 make Ford

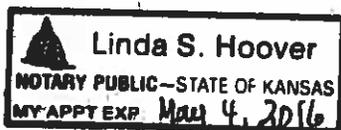
Title # _____, ID # 1FDWE35L77DA73249

is hereby released.

Lienholder Secretary of Transportation of the State of Kansas

By Chris J. Hewck

Subscribed and sworn before me this 12th day of December, 2014.



Linda S. Hoover

Notary Public

My appointment expires : May 04, 2016

TO: City Commission
CC: Mark Guilfoyle, City Attorney
FROM: David Dillner, City Manager
SUBJ: Future Special Assessments on Eagles Lodge
DATE: January 23, 2014

On April 18, 2013, a petition for water, street and storm drainage improvements in the Dawson's Cottage Addition and Prairie Hills Addition was submitted to the City of Abilene. The estimated cost of the improvements was at that time calculated at \$415,000, and was proposed to be repaid from special assessments certified equally against properties in the designated Improvement District on a square foot basis.

The Improvement District, as set forth by the petition, included twenty-one lots containing approximately 242,555 square feet owned by two property owners. The Maureen Dawson Trust owns approximately 181,571 square feet (75%) of the Improvement District and the Eagles Lodge AERIE #2934 owns approximately 60,984 square feet (25%). Representatives from both property owners signed the petition; Mark Sutton, who was serving as a trustee for the local Eagles Lodge, signed on behalf of the Eagles Lodge.

Because representatives of all properties to be included in the Improvement District signed the petition, the City was not required to conduct a public hearing on the proposed petition or the public improvements to be constructed.

It is the understanding of staff that following the establishment of the Improvement District and construction of the improvement, the local Eagles Lodge lost its charter and was unable to operate its facility as an Eagles Lodge. The Lodge is attempting to sell the property and has hired Kelly Niemczyk, a real estate agent, to market the property to potential buyers. After several sales failed to close, Kelly contacted the City Manager and requested that the future special assessments be removed from the property due to the fact that such assessments are making the property difficult to sell.

The future special assessments cannot be forgiven. They will either need to be certified against the property as originally proposed or the City will have to assume them on behalf of the Eagles Lodge. Once the specials assessments are certified and long-term debt is issued to finance the project, the City will be required to pay the debt service on the bonds. Either the Eagles Lodge or the City will be required to pay the property's portion of the debt service until a future owner acquires the property.

Special Considerations: Kelly Niemczyk, on behalf of the Eagles Lodge, claims that the improvements do not benefit the Eagles Lodge or its property in Abilene, and that the Eagles Lodge should not have been included in the Improvement District. Staff's interpretation of K.S.A. 12-6a01 et seq., requires the City to include properties abutting a public improvement in an Improvement District. Attorney General Opinion 2000-13 supports this interpretation as follows:

"Cities in Kansas are authorized to make municipal improvements "which confer a special benefit upon property within a definable area of the city," and "may levy and collect special assessments upon property in the area deemed to be benefitted by such improvement for special benefits conferred upon such property."⁽¹⁾ Special assessment proceeds may be used to finance the improvement. Correspondingly, the definition of improvement district is "the area deemed by the governing body to be benefitted by an improvement" and therefore subject to assessment.⁽²⁾ Governing bodies are vested with "broad latitude" in establishing improvement districts and levying assessments "within the restrictions of the applicable law."⁽³⁾

The foundation for the government's power to levy special assessments is that an improvement imparts a special benefit on an identified parcel of land; therefore, the property is enhanced in proportion to the benefit received and an assessment on the land is lawful and constitutional.⁽⁴⁾ The benefits conferred on the land are full compensation for the expense of the assessment, so the landowner suffers no economic loss from the government's action.⁽⁵⁾

The Court stated its rationale that, "it is not the particular use being made of the property at the time of the assessment which is material, but whether the property is enhanced in value for any purpose by reason of the improvement."⁽¹¹⁾ The benefit inures to the property itself, not the particular use being made of the property at the time.⁽¹²⁾

Budgetary Considerations: If the City Commission elects to exempt the Eagles Lodge from paying special assessments, the City's budget would have to absorb approximately \$10,883 per year for ten years, or \$108,833 for the life of the bond issue. Assuming this liability would be equal to 0.2 mills, or about 2.1 mills over the life of the bond issue at the present assessed valuation of the City.

City Manager Recommendation: The City Manager recommends not taking action that would require the City to assume the liability of the special assessments on the property owned by the Eagles Lodge. This recommendation is based on the following rationale: 1) assuming the liability of the special assessments in this case may encourage other property owners, now or in the future, to make similar requests in order to have the City assume all or part of their special assessment liabilities; 2) governing bodies cannot bind future governing bodies and an agreement approved now may be changed by a newly elected governing body; and 3) the process to establish an Improvement District has been followed at the request of representatives from both properties included in the District.

City Commission Actions: The City Manager and City Attorney agree that the City Commission should not enter into a formal agreement that may be changed by a newly elected governing body during the certification process that will begin in 2015. The City Commission has the following options with respect to this item:

- Deny the request of the Eagles Lodge AERIE #2934 and continue with the certification process in 2015.
- Request staff to draft a non-binding resolution of intent affirming the City Commission's desire to assume the liability of future special assessments for property owned by the Eagles Lodge AERIE #2934.
- Table the item for further information. The City Commission would need to specify the information needed to facilitate a decision.

Supporting Documentation:

- Petition for Water, Street, and Storm Drainage Improvements for the Dawson's Cottage Addition and Prairie Hills Addition in the City of Abilene, Kansas
- Letter from Kelly Niemczyk, on behalf of the Eagles Lodge AERIE #2934 received on November 24, 2014
- Response to Letter from Kelly Niemczyk dated December 11, 2014
- Attorney General Opinion No. 2000-13

**WATER, STREET AND STORM DRAINAGE IMPROVEMENTS
DAWSON'S COTTAGE ADDITION AND PRAIRE HILLS ADDITION
ABILENE, KANSAS**

PETITION

To the Governing Body of the
City of Abilene, Kansas

1. We, the undersigned owners of record of more than one-half (1/2) of the area contained in the Improvement District defined by this petition and consisting of: **Block 1 - Lots 1 through 6, inclusive, and Block 2 - Lots 1 through 14, inclusive, Dawson's Cottage Addition, City of Abilene, Dickinson County, Kansas and Lots 1 & 2 Prairie Hills Addition & Beg 390' E & 195' N SW Cor Nw4 Se4, Th N 135', E 322.7', S 135', W 322.7' To POB, Section 09 Township 13 Range 02, City of Abilene, Dickinson County, Kansas** (the "Improvement District") propose as follows under the provisions of K.S.A. 12-6a01 *et seq.*:

- (a) That an improvement consisting of the design, construction and installation of a water distribution system, street and drainage improvements and all necessary appurtenances (the "Project") be made to serve the property in the Improvement District.
- (b) The estimated and probable cost of the Project, including costs of financing, interest and administrative cost is \$415,000.00. The estimated cost shall increase at the rate of 1 percent per month from and after the date this petition is accepted and the City approves the authorizing resolution for the Project.
- (c) The apportionment of the costs of the Project between the Improvement District and the City at large is: 100% of the costs shall be assessed against the Improvement District and 0% shall be assessed to the City at large.

If the Project is abandoned, altered and/or constructed privately, in part or whole, such that it precludes building the Project under the authority of this petition, any costs the City incurs related to the Project shall be assessed to the Improvement District, according to terms of this petition. In addition, if the Project is abandoned at any state during the design, and/or construction of the improvement, then such costs associated with the preliminary design or completed construction of said improvement shall be assessed to the Improvement District according to terms of this petition.

- (d) The property to be assessed for costs of the Project is described in the preamble of this petition as the "Improvement District". The method of assessment of the costs of the Project shall be on a square foot basis in the Improvement District. Where ownership of a single lot or parcel is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

2. It is requested that the improvement petitioned for be made without notice and hearing, which, but for this request, would be required by K.S.A. 12-6a04.

3. NOTICE: The persons signing this petition acknowledge that names may not be withdrawn from this petition after the Governing Body begins consideration of the petition or later than seven (7) days after this petition is filed with the City, whichever occurs first.

WITNESS our signatures acknowledging the property we own in the Improvement District and the date of signing.

PROPERTY OWNED IN THE IMPROVEMENT DISTRICT - LEGAL DESCRIPTION	Signature	Date
Dawson's Cottage Addition, Block 1 - Lots 1-6 and Block 2 - Lots 1-14, City of Abilene, Dickinson County, Kansas	By: <u>Scott Dawson</u> Name: Scott Dawson	4-18-13
	By: <u>Maureen Dawson</u> Name: Maureen Dawson	4-18-13
Prairie Hills Addition, Lots 1 and 2 & Beg 390' E & 195' N SW Cor Nw4 Se4, Th N 135', E 322.7', S 135', W 322.7' To POB, Section 09 Township 13 Range 02, City of Abilene, Dickinson County, Kansas	By: Fraternal Order of Eagles, Lodge 2934 Name: <u>Nick J. Pitt</u> Title: <u>Master</u>	4-19-13

Filed in the office of the City Clerk
Abilene, Kansas this 18th day of April, 2013.

Penny Soukup
Penny Soukup, City Clerk

David,

We have received the information you sent concerning the special assessments to be certified against the property located at 1701 N. Buckeye Avenue, in the amount of \$104,322. I am formally requesting to have the special assessments removed from the property all together or to remove the property from the "Improvement District" as it is a commercial property.

The special assessments placed on the property was done in an unfair manner in which the legal owners of the property were not informed of the assessments and gained no benefit from the residential project that incurred the infrastructure costs. Those costs should be applied in full to the residential development, who needed the improvements for their sole benefit.

The Eagles Building gained nothing from the project and it has in fact, hampered the sale of the property and reduced their access down to one entrance with the curbs that were put in. The Eagles building was a fully operational business and had all needed utilities and adequate access to the property. As, the City Manager of Abilene, I would think that the importance a business in that property would be to your utmost advantage rather than an empty building bringing in no revenue.

The amount of special taxes added to the property increases the cost for a potential new buyer, by nearly 75%.... that added to the purchase price makes the property almost unsellable and extremely unreasonable to ask a business to incur such costs for the benefit of a developer who could easily split these costs amongst the new lots in which he is profiting from. The residential project had the only need for such improvements; the developer should be the one to either absorb those costs or to spread them out evenly amongst the lots that he has developed. There is no reason that a business should be forced to pay for these unneeded and unwanted improvements especially being unbeknownst to them.

I am submitting this request on behalf of the Grand Aerie Fraternal Order of Eagles.

Sincerely,

Kelly Niemczyk

Summit Properites



Dwight D. Eisenhower Municipal Building
419 N. Broadway Street, PO Box 519
Abilene, KS 67410
www.abilenecityhall.com
Phone: (785) 263-2550
Fax: (785) 263-2552

December 11, 2014

Summit Properties
Attn: Kelly Niemczyk
11828 W. Central, #124
Wichita, KS 67212

RE: Future Special Assessments on Property located at 1701 N. Buckeye Avenue, Abilene, Kansas

Kelly:

This letter is in response to a letter I received from you dated November 24, 2014 concerning special assessments anticipated to be certified against the property generally described as 1701 N. Buckeye Avenue in Abilene, Kansas and owned by the Eagle Lodge AERIE #2934.

The City Attorney has determined that pursuant to K.S.A. 12-6a04(b)(6), a petition for public improvements is considered sufficient if either of the following conditions are met: 1) the petition is made by a majority of the resident owners of record of property liable for assessment under the proposal; 2) the resident owners of record of more than one-half of the area liable for assessment under the proposal; or 3) the owners of record, whether resident or not, of more than one-half of the area liable to be assessed under the proposal.

Staff determined that the petition submitted by Scott and Maureen Dawson and signed by a local representative of the Eagle's Lodge was adequate and in conformance with applicable state law prior to proceeding with the project. It should be noted, however, that the petition did not require the consent of the local Eagles Lodge. Accordingly, the referenced property is anticipated to be included in the benefit area since it is located adjacent to the public improvements and was determined to benefit from them.

The City anticipates proceeding with certifying the special assessments against the property beginning in March or April of next year with the process completed by August 25th. During this process, the City Commission will be advised of the property owner's request to have the anticipated special assessments removed from the property. The City Commission would need to approve removing the special assessments from the property at taxpayer expense during this process.

The decision of whether or not to certify special assessments against the property is one that the City Commission will have to consider as part of the special assessment proceedings; I cannot provide any guidance to you on the direction the City Commission may elect to take on this request at this time.

In the event that the City Commission does not remove the special assessments from the property, the property owner(s) would be liable for the special assessments once certified against the property. Failure to pay the special assessments will yield the property delinquent and potentially subject to a tax foreclosure sale where the property owner(s) may not receive any compensation for the property.

Home of the Eisenhower Presidential Library, Museum and Boyhood Home

The property owner(s) may wish to negotiate a sale of the the property to the adjacent property owners. Scott and Maureen Dawson may be interested in acquiring the property to increase the number of lots available for development. I do not know if the Dawsons would be interested in acquiring the property, but it may prove to be an option worth looking into.

Any options that may become available between now and the certification proceeding will be shared with the property owner(s). Please feel free to contact Mark Guilfoyle, the City Attorney, at (785) 263-3070 or myself at (785) 263-2550 or via email at citymgr@abilenecityhall.com if you have any questions.

Sincerely,



David B. Dillner
City Manager

CC: Mark Guilfoyle, City Attorney

Home of the Eisenhower Presidential Library, Museum and Boyhood Home



February 23, 2000

ATTORNEY GENERAL OPINION NO. 2000-13

Mary F. Carson
Bond Counsel for City of Dodge City
9200 Indian Creek Parkway, Suite 230
Overland Park, Kansas 66210

Re:

Cities and Municipalities--General Improvement and Assessment Law--
Procedures for Certain Improvements and for Financing Cost;
Assessment Plan; Classifications, Formulae and Methods of
Assessments

Synopsis:

Land that is situated similarly to land included in an improvement district must be considered by the governing body for inclusion in the improvement district. Based on the facts presented, land that abuts a proposed street extension must be included in an improvement district comprised of nonabutting property, regardless of the current uses of the land. Cited herein: K.S.A. 12-6a01; 12-6a02; 12-6a04; 12-6a07; 12-693.

* * *

Dear Ms. Carson:

As Bond Counsel for the City of Dodge City you ask our opinion on whether the City may create an improvement district under K.S.A. 12-6a01 *et seq.* in which the proposed improvement district does not include properties abutting a planned street improvement; rather, the improvement district would be created based on the benefit to the owner of nonabutting property.

As background, you inform us that the City proposes to improve a street designated Ross Boulevard, which runs in an east-west direction. The proposed improvement is a westward extension of Ross Boulevard that would terminate at Loretta Street on its western edge. The property north of the extension is outside the corporate city limits and is, therefore, not subject to assessment and, you advise us, cannot be made subject to assessment under the provisions of K.S.A. 12-693. The property south of the extension is platted for residential development with limited access to Ross Boulevard from the planned residential streets in the development.

Unified School District No. 443 owns property located along Loretta Street on the properties' eastern edge, and southwest of the proposed street extension. A new high school will be built on a portion of the school district's grounds and, under the school district's proposal, will comprise the proposed improvement district. None of the property included in the improvement district abuts the proposed improvement, although

the extension of Ross Boulevard will be the only means of access to the high school. None of the property abutting the extension of Ross Boulevard is proposed to be included in the improvement district. The school district has also proposed to the City that the improvement district be assessed 75% of the cost of the improvement and that the City pay the remaining 25% of the total cost. Under this proposal there would be no assessments on the property abutting the extension of Ross Boulevard.

Cities in Kansas are authorized to make municipal improvements "which confer a special benefit upon property within a definable area of the city," and "may levy and collect special assessments upon property in the area deemed to be benefitted by such improvement for special benefits conferred upon such property."⁽¹⁾ Special assessment proceeds may be used to finance the improvement. Correspondingly, the definition of improvement district is "the area deemed by the governing body to be benefitted by an improvement" and therefore subject to assessment.⁽²⁾ Governing bodies are vested with "broad latitude" in establishing improvement districts and levying assessments "within the restrictions of the applicable law."⁽³⁾

The foundation for the government's power to levy special assessments is that an improvement imparts a special benefit on an identified parcel of land; therefore, the property is enhanced in proportion to the benefit received and an assessment on the land is lawful and constitutional.⁽⁴⁾ The benefits conferred on the land are full compensation for the expense of the assessment, so the landowner suffers no economic loss from the government's action.⁽⁵⁾ The degree to which the cost of a public improvement substantially exceeds the special benefits is, "to the extent of such excess, a taking, under the guise of taxation."⁽⁶⁾

K.S.A. 12-6a01 *et seq.* codify the foregoing constitutional and legal principals. K.S.A. 12-6a07 directs the governing body on the method to apply when assessing the cost of an improvement. "[T]he cost may be determined and fixed on the basis of any other reasonable assessment plan which will result in imposing *substantially equal burdens or shares of the cost upon property similarly benefitted.*" (Emphasis added).

The extent to which property will receive special benefits from an improvement is a factual determination to be made by the authorized governing body.⁽⁷⁾ Kansas Courts have repeatedly held that assessments need not be levied with "mathematical precision;" however, the burden must not be "entirely disproportionate" to the benefit received.⁽⁸⁾ An assessment scheme which radically departs from imposing substantially equal burdens on benefitted property will constitute "arbitrary action" on the part of the governing body, and thereby is subject to judicial action.⁽⁹⁾

The holding in the *Davies* case is relevant to the facts presented by Dodge City. In *Davies*, the City of Lawrence proposed to build an extensive sidewalk system which abutted both residential and governmental property. The improvement district included three elementary school properties; two of the schools abutted existing sidewalks. Private residents with existing sidewalks were excluded from the benefit district; school properties with sidewalks were included in the benefit district. The Court also noted that:

"[T]he proposed cost of the sidewalk is to be spread equally throughout the district on an adjusted front foot basis without regard to the lots' proximity to

the proposed sidewalk. Thus, property lying many hundreds of feet from a sidewalk could conceivably pay more of the cost of the sidewalk than a property located directly on an abutting sidewalk."⁽¹⁰⁾

The Court rejected the City's argument that unequal burdens were justified because the grade schools would derive an unusual benefit from the sidewalks. The Court stated its rationale that, "it is not the particular use being made of the property at the time of the assessment which is material, but whether the property is enhanced in value for any purpose by reason of the improvement."⁽¹¹⁾ The benefit inures to the property itself, not the particular use being made of the property at the time.⁽¹²⁾ (In the *Board of Education* case the Court, again, rejected a benefit scheme that was based on the district's current use of the improvement for educational or residential purposes rather than on the potentially increased value to the property for any purpose.⁽¹³⁾) Moreover, property which is benefitted by an improvement cannot be omitted by agreement without invalidating the assessment.⁽¹⁴⁾

The Dodge City school district asserts that the public and the school district patrons should finance the proposed street improvement because they are the beneficiaries of the access road. It is our opinion that this assertion contravenes both the underlying rationale for special assessments and the statutory scheme under which the City must act. The maps you and the City have provided show the proposed extension of Ross Boulevard will abut land which is within the City's limits and is subject to assessments. Looking at the configuration of the properties, it appears the land which lies to the south of the extension road would derive a direct benefit from an access road. The property on which the new school will be located may also derive benefits from street access, as may the surrounding school district property. However, the governing body must determine how *all* contiguous and surrounding parcels of land would be enhanced by an extension which makes them available to road traffic. Under the definition of "improvement district" all such property must be included in the district, and must be assessed in proportion to the enhancement to the land, itself, regardless of current use.

In conclusion, it is our opinion that land situated similarly to the land included in the improvement district must also be deemed benefitted by an improvement and must be considered by the governing body for inclusion in the improvement district. It is further our opinion that land abutting a proposed street extension must be included in an improvement district which is comprised of nonabutting property, regardless of the current uses of the land.

Very truly yours,

CARLA J. STOVALL
Attorney General of Kansas

Nancy L. Ulrich
Assistant Attorney General

CJS:JLM:NLU:jm

FOOTNOTES

Click footnote number to return to corresponding location in the text.

1. K.S.A. 12-6a02.

2. K.S.A. 12-6a01(f).

3. *Giddings v. City of Pittsburg*, 197 Kan. 777, 783 (1966), quoting 14 McQuillan, Municipal Corporations § 38.55 (3rd Ed. 1998).

4. *Davies v. City of Lawrence*, 218 Kan. 551, 558 (1976); 14 McQuillan, Municipal Corporations §§ 38.02, 38.31 (3rd Ed. 1998).

5. *Id.*

6. *Mullins v. City of El Dorado*, 200 Kan. 336, 341 (1968).

7. *Becker v. City of Wichita*, 231 Kan. 322, 438-439 (1982); K.S.A. 12-6a04(c).

8. *Id.* at 325.

9. *Davies v. City of Lawrence*, 218 Kan. at 562.

10. *Id.* at 559.

11. *Id.* at 561.

12. *Board of Education v. City of Topeka*, 214 Kan. 811, 818 (1974).

13. *Id.*

14. McQuillan, Municipal Corporations § 38.132 (3rd Ed. 1998).



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STATE OF KANSAS
Ron Estes
 TREASURER

900 SW Jackson St. Suite 201
 Topeka, Kansas 66612-1235

TELEPHONE
 (785) 296-4151

EDDIE E BALLUCH
 P O BOX 519
 ABILENE, KS 67410

November 24, 2014

Dear Mr. Balluch

This is notice of a distribution from the State Treasurer for Abilene, City Of. Our system sends email notices as soon as a distribution has been completed. You may have the emails sent to as many contacts as you like. Please call Lucinda at 785.296.4151 to add or modify email addresses for your notifications.

You will receive an EFT to settle 11/28/2014. The details are as follows:

Detail Description	County	Amount
Nov 2014 Compensating Use Tax		
City Tax File	Dickinson	8,535.71
City Share From County Tax	Dickinson	6,268.40
Total for Nov 2014 Compensating Use Tax:		\$14,804.11
Nov 2014 Sales Tax		
City Tax File	Dickinson	105,239.69
City Share From County Tax	Dickinson	42,118.49
Total for Nov 2014 Sales Tax:		\$147,358.18
Grand Total Amount:		\$162,162.29

Additional information can be found at <http://kansasstatetreasurer.com/prodweb/dist> or contact Lucinda Anstaett at 785.296.4151 or lucinda@treasurer.state.ks.us.

Sincerely,

Lucinda Anstaett
 Director Of Cash Management

SALES TAX WORKSHEET 2014		SALES (CITY)	SALES (CITY SHARE OF COUNTY)	COMPENSATION USE TAX (CITY)	COMPENSATION USE TAX (CITY SHARE OF COUNTY)	TOTAL
TOTAL		\$ 105,239.69	\$ 42,118.49	\$ 8,535.71	\$ 6,268.40	\$ 162,162.29
GENERAL FUND (58.82% OF CITY SALES AND CITY CU TAX) 001 430070	45.45%	\$ 47,831.44	\$ 42,118.49	\$ 3,879.48	\$ 6,268.40	\$ 100,097.81
GENERAL FUND STREET (22.73% OF CITY SALES AND CITY CU TAX) 037 430070	22.73%	\$ 23,920.98		\$ 1,940.17		\$ 25,861.15
LIBRARY/POOL PROJECT (41.18% OF CITY SALES AND CITY CU TAX) 036 430070	31.82%	\$ 33,487.27		\$ 2,716.06		\$ 36,203.33
		\$ 105,239.69	\$ 42,118.49	\$ 8,535.71	\$ 6,268.40	\$ 162,162.29

CITY OF ABILENE
SALES TAX COLLECTIONS
CITY OF ABILENE
SALES TAX COLLECTIONS

2014

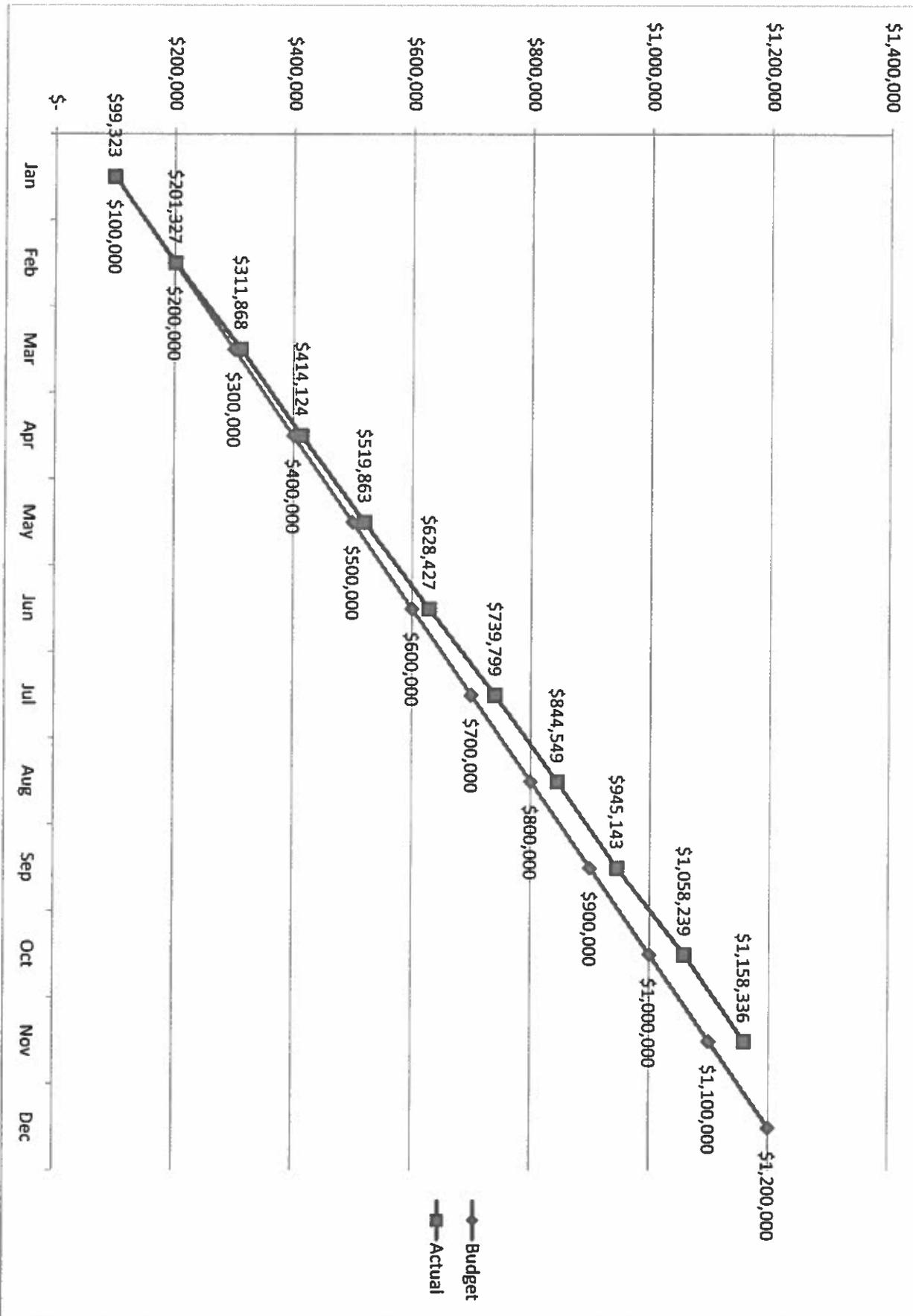
City - .50 (June, 1983)

County - 1.25 (Jan., 1996) County - 1.00 (July, 1997)

2014 DATE REC'D	MONTH COLLECT	2014 CITY	2014 COUNTY	2014 MONTHLY TOTAL	CURRENT YEAR TOTALS	2013 CITY	2013 COUNTY	2013 MONTHLY TOTAL	2013 YEAR TOTALS	OF PRIOR YEAR %
1/24	November	\$51,684.52	\$47,639.40	\$99,323.92	\$99,323.92	\$53,644.50	\$51,490.33	\$105,134.83	\$105,134.83	94.473%
2/26	December	\$53,283.65	\$48,720.44	\$102,004.09	\$201,328.01	\$57,040.32	\$50,091.90	\$107,132.22	\$212,267.05	94.847%
3/24	January	\$59,524.47	\$51,015.86	\$110,540.33	\$311,868.34	\$47,775.49	\$45,226.37	\$93,001.86	\$305,268.91	102.162%
4/28	February	\$54,351.92	\$47,904.45	\$102,256.37	\$414,124.71	\$47,445.43	\$42,859.33	\$90,304.76	\$395,573.67	104.690%
5/27	March	\$53,371.27	\$52,367.31	\$105,738.58	\$519,863.29	\$57,138.99	\$49,835.85	\$106,974.84	\$502,548.51	103.445%
6/26	April	\$53,769.06	\$54,794.96	\$108,564.02	\$628,427.31	\$52,459.33	\$48,880.73	\$101,340.06	\$603,888.57	104.063%
7/23	May	\$56,140.74	\$55,231.94	\$111,372.68	\$739,799.99	\$54,554.77	\$51,832.83	\$106,387.60	\$710,276.17	104.157%
8/28	June	\$54,035.27	\$50,713.77	\$104,749.04	\$844,549.03	\$59,765.25	\$52,502.83	\$112,268.08	\$822,544.25	102.675%
9/24	July	\$50,654.03	\$49,940.16	\$100,594.19	\$945,143.22	\$55,381.92	\$52,416.13	\$107,798.05	\$930,342.30	101.591%
10/27	August	\$61,431.35	\$51,664.61	\$113,095.96	\$1,058,239.18	\$51,808.32	\$50,913.87	\$102,722.19	\$1,033,064.49	102.437%
11/28	September	\$51,710.92	\$48,386.89	\$100,097.81	\$1,158,336.99	\$50,575.36	\$48,804.73	\$99,380.09	\$1,132,444.58	102.286%
12/24	October	\$0.00	\$0.00	\$0.00	\$0.00	\$54,787.70	\$52,757.28	\$107,544.98	\$1,239,989.56	0.000%
	TOTALS	\$599,957.20	\$558,379.79	\$1,158,336.99		\$642,377.38	\$597,612.18	\$1,239,989.56		
	ANNUAL BUDGET			\$1,200,000.00				\$1,200,000.00		
	PERCENTAGE OF BUDGET RECEIVED			96.528%				103.332%		
	PERCENTAGE OF BUDGET YEAR			91.667%						

NOTE: Sales tax collections and distributions lag behind by 2 months. Businesses have until the 25th of the following month to send in the sales tax report and money. The Kansas Department of Revenue has until the following month to distribute the money.

2014 SALES TAX COLLECTIONS VS. BUDGET



CITY OF ABILENE
SALES TAX COLLECTIONS
POOL & LIBRARY PROJECTS
2014

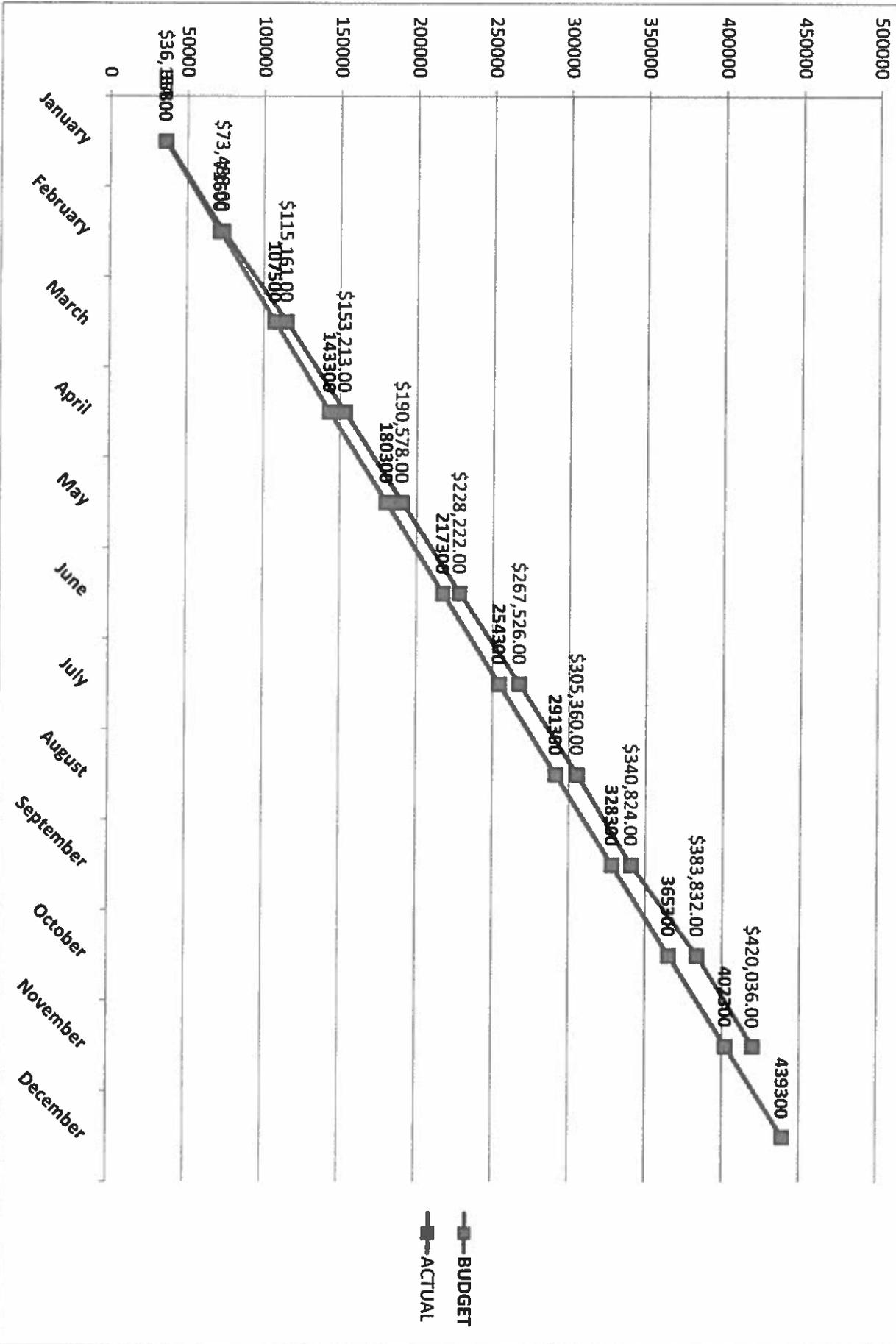
.35% SALES TAX (PASSED NOV 2007) COLLECTIONS STARTED APRIL 1, 2008 (Sunsets in 2018)

2014	DATE	MONTH	2014	2014	DATE	2013	2013	%
REC'D	COLLECTED	AMOUNT	FOR	TOTALS	REC'D	AMOUNT	YEAR	OF PRIOR
			COLLECTED				TOTALS	YEAR
1/29	November	\$ 36,184.85		\$ 36,184.85	1/31	\$ 37,556.63		96.35%
2/26	December	\$ 37,304.41		\$ 73,489.26	2/25	\$ 39,934.05		94.84%
3/24	January	\$ 41,673.68		\$ 115,162.94	3/25	\$ 33,447.72		103.81%
4/28	February	\$ 38,052.33		\$ 153,215.27	4/26	\$ 33,216.64		106.29%
5/27	March	\$ 37,365.76		\$ 190,581.03	5/30	\$ 40,003.12		103.49%
6/26	April	\$ 37,644.26		\$ 228,225.29	6/25	\$ 36,727.30		103.32%
7/23	May	\$ 39,304.70		\$ 267,529.99	7/29	\$ 38,194.34		103.26%
8/28	June	\$ 37,830.63		\$ 305,360.62	8/29	\$ 41,842.25		101.47%
9/24	July	\$ 35,463.39		\$ 340,824.01	9/26	\$ 38,773.43		100.33%
10/27	August	\$ 43,008.70		\$ 383,832.71	10/30	\$ 36,271.52		102.09%
11/28	September	\$ 36,203.33		\$ 420,036.04	11/25	\$ 35,408.31		102.11%
12/24	October	\$ -		\$ -	12/26	\$ 38,357.42		0.00%
	TOTALS	\$ 420,036.04		\$ 420,036.04		\$ 449,732.73		

ANNUAL BUDGET \$ 445,000.00
 PERCENTAGE OF BUDGET RECEIVED 94.39%
 PERCENTAGE OF BUDGET YEAR 91.67%

NOTE: Sales tax collections and distributions lag behind by 2 months. Businesses have until the 25th of the following month to send in the sales tax report and money. The Kansas Department of Revenue has until the following month to distribute the money.

2014 SALES TAX LIBRARY/POOL PROJECT ACTURAL vs. BUDGET



CITY OF ABILENE
SALES TAX COLLECTIONS SPECIAL STREET PROGRAM

2014

April 2013 .25-Street (Sunsets in 2023)

2014			CURRENT		2013		%
DATE	MONTH	2014	YEAR		2013	YEAR	OF PRIOR
RECD	COLLECT	CITY	TOTALS		CITY	TOTALS	YEAR
1/29	November	\$25,847.94	\$25,847.94		\$0.00	\$0.00	
2/26	December	\$26,647.68	\$52,495.62		\$0.00	\$0.00	
3/24	January	\$29,768.78	\$82,264.40		\$0.00	\$0.00	
4/28	February	\$27,181.94	\$109,446.34		\$0.00	\$0.00	
5/27	March	\$26,691.51	\$136,137.85		\$0.00	\$0.00	
6/26	April	\$26,890.45	\$163,028.30		\$26,235.43	\$26,235.43	102.497%
7/23	May	\$28,076.55	\$191,104.85		\$27,283.39	\$53,518.82	102.706%
8/28	June	\$27,023.58	\$218,128.43		\$29,889.20	\$83,408.02	66.061%
9/24	July	\$25,332.59	\$243,461.02		\$27,697.05	\$111,105.07	0.000%
10/27	August	\$30,722.43	\$274,183.45		\$25,909.86	\$137,014.93	0.000%
11/28	September	\$25,861.15	\$300,044.60		\$25,293.24	\$162,308.17	34.862%
	October				\$27,399.88	\$189,708.05	13.632%
	TOTALS	\$300,044.60			\$189,708.05		
	ANNUAL BUDGET		\$ 310,000				
	PERCENTAGE OF BUDGET RECEIVED		96.79%				
	PERCENTAGE OF BUDGET YEAR		91.67%				

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