

**ABILENE CITY COMMISSION - STUDY SESSION AGENDA**  
**ABILENE PUBLIC LIBRARY - 209 NW FOURTH STREET**  
**June 16, 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. **ITEMS TO BE PLACED ON THE REGULAR AGENDA**
  - a. **An Ordinance approving a Conditional Use Permit for 109 S. Elm Street, at the request of Flint Hills Grain, LLC, for the construction of a grain storage bin duplex in an "I-1, Light Industrial District" in the City of Abilene, Kansas.**
  
  - b. **An Ordinance vacating a portion of a Right-of-Way and Street within the city limits of the City of Abilene, Kansas.**
  
  - c. **An Ordinance of the City of Abilene, Kansas, levying Special Assessment Taxes on certain real properties in the City, for the purposes of paying the cost of certain internal improvements benefiting such real properties; providing notice of and collection of such Special Assessment Taxes. (NOTE: This item will be preceded by the public hearing to receive and hear complaints and objections to the proposed Special Assessments for the construction of the Improvements in the City, as authorized by Resolutions No. 061013-2 and 030915-2 of the City of Abilene, Kansas.)**
  
  - d. **A Resolution of the City of Abilene, Kansas, authorizing sales of the City's General Obligation [Refunding and] Improvement Bonds, Series \_\_, 2015, in an approximate amount of \$\_\_\_\_\_.**
  
3. **ITEMS PROPOSED FOR THE CONSENT AGENDA**
  - a. **Meeting Minutes: June 8, 2015 regular meeting**
  
  - b. **Acceptance of the First Quarter, 2015 Financial Reports and Utilization Statistics from Memorial Health System, Inc., on behalf of the Public Building Commission of the City of Abilene, Kansas.**
  
4. **ITEMS FOR PRESENTATION AND DISCUSSION**
  - a. **Highlands Development Town Hall Meeting**
  
  - b. **Financial Software**
  
5. **REPORTS**
  - a. **City Manager's Report**
  
6. **ANNOUNCEMENTS** *(Meetings at Abilene Public Library unless otherwise provided)*
  - a. **City Commission meeting, June 22 at 4:00 pm**
  - b. **Budget Work Session, June 23 at 7:00 pm**
  - c. **Budget Work Session, June 30 at 7:00 pm**
  - d. **Commission Study Session, July 7 at 7:00 pm**
  - e. **City Commission meeting, July 13 at 4:00 pm**
  - f. **Planning Commission, July 14 at 4:30 pm**

**ORDINANCE NO. 3271**

**AN ORDINANCE APPROVING A CONDITIONAL USE PERMIT APPROVING A CONDITIONAL USE PERMIT FOR 109 S. ELM STREET, AT THE REQUEST OF FLINT HILLS GRAIN, LLC, FOR THE CONSTRUCTION OF A GRAIN STORAGE BIN IN AN "I-1, LIGHT INDUSTRIAL DISTRICT" OF THE CITY OF ABILENE, KANSAS**

**WHEREAS**, the property owners of record have requested the City consider a Conditional Use Permit to allow for the construction of a grain storage bin at property generally described as 109 S. Elm Street in Abilene, Kansas, as provided in **Exhibit A** as attached hereto;

**WHEREAS**, the Planning Commission conducted a public hearing on May 12, 2015, and comments were received from the public both in support of and in opposition to the proposed Conditional Use Permit; and

**WHEREAS**, the Planning Commission recommended the Governing Body approve a Conditional Use Permit allowing the construction of a grain storage bin at the aforementioned address.

**THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ABILENE, KANSAS:**

**SECTION ONE. Findings of Fact.** That the Findings of Fact, as provided in the Staff Report attached hereto, are hereby accepted and approved by the City Commission.

**SECTION TWO. Conditional Use Permit.** That a Conditional Use Permit is hereby granted to Flint Hills Grain, LLC. for the construction of a grain storage bin as generally provided in the Conditional Use Permit application, as attached hereto on property legally described as follows:

A TRACT OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 21, AND IN THE NORTHEAST QUARTER OF SECTION 20, BOTH IN TOWNSHIP 13 SOUTH, RANGE 2 EAST OF THE 6TH PRINCIPAL MERIDIAN, DICKINSON COUNTY, KANSAS, AND ALSO PARTS OF BLOCKS 6, 7, 8, 9 AND 10, ORIGINAL TOWN OF ABILENE, DICKINSON COUNTY, KANSAS, ACCORDING TO THE RECORDED PLAT THEREOF, BEING PART OF THE TRACTS DESCRIBED IN THE WARRANTY DEED RECORDED IN BOOK 217 AT PAGE 696, AND PART OF TRACTS DESCRIBED BY THE QUITCLAIM DEED RECORDED IN BOOK 208 AT PAGE 694, BOTH OF THE DICKINSON COUNTY RECORDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 21; THENCE ALONG THE WEST LINE OF VACATED VINE STREET AND THE WEST LINE OF SAID SECTION 21, SOUTH 00°01'52" WEST, 562.04 FEET TO A POINT ON THE EASTERLY LINE OF THE FLOOD CONTROL RIGHT-OF-WAY, AS DESCRIBED IN MISC. BOOK 136 AT PAGE 576 OF THE DICKINSON COUNTY RECORDS, THE POINT OF BEGINNING,

MARKED WITH A 1/2" BAR AND CAP; THENCE ALONG SAID FLOOD CONTROL RIGHT-OF-WAY, NORTH 89°19'38" WEST, 20.46 FEET TO A 1/2" BAR; THENCE ALONG SAID FLOOD CONTROL RIGHT-OF-WAY LINE AND ALONG A NON-TANGENT CURVE TO THE RIGHT, HAVING A CHORD BEARING SOUTH 52°16'47" WEST, A DELTA ANGLE OF 35°37'52", A RADIUS OF 362.42 FEET AND A CURVE LENGTH OF 225.38 FEET, TO A 5/8" BAR AND CAP; THENCE LEAVING SAID FLOOD CONTROL RIGHT-OF-WAY, SOUTH 00°14'34" EAST, 22.36 FEET, TO A 5/8" BAR AND CAP; THENCE NORTH 64°54'12" EAST, 63.73 FEET, TO A 1/2" BAR AND CAP; THENCE SOUTH 89°50'05" EAST, 138.00 FEET TO A POINT ON THE WEST LINE OF VACATED VINE STREET AND ON THE WEST LINE OF SAID SECTION 21, MARKED WITH A 1/2" BAR AND CAP (0.2' WEST); THENCE SOUTH 89°50'05" EAST, 151.73 FEET TO A 1/2" BAR AND CAP; THENCE NORTH 73°02'00" EAST, 319.97 FEET TO A 1/2" BAR AND CAP; THENCE NORTH 84°53'13" EAST, 170.36 FEET TO A 1/2" BAR AND CAP; THENCE NORTH 89°45'52" EAST, 134.62 FEET TO A 5/8" BAR AND CAP; THENCE NORTH 89°59'35" EAST, 1105.63 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF CEDAR STREET, AS NOW ESTABLISHED, MARKED WITH A 5/8" BAR; THENCE ALONG SAID WEST RIGHT-OF-WAY LINE, NORTH 00°05'14" WEST, 17.99 FEET TO A POINT ON THE SOUTH LINE OF AN ALLEY IN SAID BLOCK 10, MARKED WITH A 5/8" BAR AND CAP; THENCE ALONG THE SOUTH LINE OF SAID ALLEY, THROUGH SAID BLOCKS 10, 9 AND 8, SOUTH 89°57'19" WEST, 1445.08 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF ELM STREET, AS NOW ESTABLISHED; THENCE ALONG SAID WEST RIGHT-OF-WAY LINE, NORTH 00°01'05" EAST, 528.80 FEET TO THE NORTHEAST CORNER OF SAID BLOCK 6, MARKED WITH A 1/2" BAR; THENCE ALONG THE NORTH LINE OF SAID BLOCK 6, SOUTH 89°50'05" WEST, 154.11 FEET TO A POINT ON THE EAST LINE OF SAID FLOOD CONTROL RIGHT-OF-WAY, MARKED WITH A 1/2" BAR AND CAP; THENCE ALONG SAID FLOOD CONTROL RIGHT-OF-WAY LINE THE FOLLOWING CALLS AND DISTANCES: ALONG A NON-TANGENT CURVE TO THE LEFT, HAVING A CHORD BEARING OF SOUTH 36°42'58" WEST, A DELTA ANGLE OF 20°00'31", A RADIUS OF 380.00 FEET AND A CURVE LENGTH OF 132.70 FEET TO A BAR AND CAP; THENCE SOUTH 26°42'42" WEST 260.60 FEET TO A BAR AND CAP; THENCE ALONG A CURVE TO THE RIGHT, HAVING A CHORD BEARING OF SOUTH 28°17'06" WEST, A DELTA ANGLE OF 03°08'49", A RADIUS OF 1939.27 FEET AND A CURVE LENGTH OF 106.51 FEET TO A POINT ON THE EAST LINE OF VACATED VINE STREET, ALSO BEING THE WEST LINE OF SAID BLOCK 7, MARKED WITH A 1/2" BAR AND CAP; THENCE CONTINUING ALONG SAID FLOOD CONTROL RIGHT-OF-WAY LINE AND ALONG THE EAST LINE OF VACATED VINE STREET, SOUTH 00°01'52" WEST, 86.24 FEET TO A POINT ON THE NORTH LINE OF A VACATED ALLEY; THENCE SOUTH 89°57'31" WEST, 11.00 FEET TO THE CENTERLINE OF VACATED VINE STREET, MARKED WITH A 1/2" BAR AND CAP; THENCE SOUTH 01°16'08" WEST, 4.34 FEET TO A 5/8" BAR AND CAP; THENCE NORTH 89°19'38" WEST, 10.91 FEET TO THE POINT OF BEGINNING AND CONTAINS 5.60 ACRES, MORE OR LESS.

**SECTION THREE. Permit Conditions, Approval.** Per Section 26-110, the Planning Commission may impose, and City Commission may approve, reasonable conditions on approval of a Conditional Use Permit. Additional conditions for this permit are approved as provided in the Staff Report as attached hereto.

**SECTION FOUR. Implementation.** The City Manager, or designee, is hereby authorized to issue a Conditional Use Permit once all conditions have been reasonably met.

**SECTION FIVE. Effective Date.** This Ordinance shall become effective and in full force from and after its passage, adoption and publication in the official City newspaper.

**PASSED AND ADOPTED** by the Governing Body of the City of Abilene, Kansas this 8<sup>th</sup> day of June, 2015.

**CITY OF ABILENE, KANSAS**

By: \_\_\_\_\_  
Dennis P. Weishaar, Mayor

ATTEST:

\_\_\_\_\_  
Penny Soukup, CMC

APPROVED AS TO FORM:

\_\_\_\_\_  
Mark Guilfoyle, P.A.  
City Attorney

**EXHIBIT A**

**Conditional Use Permit Application**

**and**

**Staff Report**

**for**

**109 S. Elm Street**

**City of Abilene, Kansas**

**June 8, 2015**

## STAFF REPORT

***PC 15-4 Consideration of a Conditional Use Permit, 109 S. Elm Street at the request of Gavilon/Flint Hills Grain, LLC for the construction of an additional grain storage bin.***

### GENERAL INFORMATION

<b>Date:</b>	May 4, 2015
<b>Owner:</b>	Flint Hills Grain, LLC
<b>Applicant:</b>	Brian Carleton, as agent to the property owner
<b>Requested Action:</b>	Approval of a Conditional Use Permit
<b>Purpose:</b>	To approve the construction of a 105-foot grain storage bin
<b>Location address:</b>	109 S. Elm Street
<b>Comprehensive Plan:</b>	Comprehensive Plan Shows this address as "Industrial Potential"
<b>Sites Existing Zoning:</b>	"I-1, Light Industrial District"
<b>Surrounding Zoning and Land Use:</b>	<p>North     <i>R-3 High Density Residential District occupied by residential structures.</i></p> <p>South     <i>I-1 Light Industrial District; BNSF Rail Road Right of way.</i></p> <p>East       <i>I-1 Light Industrial District; residential structures (owned by Applicant).</i></p> <p>West       <i>I-1 Light Industrial District; Mud Creek</i></p>
<b>Land Area:</b>	Contains approximately one acre
<b>Notice Date:</b>	Notice of the Public Hearing was published in the official newspaper on April 21, 2015, and notice was also provided by mail as required by City Code.

### COMMENTS:

1. The Applicant is constructing a 105-foot steel storage bin and truck receiving system on a property which has been zoned "I-1, Light Industrial District" for a number of years.
2. Due to an error in locating the property line, the storage bin currently under construction encroaches approximately six feet into public right-of-way.
3. Both the Applicant and the City are open to resolving the aforementioned setback issue by exchanging land for public right-of-way. The exchange would bring the storage bin into compliance with the twenty foot setback requirement for the "I-1" District, and enable the City and various utility companies to utilize additional land east of the current right-of-way line on S. Elm Street.
4. The City will not be able to consider the land exchange to resolve the aforementioned right-of-way issue until a Conditional Use Permit is granted.
5. Grain storage is considered a Conditional Use in the "I-1, Light Industrial District."
6. The building permits for the two existing grain storage bins on the site were issued in 2004. Construction was completed soon thereafter, but the City does not know the exact date of completion. The issuance of a certificate of occupancy was not a common practice at that time.

7. A Conditional Use Permit is required by the City whenever a change to the current condition of an existing use, which has been in place prior to the adopted regulations, is modified (In this case, the potential acquisition of additional land on the west right-of-way line on S. Elm Street by the Applicant).
8. The Conditional Use Permit will also enable the Applicant to address environmental concerns raised by the public and related to the operation of the grain bin. Staff has received comments and concerns from Karla Golden regarding dust and noise concerns.

**Recommendation and Findings:**

Staff is recommending *approval* of the Conditional Use permit with the following findings as outlined in Article 26-110:

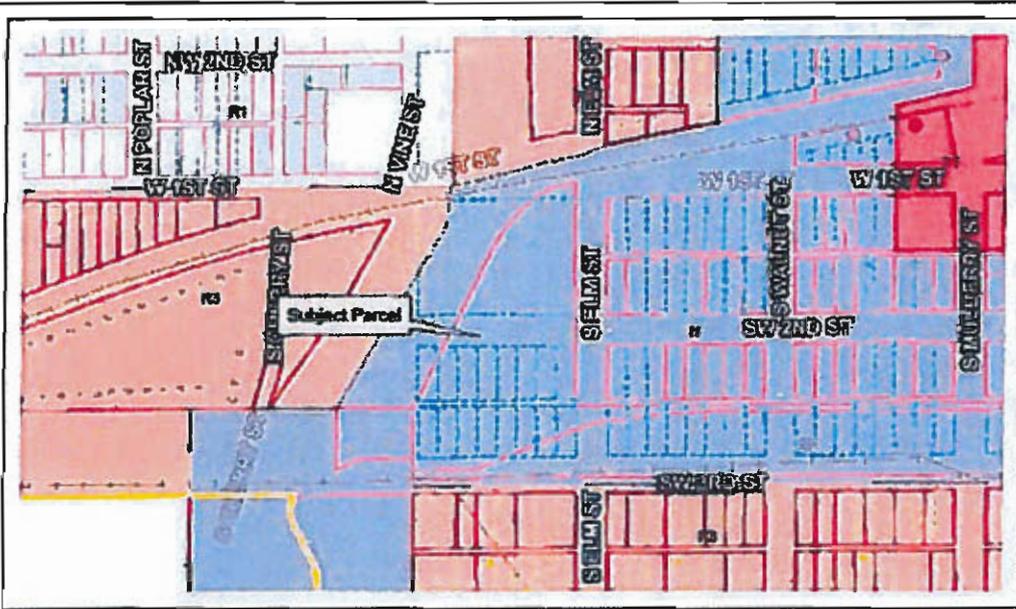
- a) **Consistency with intent and purpose of the zoning regulations** – In general, the proposed use is consistent with the intent and purpose as outlined in Article 1 of the regulations. The Applicant has shown good faith effort in proposing modifications to both its operation and facility to address the concerns of the public.
- b) **Compatibility of proposed use with surrounding uses** – The property has had the existing use established for at least four decades preceding the current owner. Although there have been environmental issues in the past with the Applicant's property, the residential properties within the vicinity of this operation have co-existed for decades.
- c) **Public Infrastructure** – The proposed use will have no adverse impact on public water or sewer. However, S. Elm Street between railroad right-of-way and W. First Street may experience additional wear with increased truck traffic.
- d) **Necessity of the proposal due to changes in the affected area** – There are no changes in the affected area. However, the subject site is part of a larger operation which includes other properties owned by Gavilon/Flint Hills Grain.
- e) **Length of time the property has remained vacant** – The property has been continuously operated as a grain storage operation since the late 1980s.
- f) **Compatibility of the subject property for the proposed use** – The property has contained the existing use, or similar intense industrial uses for over forty years (at least since the early 70's). The City has recognized the existence within its corporate limits of industrial uses immediately adjacent to residential uses at least since the 1969 Comprehensive Plan.

- g) **Whether the Comprehensive Plan is furthered and supported by this proposal** – The Future Land Use Map indicates this property as “Industrial Potential.” The subject property has retained this classification since the 1969 Comprehensive Plan. Chapter 9, Section C of the current Comprehensive Plan states that “Future Land Use Plan amendments are anticipated as growth occurs and market conditions change.” The City recognizes that the existing, long established use on this property has had the potential to grow.
  
- h) **Adverse impacts on adjacent properties if all conditions placed upon the request are met** – The purpose for imposing conditions on a proposal is to ensure that adjacent, conflicting uses are not detrimentally affected. “Goal A” under Key Issue 11 of the Comprehensive Plan strives to “minimize the negative impacts of adjacent incompatible land uses through required site improvements.” Due to current conditions and lot configuration, traditional screening of the facility may not be feasible. However, the Planning Commission may consider conditions in lieu of screening, including those proposed by the Applicant to address environmental concerns. Staff is of the opinion that the proposed improvements, with some additional modification, will not cause adverse impacts to adjacent properties.
  
- i) **Solid Waste disposal facilities** – Not Applicable
  
- j) **Other items for consideration** – In evaluating individual Conditional Use Permit applications, the Planning Commission may also consider the occurrence of similar land use patterns throughout the City. The subject area and its land use pattern, while not ideal, is by no means unique in the City of Abilene.

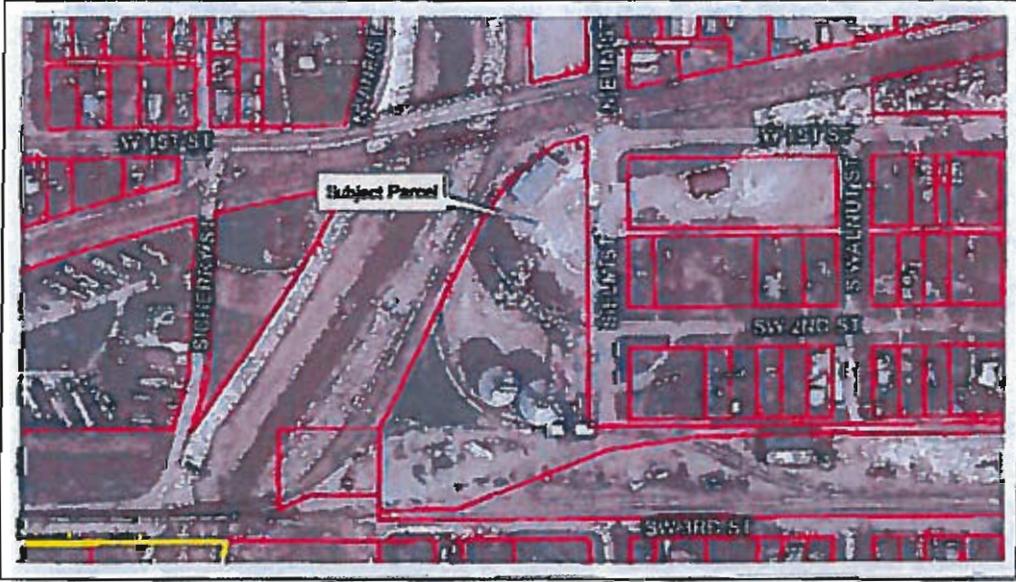
**Planning Commission Options:**

1. Recommend approval of the Conditional Use Permit. If this option is chosen, the following conditions of approval are strongly recommended:
  - a. The property owner shall dedicate sufficient real property to the City to address, to the satisfaction of the City Attorney, the existing encroachment on the public right-of-way and to bring the property into compliance with existing setback requirements for the applicable zoning district.
  
  - b. The Applicant is proposing several items to address dust and noise issues of the operation (see attached Exhibit). With regard to **Item 4**, any replacement of aeration fans or related equipment must be of similar or higher quality grade.
  
  - c. With regard to **Item 5**, the property owner shall apply an acceptable surface treatment on-site to reduce dust caused by vehicular traffic entering, traveling through, and exiting the site prior to the issuance of a Certificate of Occupancy. The Applicant will submit to the City a specification sheet of the product proposed for use. The City will monitor the site for dust resulting from vehicular movements on the site following the issuance of the Certificate of Occupancy.

- d. Applicant shall provide the City with an annual Inspection report of the facilities and providing documentation of any repairs completed during the year to address any mechanical equipment issues.
  - e. The Applicant shall comply with all applicable federal and state environmental air quality laws.
  - f. A Certificate of Occupancy for the new facility shall only be granted upon submittal of an approved traffic plan which addresses the following items: 1) traffic movements to and from the site shall not unduly impede public access to the public right-of-way; and 2) trucks shall not double stack on any public street in a manner that prevents public use of the public right-of-way.
  - g. The City will enforce the provisions of the Conditional Use Permit as provided in Article 30 of the Zoning Regulations. Such enforcement may include revocation of the Conditional Use Permit.
- 2. Recommend denial of the Conditional Use Permit, with findings justifying the recommended denial; or
  - 3. Table for further information. The Planning Commission will need to specify the information they require to aid in their decision making process.



PC 15-4 Conditional Use Permit



RECEIVED  
APR 15 2013  
CITY OF ABILENE

CITY OF ABILENE, KANSAS

DEVELOPMENT APPROVAL APPLICATION FORM

419 N. Broadway · Abilene, Kansas 67410 · Tel: (785) 263-2355 · Fax: (785) 263-2552 · www.abilene-cityhall.com

**INSTRUCTIONS:** This Application and all required fees and information must be submitted in accordance with the Code of the City of Abilene and the City of Abilene Zoning and Subdivision Regulations. All information requested in this application must be provided and answered completely.

PART I, TO BE COMPLETED BY APPLICANT	
<b>APPLICATION INFORMATION</b>	
APPLICATION FOR (CHECK APPROPRIATE BOX):	
<input type="checkbox"/> ADMINISTRATIVE APPEAL <input type="checkbox"/> ANNEXATION <input type="checkbox"/> CERTIFICATE OF APPROPRIATENESS <input type="checkbox"/> COMPREHENSIVE PLAN AMENDMENT <input checked="" type="checkbox"/> CONDITIONAL USE PERMIT <input type="checkbox"/> DEVELOPMENT CODE AMENDMENT <input type="checkbox"/> FINAL PLAT <input type="checkbox"/> HOME OCCUPATION PERMIT <input type="checkbox"/> LANDMARK DESIGNATION <input type="checkbox"/> LOT SPLIT	<input type="checkbox"/> LOT SPLIT <input type="checkbox"/> NON-CONFORMING USE CERTIFICATE <input type="checkbox"/> PRELIMINARY PLAT <input type="checkbox"/> PLANNED DEVELOPMENT <input type="checkbox"/> REPLAT <input type="checkbox"/> REZONING / ZONING MAP AMENDMENT <input type="checkbox"/> SITE PLAN <input type="checkbox"/> VACATION (PLAT, STREET, EASEMENT) <input type="checkbox"/> VARIANCE
<div style="border: 1px solid black; padding: 5px; float: right; width: 200px;"> <p>FOR OFFICIAL USE ONLY</p> <p>Appn Number: <u>PC-15-4</u></p> <p>Date Received: <u>4/15/13</u></p> <p>Received By: <u>[Signature]</u></p> </div>	
BRIEF DESCRIPTION OF APPLICATION PURPOSE:	
<p><u>Construct new 105' steel storage bin and truck receiving system.</u></p>	
<b>APPLICANT INFORMATION</b>	
APPLICANT/AGENT (If Not Property Owner):	
Name: <u>Brian Carleton VP - Operations</u> Tel: <u>402 - 889-4171</u> Business Name: <u>Gavilon Grain</u> Fax: ( ) Address: <u>1331 Capitol Ave</u> City: <u>Omaha</u> State: <u>NE</u> Zip Code: <u>68102</u> E-mail:	
PROPERTY OWNER (If Different from Applicant/Agent):	
Name: <u>Flint Hills Grain, LLC</u> Tel: <u>(800) - 767-7275</u> Business Name: <u>Flint Hills Grain, LLC</u> Fax: <u>(785) - 263-3203</u> Address: <u>513 W First</u> City: <u>Abilene</u> State: <u>Kansas</u> Zip Code: <u>67410</u> E-mail:	
ENGINEER/ARCHITECT/SURVEYOR:	
Name: <u>Bill Hodges</u> Tel: <u>(785) - 823-0440</u> Business Name: <u>Habco Inc</u> Fax: <u>(785) - 823-0442</u> Address: <u>248 E Berg</u> City: <u>Salina</u> State: <u>Kansas</u> Zip Code: <u>67401</u> E-mail: <u>billh@habcoinc.com</u>	

**PROPERTY INFORMATION**

PROPERTY ADDRESS OR GENERAL LOCATION (IN RELATION TO NEAREST STREETS):

109 S Elm  
513 W First Abilene, Kansas 67410

PROPERTY TAX IDENTIFICATION NUMBER:

ZONING: Existing: I-1 Proposed: NA

LAND USE: Existing: Industrial Proposed: Industrial

GROSS SIZE OF PLAT/LOT:

Residential: \_\_\_\_\_ Commercial: \_\_\_\_\_ Industrial: 12,150 Other: \_\_\_\_\_ Total: 12,150 ft<sup>2</sup>

NUMBER OF LOTS:

Residential: \_\_\_\_\_ Commercial: \_\_\_\_\_ Industrial: 1 Other: \_\_\_\_\_ Total: \_\_\_\_\_

IMPROVEMENT CHARACTERISTICS:

Number of Buildings or Structures: \_\_\_\_\_ Total Building Area: 8992 ft<sup>2</sup>  
Maximum Height of Buildings or Structures: 122'-2" Total Impervious Area: 3158 ft<sup>2</sup>

EXISTING PUBLIC FACILITIES: Public Private Other (Describe)

Water Service:     
Wastewater Service:     
Roadway Access:

FLOODPLAIN INFORMATION: NA

Floodway:  Yes  No FIRM Map-Panel Number: 0076  
Floodway Fringe:  Yes  No Zone: X

ARE ANY OTHER PERMITS OR DEVELOPMENT APPROVALS REQUIRED, APPLIED FOR OR RECEIVED FOR THE APPLICATION PROPERTY BY THE CITY OR ANY OTHER JURISDICTION OR AGENCY?  
 Yes  No If Yes, Describe Briefly and Attach a Copy of Each Permit, Approval or Application

1) Excavation Permit  
2) Building Permit

**APPLICANT/PROPERTY OWNER CERTIFICATION**

I/we acknowledge receipt of the instruction sheet explaining the method of submitting this application. I/we realize that this application cannot be processed unless it is completely filled in; is accompanied by a current abstractor's certificate as required in the instruction sheet; and is accompanied by the appropriate fee. I/we further certify that the foregoing information is true and correct to the best of our knowledge. I/we acknowledge that the City of Abilene Planning Commission, Board of Zoning Appeals or City Commission shall have authority to impose such conditions as it deems necessary in order to serve the public interest and welfare.

B. Ham VP-Ops 4-14-15  
Applicant Signature Date

Deey O'Kona 4-14-15  
Property Owner Signature Date

\* This Application must bear the signature(s) of the property owner(s). If an authorized agent signs on the owner's behalf, the agent shall sign his own name and attach the owner's written, notarized authorization to this Application.

**PART II - TO BE COMPLETED BY STAFF**

**DOCUMENTS TO BE SUBMITTED WITH APPLICATION\*\***

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Copy of Deed            | <input type="checkbox"/> Easements and Covenants                                      | <input checked="" type="checkbox"/> Location Map                    |
| <input checked="" type="checkbox"/> Site Plan    | <input type="checkbox"/> Preliminary Plat   | <input type="checkbox"/> Final Plat                                 |
| <input type="checkbox"/> Infrastructure Plans    | <input type="checkbox"/> Development Agreement  | <input type="checkbox"/> Grading and Stormwater Plans               |
| <input type="checkbox"/> Elevation Survey        | <input type="checkbox"/> Traffic Impact Study   | <input type="checkbox"/> Construction Plans                         |
| <input type="checkbox"/> Performance Agreement   | <input type="checkbox"/> Proof of Notification  | <input type="checkbox"/> Utility Plans                              |
| <input type="checkbox"/> Text Amendment Language | <input type="checkbox"/> Property Owner List  | <input type="checkbox"/> Comprehensive Plan Amendment Justification |
| <input type="checkbox"/> Annexation Boundary Map | <input type="checkbox"/> Operating Characteristics Report                             | <input type="checkbox"/> Administrative Appeal Justification        |
| <input type="checkbox"/> Variance Justification  | <input checked="" type="checkbox"/> Other <u>Legal Description of Lot in question</u> |   |

Additional document requirements provided to applicant on \_\_\_\_\_. The applicant is advised that the application is not accepted for public review until such time as the above identified documents are submitted and a Determination of Complete Application is certified.

_____	_____
Name	Title
_____	_____
Signature	Date

\*\* Number of copies for submission determined by Zoning Administrator. The Zoning Administrator may request additional information as deemed necessary to properly evaluate the permit application.

**APPLICATION REVIEW**

DECISION-MAKING BODY:  Staff  Planning Commission  Board of Zoning Appeals  City Commission  
 Heritage Commission  Other (specify):

DATE OF INITIAL HEARING(S): May 12, 2015 (P/C) To City Commission 6/8/15

FEE AMOUNT: \$ 100.00 DATE FEE PAID: 4/17/15

**DETERMINATION OF COMPLETE APPLICATION:**

I certify that the Development Approval Application and attached documents are sufficient in form and content for review and recommendation by the decision-making bodies of the City of Abilene. As such, all required notifications and hearings may proceed pursuant to City regulations and procedures. This certification does not preclude the review, recommendation and/or decision-making bodies from requesting additional information as deemed necessary to serve the public interest.

Tim Hamilton  
Name  
[Signature]  
Signature

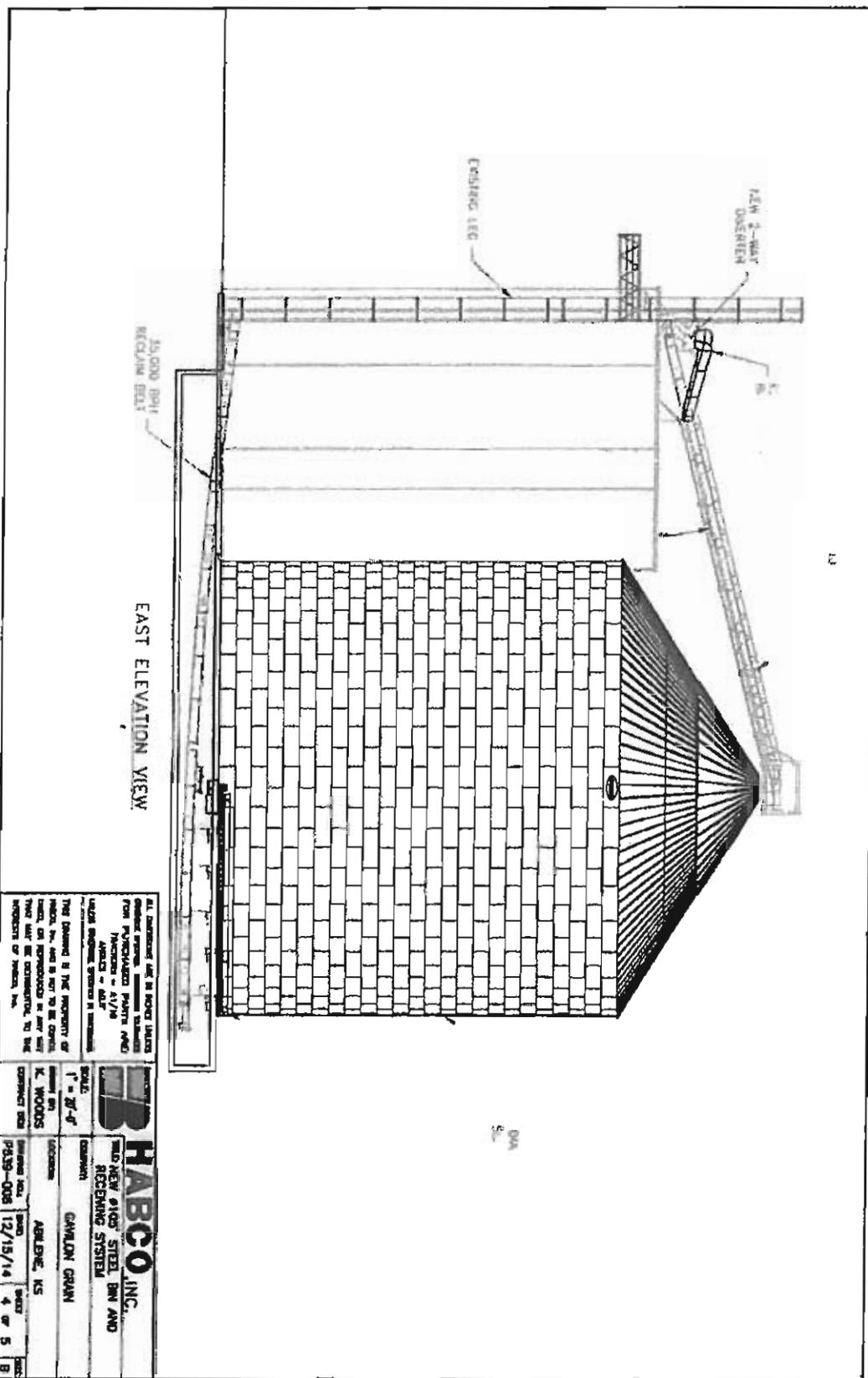
Comm. Dev. Director  
Title  
4/15/15  
Date

**P A I**  
**APR 17 2015**  
**CITY OF ABILENE** **D**

## Flint Hills Grain, LLC New Bin Project

Steps that are being undertaken to allow us to control dust emissions and noise from our system.

1. Installing silencers on the aeration fans for the new bin to reduce noise levels.
2. Installing mechanical baffles in the new truck receiving pit to reduce dust emissions from the pit.
3. Modifying belt loader on overhead belt to improve loading of grain onto belt conveyor.
4. Have contracted with 3<sup>rd</sup> party contractor to inspect and repair any operational or mechanical issues with existing dust filter systems.
5. Plan to install a road dust control product on the truck roads to reduce dust from truck traffic.
6. New pit will allow conveyance of grain straight to rail loading storage bins, this will reduce the volume of internal grain transfer in the elevator. Reduced handling will reduce dust emissions.
7. New facility Manager and Superintendent have been placed at the facility to increase operational efficiency and controls.

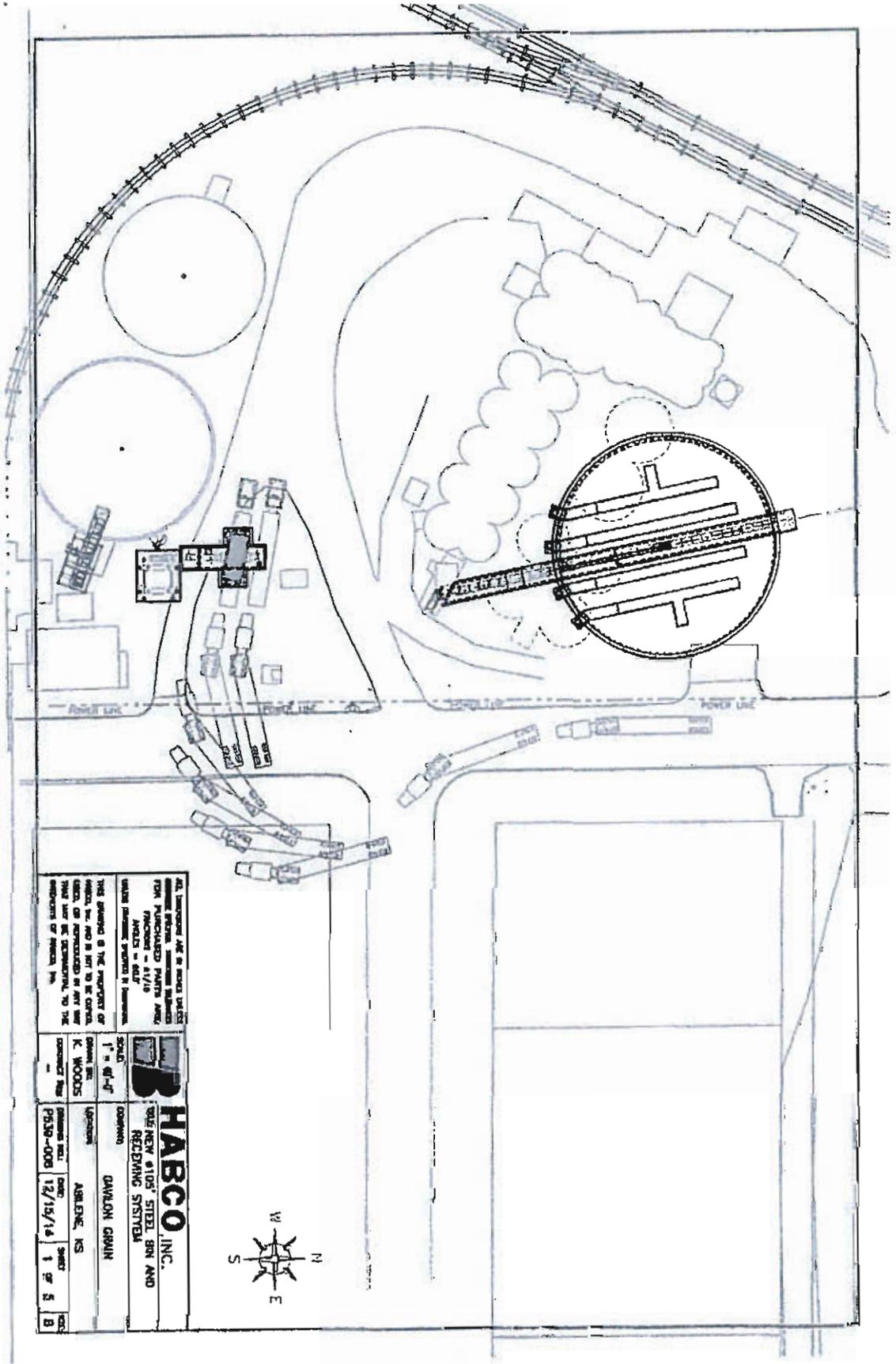


EAST ELEVATION VIEW

ALL DIMENSIONS ARE IN FEET UNLESS OTHERWISE SPECIFIED. DIMENSIONS TO FACE UNLESS NOTED OTHERWISE. DIMENSIONS TO CENTER UNLESS NOTED OTHERWISE. DIMENSIONS TO SURFACE UNLESS NOTED OTHERWISE. DIMENSIONS TO CENTER UNLESS NOTED OTHERWISE. DIMENSIONS TO SURFACE UNLESS NOTED OTHERWISE.

<b>HABCO, INC.</b> 750 NEW 9100' STEEL BAY AND RECEIVING SYSTEM	
PROJECT NO. 12/15/14	LOCATION ASHLAND, MS
DRAWN BY K. WOODS	CHECKED BY GAVELON GRAY
SCALE 1" = 20'-0"	SHEET 4 OF 5
CONTRACT NO. P8339-008	DATE 12/15/14

004  
50



ALL DIMENSIONS ARE IN FEET UNLESS OTHERWISE SPECIFIED. DIMENSIONS SHOWN FOR THE PROPOSED BUILDING ARE APPROXIMATE. DIMENSIONS FOR THE PROPOSED BUILDING ARE APPROXIMATE. DIMENSIONS FOR THE PROPOSED BUILDING ARE APPROXIMATE.

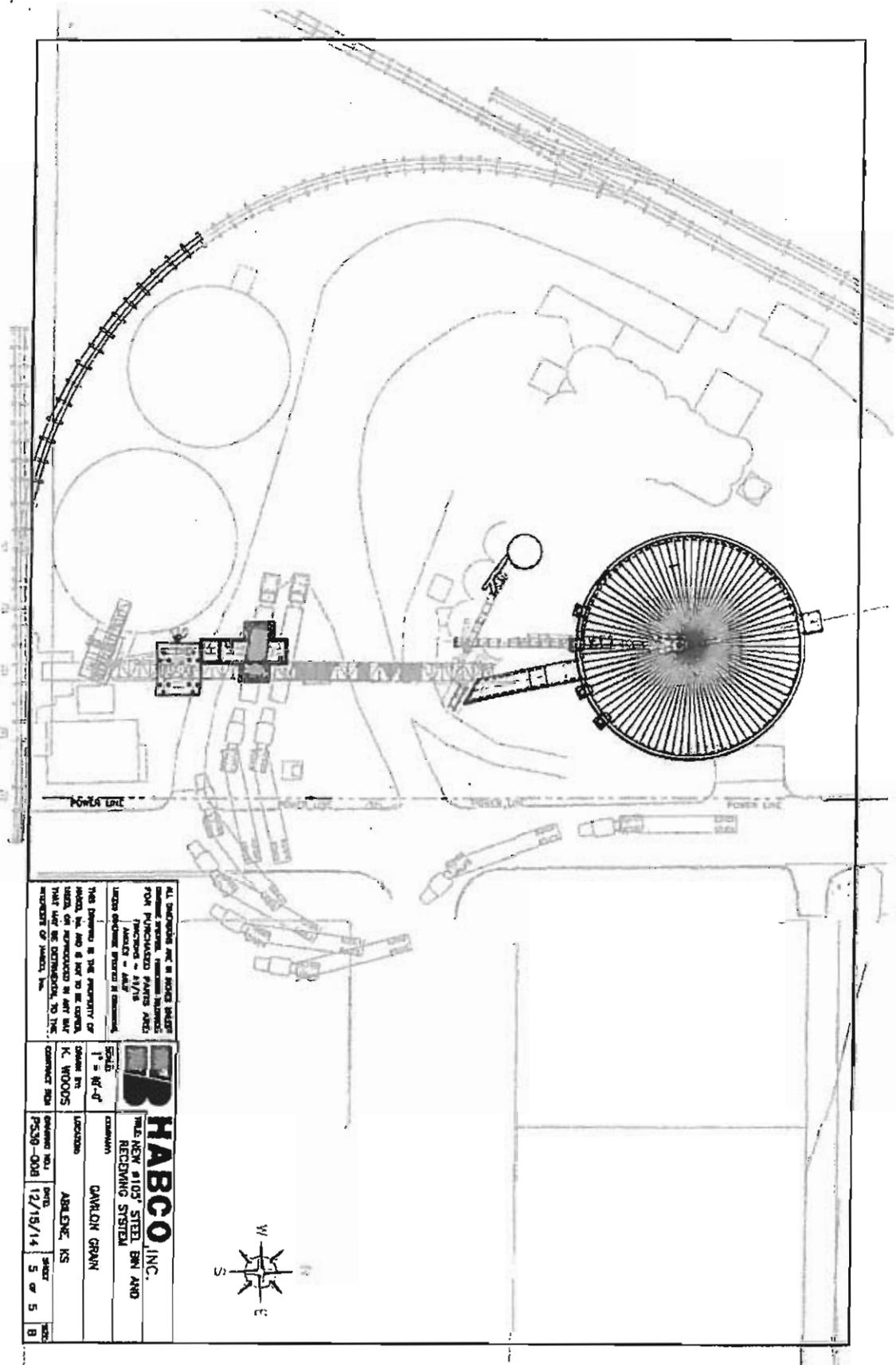
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**HABCO, INC.**  
 9105 NEW 9105<sup>th</sup> STEEL, BRN AND  
 RELEASING SYSTEM

SCALE: 1" = 60'-0"

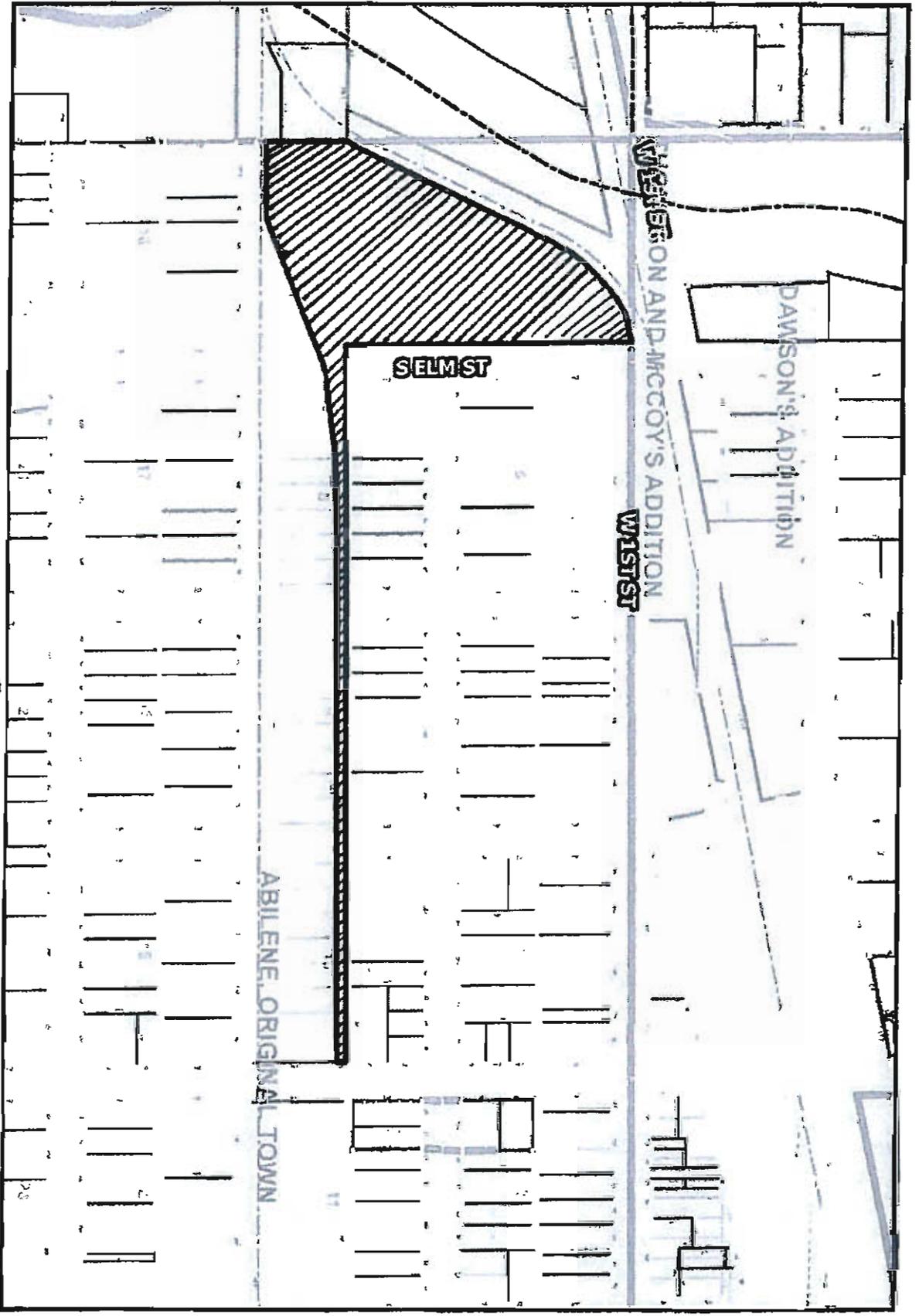
DESIGNED BY: K. WOODS  
 CHECKED BY: [Signature]

DATE: 12/15/14  
 SHEET: 1 OF 5  
 JOB: [Project Name]



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 <b>HABCO, INC.</b> THE NEW 8100' STEEL BOLT AND RECEIVING SYSTEM	SCALE: 1" = 40'-0"	LOCATION: CARROLL GRAM ABILENE, KS	DRAWING NO.: PCSO-008	DATE: 12/19/14	SHEET: 5 OF 5	TOTAL SHEETS: 5
	DESIGNER: K. WOODS	CHECKER: K. WOODS	CONTRACT NO.:	PROJECT NO.:	REVISED:	APPROVED:



1 inch = 263 feet

Date Printed: 4/16/2015



This map is for informational purposes only and should not be used to determine precise boundaries, roadways, property boundary lines or legal descriptions. It shall not be construed to be an official survey of any data depicted. --Dickinson County GIS



Planning Committee Submission

May 12, 2015



Beth Weibert, location manager at Flint Hills Grain. 9 years of experience in the grain industry- been at Abilene for almost 8 years.

#### Background on Abilene facility

- Current concrete elevator has been in operation since 1950 and an even older elevator structure stood on this ground previously
- Elevator location has been owned by a number of companies over the 65+ years in existence.
- In February the facility became Flint Hills Grain (FHG) a joint venture owned by local coop AgMark and Gavilon Grain
- Having been employed here through several of the ownership transitions I can personally attest to the current owners attention to the environment and safety
- These two owners have the financial resources as well as the personnel expertise to maintain the upgrades and are committed to being a good neighbor.
- We employ 15 full time employees at FHG including 3 who have been here over 30 years. We are proud of the value we bring to the City of Abilene and the surrounding areas as well as our closeness to the community

#### What does FHG do?

- FHG is an efficient shuttle loader facility- shuttle facilities load grain on trains and send them to destinations for export.
- A shuttle facility must have access to railroads- we are fortunate to have access to both the BNSF and the Union Pacific. This railroad access gives us the ability to offer producers access to global markets at much higher prices than local truck markets.
- We are proud that we trade with more than 500 farmers as well as many Kansas coops. Our trade territory covers a draw area of approximately 150 miles around Abilene.

#### Why are we upgrading?

- Many of you have probably noticed the advancements that have been made in production agriculture including larger farm equipment and a growing number of semi trucks and trailers on the farm
- We are increasing our storage capacity and speed to keep up with the demand of local producers
- We are working with the city of Abilene to operate within the city requirements for an upgrade to our facility
- Salina has 3 shuttle shippers like ourselves. If Abilene didn't have a shuttle facility many of our customers would take their production to Salina and we would miss the grain as well as a lot of their business they do while in town delivering grain
- Constructing a new bin helps us buy and store more grain.

- 
- Constructing another receiving pit and scale helps get trucks through our facility much quicker
  - This upgrade helps us stay competitive and get more local grain out to the food, feed and fuel customers who need it

#### How does this affect the city?

- We bring value to the city by bringing in additional tax revenue and even more business for local owners. Last year we paid over \$55,000 in taxes, with the addition this tax base will increase
- Over the past year, our elevator has spent almost \$200,000 in Abilene for goods and services
- This doesn't include the truckers and local farmers that bring us grain and then visit local businesses or the construction workers who have been at our facility working on the project and purchasing hotel stays as well as food and drink

#### How do our improvements affect the local population?

- Whenever we undertake a major capital improvement project such as this, we look for ways to better control dust and noise
- The scope of this project also includes a number of steps aimed directly at controlling and reducing both dust emissions and noise from our facility. Rick Benware will be discussing the details in a few minutes.

#### Thank you to our supporters

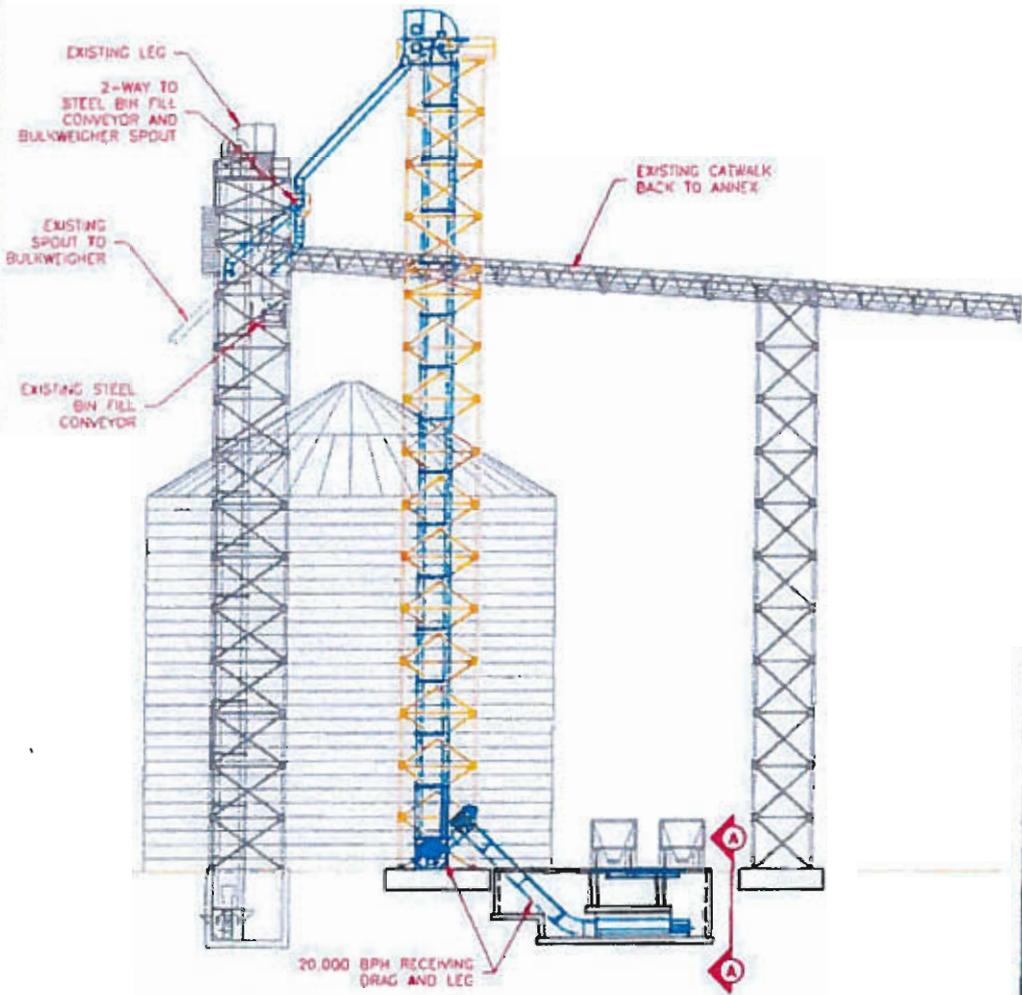
- We appreciate the support that we have received local farmers, businesses and residents of Abilene as well as many coops and the Kansas Grain and Feed Association
  - We are honored to received 175 signatures on our petition, as well as 16 letters of support from local businesses
  - With this support, we will continue to be a strong business for Abilene while we conduct ourselves in a way that complies with local laws and benefits this community.
- 
- 

## Flint Hills Grain – Project Discussion

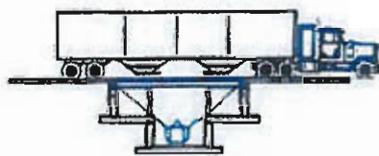
As Beth has explained this project is designed to provide additional storage at the facility and improve efficiencies in the grain handling process for receiving and shipping

### > Project

- Installation of a new 750k storage bin to provide adequate storage for our customers
    - Installing silencers on the aeration fans to reduce noise level
  - Installation of a new receiving pit and conveying to increase receiving system capacity
    - Increased capacity will decrease time required to process trucks through the facility
    - Receiving pit will allow facility to convey grain straight to the rail load-out storage bins.
    - Reduces internal grain handling to move grain to position for loading out onto rail cars
    - Existing system receives, elevate to concrete storage, then elevate again and convey to rail shipping bins
    - Installing mechanical pit baffles to reduce dust emissions from new receiving pit
  - Addressing road dust from property
    - Applying road dust control product (road genesis) to gravel truck roads across our property
    - Streamlined truck pattern across our property to reduce turning of trucks
  - Additional items to address dust emissions
    - Modification to overhead belt loader to improve loading of grain onto the belt
      - Install rubber belting to extend spout to conveying belt
      - Install metal and belting to enclose the belt loader to improve efficiency of dust aspiration system
    - Contractor inspected existing dust filters to determine any operational or mechanical issues and suggested repairs
      - Recently replaced three filter airlocks
      - Pursuing larger air compressor to provide additional air volume for bag purging
      - Addressing proper operation of diaphragm valves for proper bag purging
      - Important to properly purge bags for efficient airflow through filter
    - Modifying the truck load-out with addition of DSH spout
- ### > Preventative Maintenance Procedures
- Inspect and maintain equipment in proper working order
- ### > Facility is governed by operating permit from Kansas Department of Health and Environment
- Inspection completed on 7/28/14 with no issues noted
- ### > Leadership
- New ownership with new expectations
  - New leadership from Corporate level to ensure facility is maintained and operated properly
  - New location management who understand and will drive the higher expectations
  - Committed to remain a good neighbor to the residents of Abilene while supporting local agriculture and business.



**EAST ELEVATION VIEW LOOKING WEST**

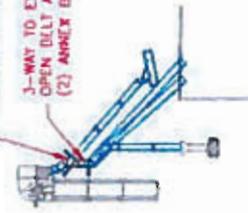


**SECTION A-A**

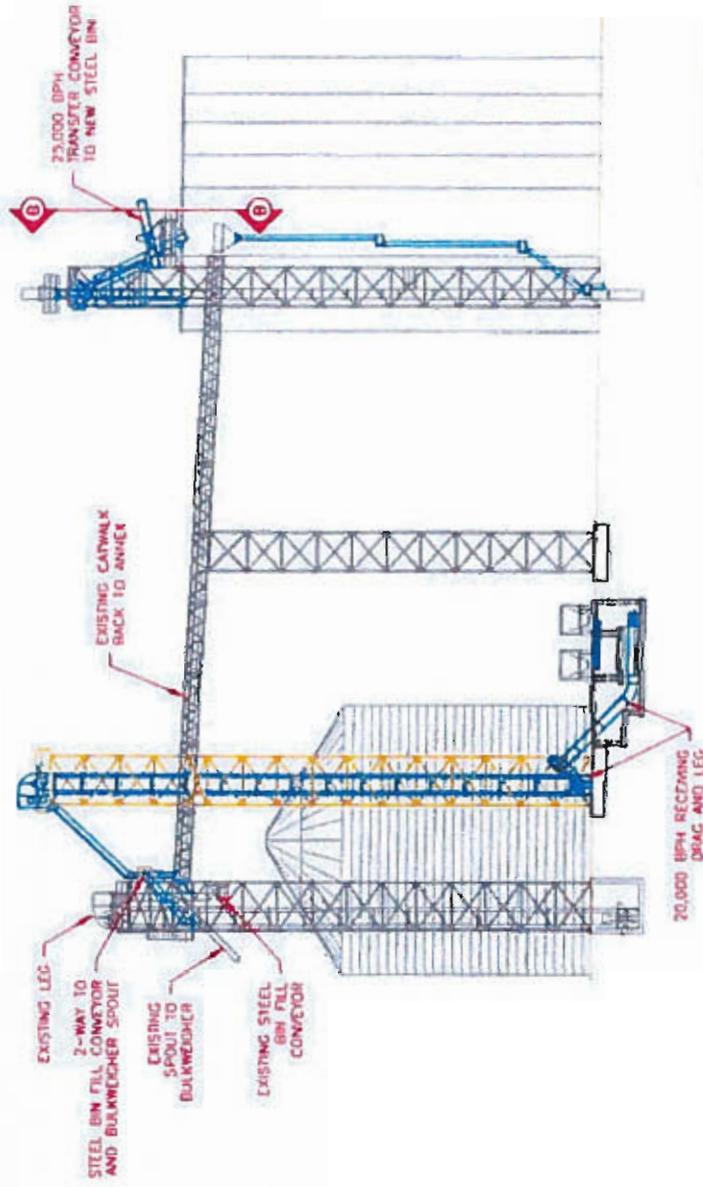
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THIS DRAWING IS THE PROPERTY OF HABCO, INC. AND IS NOT TO BE COPIED, REPRODUCED, OR REPRODUCED IN ANY WAY THAT MAY BE DETRIMENTAL TO THE INTERESTS OF HABCO, INC.		<b>HABCO, INC.</b> TITLE: NEW #105' STEEL BIN AND RECEIVING SYSTEM	
SOLD: 1" = 20'-0"	COMPANY: GAYLON GRAIN		
DRAWN BY: K. WOODS	LOCATION: ABILENE, KANSAS		
CONTRACT NO.: P533-005	DATE: 12-15-14	SHEET: 2 OF 5	NO.: 8

2-WAY TO TRANSFER CONVEYOR TO NEW STEEL BIN AND 3-WAY

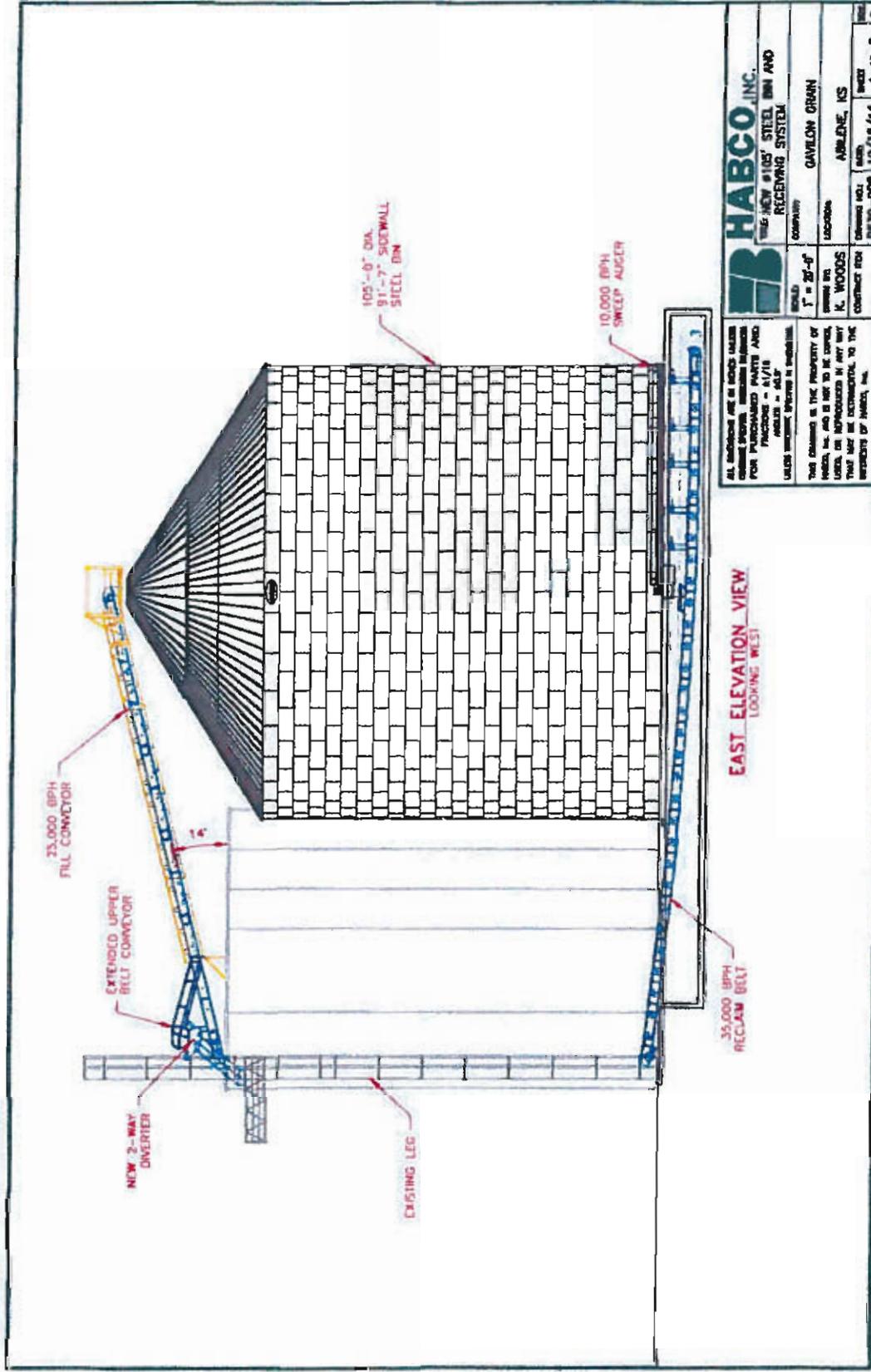
3-WAY TO EXISTING OPEN DILT AND (2) ANNEX BING



**SECTION B-B**



	<b>HABCO INC.</b> WEBBVIEW #100' STEEL BIN AND RECEIVING SYSTEM	
	SCALE 1" = 30'-0"	COMPANY DAWLONT GRAIN
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CONTRACT NO. P-138-008	CONTRACT DATE 12-10-14	SHEET NO. 3 OF 5



<b>HABCO INC.</b>	
THIS NEW #105' STEEL BIN AND RECEIVING SYSTEM	
SCALE	COMPANY
1" = 20'-0"	HABCO GRAB
DESIGNED BY	LOCATION
K. WOODS	ABILENE, KS
CONTRACT NO.	DRAWING NO.
PS39-006	12/18/14
SHEET	NO. OF SHEETS
4	5

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**EAST ELEVATION VIEW**  
LOOKING WEST



- [Sioux Steel Company](#)
- [Commercial Bins](#)
- [Farm Bins](#)
- [Livestock Solutions](#)
- [Pro-Tec Buildings](#)

Category: [Commercial Bins](#) » [Dust Suppression Hopper](#)

[Click Here to take a brief survey](#)

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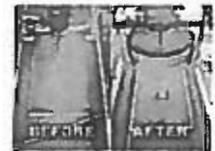
## Dust Control & Prevention

[Return to Dust Suppression Hopper](#)



### Reduces Dust For Cleaner Loading Of Trucks, Rail Cars, Storage Containers, Bags Or Stockpiles

- :: Reduces Hazards, Health Risks And Maintenance Costs
- :: Uncomplicated To Install, Easy To Operate
- :: Perfect For Grain Elevators, Mills, Fertilizer Plants & Quarries



### Receive A Quote To Reduce Dust At Your Workplace

#### Dust Suppression Hopper Reduces Total Dust By 98%!

Office of Mine Safety and Health Research - [OMSHR Independent Study Results](#)

The Dust Suppression Hopper is installed under a feed point where it can be suspended above the target and kept at operating level. A small degree of natural agitation as the hopper is filled helps exclude air from the material being transferred.

At the point of loading, or transferal, the DSH System concentrates the discharge of dry goods as a solid column through free air into any target repository including trucks, rail cars, storage containers, bags or stockpiles.

Previously, trucks taking on a load literally disappeared in the dust cloud. Uncomplicated to install and easy to operate, the DSH System will reduce hazards and health risks, dust and wastage. Models are robust and easy to operate and maintain. By reducing product shrinkage, you can sell more of your product.

Product	Before DSH	After DSH
Blue T super	100%	2%
Bourwna rock	100%	2%
DAP	100%	2%
MAP	100%	2%
Feed phosphate	100%	2%
Keserite	100%	2%
Potsulf	100%	2%
Sulphur	100%	2%
Urea	100%	2%

[DSH Brochure](#) [DSH Flyer](#)  
[DustSuppression@hopper.com](mailto:DustSuppression@hopper.com)

#### DSH TESTED PRODUCTS:

##### FERTILIZERS

Blue T super, Bourwna rock, DAP, MAP, Feed phosphate, Keserite, Potsulf, Sulphur, Urea

##### SUPERPHOSPHATES

Dolomite lime, Lime (granular), Potash, RPR fertiliser, Serp super, Togo rock



**FOODSTUFFS**

Revel A, Salt - coarse, Salt - plain table, Raw sugar, Refined sugar

**MINERALS & QUARRY PRODUCTS**

Bauxite, Gravel, Kaolin, Magnesite, Olivine, Sands, Salt - deicing, Soda ash

**GRAINS & STOCK FOODS**

Barley, Barley moultings, Canola meal, Corn, Corn germ, Corn gluten, Corn gluten feed, Corn gluten meal, Corn gluten pellets, Cotton seed meal, DDG's, Pepsygen, Rapeseed meal, Sorghum, Soybeans, Soybean meal, Soybean hulls, Soybean pellets, Wheat

**SAVINGS & BENEFITS:**

- Standard model uses no utilities & no internal moving parts.
- Reduce maintenance, cleaning & storage costs.
- Relocate or turn off dust extraction.
- Reduce loss of fugitive fines.
- Faster, cleaner truck, stockpile and rail car loading.
  
- Reduce product shrinkage & improve visibility while loading.
- Improve your employee health and safety.
- Improve air quality for your environmental community.
- Enables operation closer to urban areas.



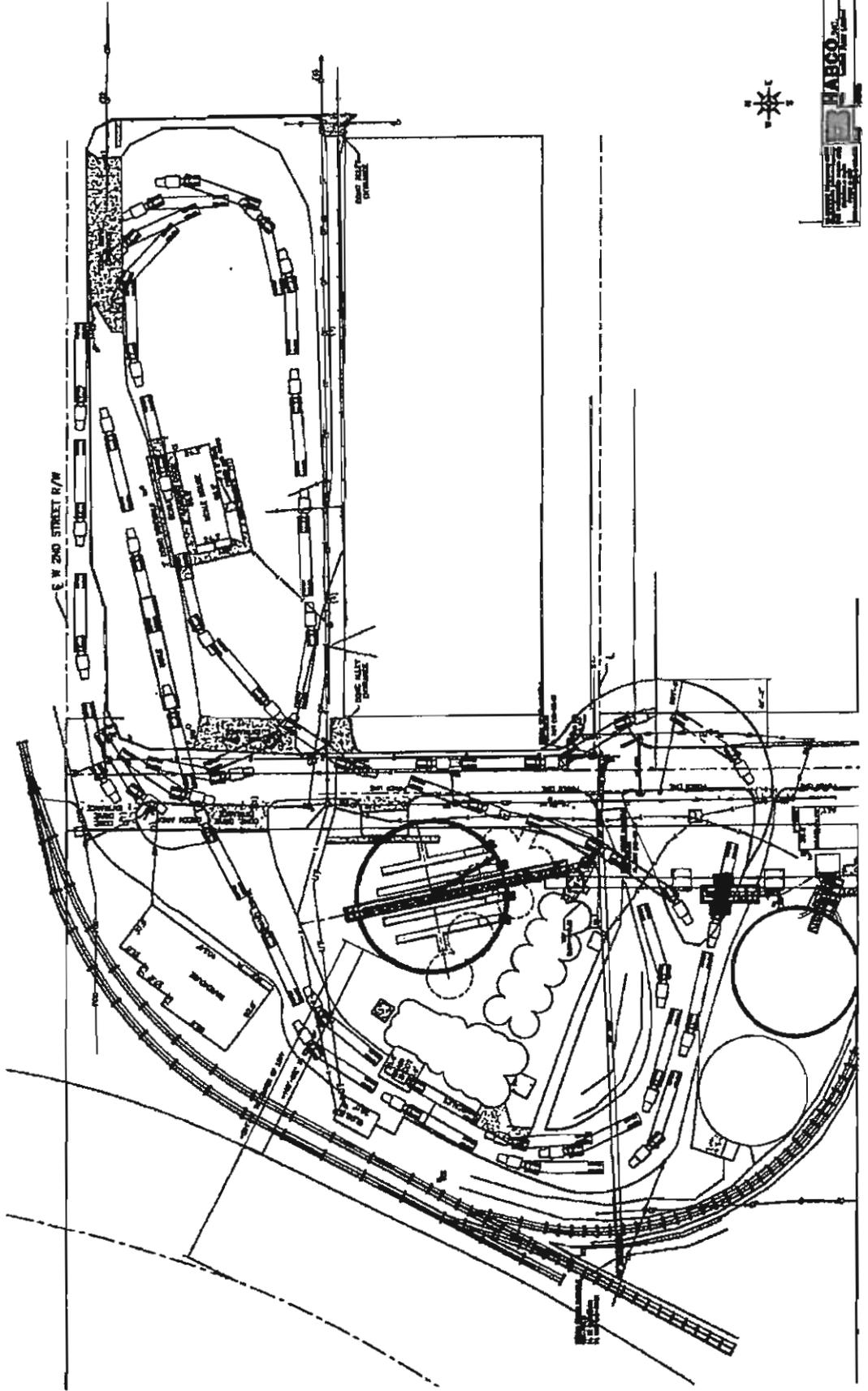
**Editorial from Dry Cargo International**

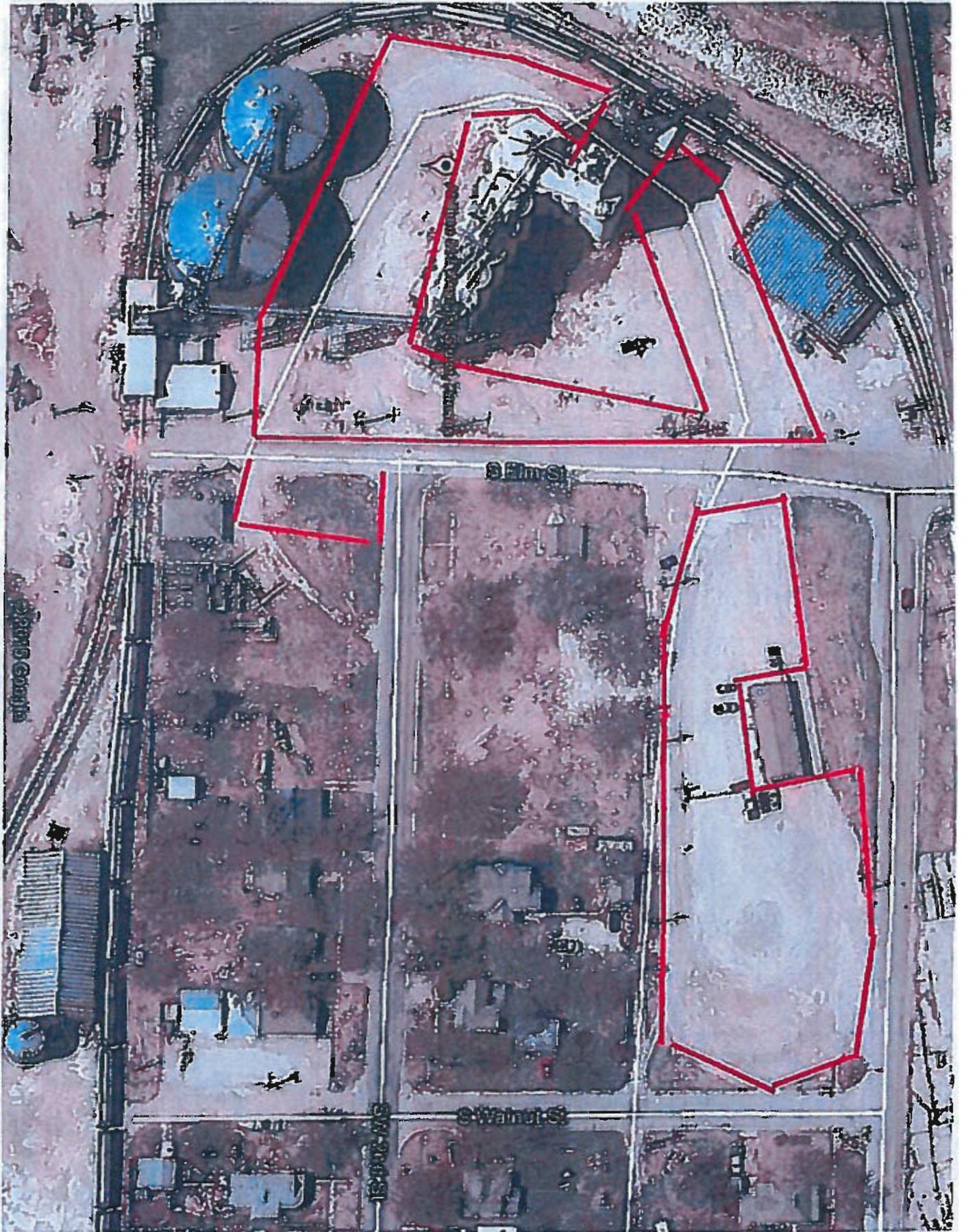
Visit [www.dshsystems.ca](http://www.dshsystems.ca) for more details.

Easily add a Dust Suppression Hopper to your Pro'lex Grain Storage

View the video below to learn more about our award winning DSH system.









Hardpac  
615 N. Main  
South Hutchinson, KS 67505

[www.equipment-link.com](http://www.equipment-link.com)  
Office: (620) 259-7902  
Fax: (620) 259-7903

---

5/6/15

To whom it may concern:

We have used the Road Genesis product to do test plots, dust control and road stabilization for many of our customers. We have been very pleased with the ease of use of this product, the superior results and the quickness of the results we are seeing, the positive environmental impact it has on the land we use.

Our customer's are very happy with the economic impact it makes for them. They compare many products before making decisions, and we have found that a majority of them see a significant cost savings using Road Genesis products.

We feel that you will be very happy in your choice to use Road Genesis.

Please do not hesitate to call with any questions.

Thank you,

A handwritten signature in cursive script that reads "Ken Wallace". The signature is written over a horizontal line.

Ken Wallace 620-669-7594

A handwritten signature in cursive script that reads "George Brown". The signature is written over a horizontal line.

George Brown 620-899-6812

# LOOMIX®

PHONE: 800-870-  
0356  
FAX: 970-587-2402

## Industrial Products

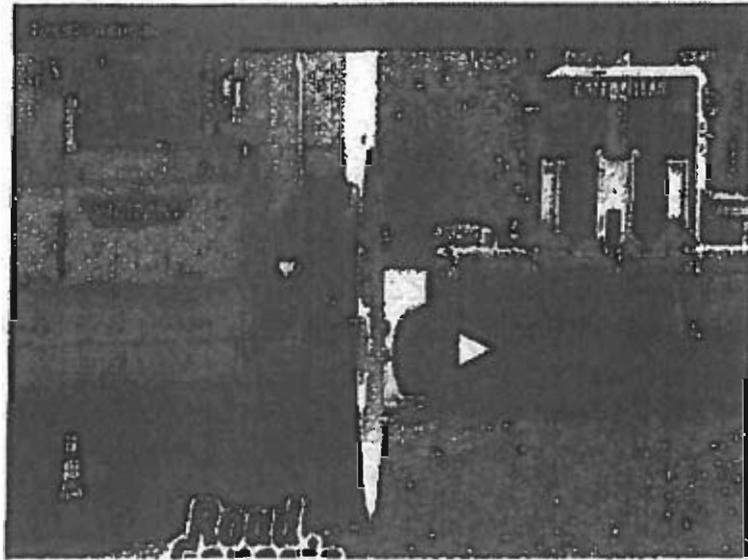
As the price of oil has risen, so too has the cost of road construction using petroleum-based products. That—along with increasing environmental concerns—has made finding a viable alternative a priority! Road Genesis™ is that alternative, and it is produced by ADM Alliance Nutrition®, a trusted provider of quality Loomix® liquid products that date back 50 years. Made from many of the same ingredients used to feed livestock and other wildlife, Road Genesis is cost-effective and proven to stand the test of time for jobs big and small.

### Benefits of Road Genesis

- A non-petroleum based soil stabilization and dust abatement industrial product.
- Safe handling, easy to apply, and cost-effective.
- Provides both soil stabilization and dust control to help build a structurally sound road suitable for a steady flow of heavy traffic.
- Sub-base treated soil is less likely to rut or break-up during spring freeze-thaw cycles, creating an excellent foundation for concrete or asphalt paving.
- Even in the event of extreme moisture from snow or heavy rainfall, Road Genesis™ helps keep the road pad firm—adding life and body to the original road.
- Can be used in many areas, including, but not limited to: rock quarries, coal mines, oil field roads, oil field pads, ranch roads, deer lease roads, parking lots, fairgrounds, arenas, livestock auctions, feedlots, and gravel driveways.
- Alternative to petroleum-based products; providing non-toxic ingredients.
- No unpleasant aroma associated with traditional road products.
- Provides a safer and cleaner site by minimizing dust clouds which enables better visibility on dirt roads, helps reduce road repair with hardened surfaces, and cleans up easily with water.



**Road  
Genesis**



**Application for Dust Control**

1. Road dust control requires two to three passes staggered out over several hours, or days, depending on climate.
2. Ensure complete saturation before applying the next coat. This will allow for a better, well-rounded road bond and surface penetration by applying unified layer.

**Application for Road Stabilization**

1. Apply to the road using a maintainer or similar tool to implement a wind row effect, allowing the product to be mixed in thoroughly. If possible, use a milling machine to further mix the material into the aggregate.
2. Make another pass with Road Genesis using the same wind-row technique. A total of three passes should be made using this method.
3. Shape and roll with a rubber/metal wheeled roller.
4. Once the road is shaped and/or rolled, the fourth and final "seal coat" will be applied to the hardened surface. This fourth coat can be applied prior to rolling or after the road is completely finished.



**Equipment Needed**

- Truck with spray boom
- 3,000 gallon storage tanks
- Blade/Grader
- Ripper (for road stabilization)

# Road Genesis™

...another quality Loomix® product!

## Benefits of Road Genesis™

- Safe handling, easy to apply, and cost-effective.
- Provides both soil stabilization and dust control to help build a structurally sound road suitable for a steady flow of heavy traffic.
- Sub-base treated soil is less likely to rut or break-up during spring freeze-thaw cycles, creating an excellent foundation for concrete or asphalt paving.
- Even in the event of extreme moisture from snow or heavy rainfall, Road Genesis™ helps keep the road pad firm—adding life and body to the original road.
- Can be used in many areas, including, but not limited to: rock quarries, coal mines, oil field roads, oil field pads, ranch roads, deer lease roads, parking lots, fairgrounds, arenas, livestock auctions, feedlots, and gravel driveways.
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## Application for Dust Control

1

- Road dust control requires two to three passes staggered out over several hours, or days, depending on climate.

2

- Ensure a complete saturation before applying the next coat.
- This will allow for a better, well-rounded road bond and surface penetration by applying unified layer.

Apply Road Genesis™ to the road surface and allow it to dry completely before applying the next coat.

## Application for Road Stabilization

- Apply to the road using a maintainer or similar tool to implement a wind row effect—allowing the product to be mixed in thoroughly
  - If possible, use a milling machine to further mix the material into the aggregate
- After reshaping the road, make another pass with Road Genesis using the same wind-row technique
  - A total of three passes should be made using this method
- After the third pass has been made, the road should be shaped and rolled with a rubber/metal wheeled roller
- Once the road is shaped and/or rolled, the fourth and final “seal coat” should be applied to the hardened surface
  - This fourth coat can be applied prior to rolling or after the road is completely finished

### Equipment Needed

- Truck with spray boom
- 3,000 gallon storage tanks
- Blade/Grader
- Ripper (for road stabilization)



# Road Genesis™

...another quality **Loonix®** product!

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Texas/OK/Ar/Ks based; Sandy creek Enterprises:

We have used the Road Genesis product along with other products designed by JD Nolen/ADM in the past in the Oil and Natural Gas field, as well as the edible foods/grain Terminals & government roads. The support has always been more than adequate and we are over all as a whole impressed with the products ability to work as a Pad aside from as dust abatement.

We have worked with groups such as hard rock solutions, and DRS, LLC to create pads and access roads for these businesses in the state of Kansas. Everyone has been very pleased with the product chiefly, but as well the guidance and the contract group's lenience and availability to fit both ours and the grain terminal/Oil company schedule for pads. We have worked for Sand ridge Energy; Eagle Energy, Atlas Energy, Devon Energy; ADM Grain; Kansas County Commissioner's in various counties at this point and hope to get more involved in the state.

The technique and plan of action they use has been altered over the last few years and now seems to be a flawless operation at times, but always manageable to the least.

I like the product and have thoroughly examined it as has the groups we have worked with. All has been with allowance.

Hope this is relative to what is needed as a testimonial on the ADM Road Genesis Product Line.

Tommy Blakley,

Sandy Creek Director of Operation's

## Flint Hills Grain, LLC New Bin Project

Steps that are being undertaken to allow us to control dust emissions and noise from our system.

1. Installing silencers on the aeration fans for the new bin to reduce noise levels.
2. Installing mechanical baffles in the new truck receiving pit to reduce dust emissions from the pit.
3. Modifying belt loader on overhead belt to improve loading of grain onto belt conveyor.
4. Have contracted with 3<sup>rd</sup> party contractor to inspect and repair any operational or mechanical issues with existing dust filter systems.
5. Plan to install a road dust control product on the truck roads to reduce dust from truck traffic.
6. New pit will allow conveyance of grain straight to rail loading storage bins, this will reduce the volume of internal grain transfer in the elevator. Reduced handling will reduce dust emissions.
7. New facility Manager and Superintendent have been placed at the facility to increase operational efficiency and controls.

# Planning Commission Meeting

## Sign-In Sheet

May 12, 2015

Name ~ PLEASE PRINT	Address
Scott A. Sorrows	
Beth Wiibert	746 2500 Ave Abilene
GARY HANSON	2887 SW MacVicar Ave, Tapeta
Rick Benware	1331 Capital Omaha, NE
Stan Berner	1303 NW 5 <sup>th</sup> St. Abilene Ks
James Stout Jr.	600 15 Cottage
JERRY BATHKER DEC	600 N.W. 3 <sup>RD</sup> ST Abilene
GARY LIBY & BETTY	1001 N. Kurey, Abilene
<del>Mike</del> Hank Rayo	309 N. Vine, Abilene
Rick Van Ness	507 SW 2 <sup>nd</sup> Abilene.
Ron BARBILLO	110 N. Burkholder Abilene
Rod Markley	9205 Cedar Abilene
Pat Robson	1900 Beekman Abilene
Sue Robson	1900 Beekman Pl. Abilene
Jon Koffman	125 N Elm Abilene
Phil Melanex	2828 Indy Rd. Abilene
Tim Hamilton	212 NE 4 <sup>th</sup> ST. Abilene
Scott Opl	415 Brice Ct, Abilene
Doug Wilcox	2201 S Washington, Abilene
David [unclear]	412 SW 2 <sup>nd</sup> Abilene, Ks
Mark [unclear]	511 NW 2 <sup>nd</sup> St. Abilene
Wade [unclear]	2465 Hwy 15





Clark

Thank you for the opportunity to address you and share the point of view of many neighbors directly affected by the Gavilon/Flint Hills Grain operation in the vicinity of 1<sup>st</sup> and Elm.

In my 40 years practicing law here in Abilene, and especially during the 25 years I served as a judge, I learned that getting all the facts before making a decision is usually the best course of action. Regrettably, you don't have the neighborhood point of view as Mr. Dillner failed to show up at a meeting he scheduled to meet with we concerned neighbors regarding this project. Hence, our point of view is not shared in any of the material he sent to you before this meeting.

To be fair to all concerned, you must consider this conditional use permit application today on its merits, as if the ground were presently vacant. Had the proper protocol been followed, that would have been the situation.

Although I will expand on it in my following comments, from the face of the conditional use permit, the applicant wants you to approve:

- (1) Plans that show the applicant doesn't own the land where the elevator is to be built. The survey shared with you does verify that their drawing indicates the elevator is to be built six feet seven inches into the City street right-of-way, rather than 20 feet back from the City right-of-way as is required by the zoning ordinances. Hence, the structure contemplated should be located 26.7 feet further west to have it constructed on their property and comply with setback rules. (For purposes of today's hearing, you must consider the facts as they exist and not on some speculation that there might be a land transfer sometime in the future to cure a part of this problem. Such speculation is not appropriate and under the current laws, the City is not permitted to make such a transfer for the benefit of a single organization. You don't have to consider this fact as you only have an application before you from Flint Hills Grain, which, from its face, shows they don't own the land on which they want to construct this elevator. This is not a dual application by the City of Abilene and Flint Hills Grain, and cannot be considered as such.

- (2) The zoning laws designed to protect the community adjoining this facility were changed in 1995 and presume that an elevator can't be constructed on this site because of grain dust, road dust, noise, traffic, vibration and so forth. I will expand on these factors in a few moments. Even the City's report to you does state that normally required screening may not be feasible for this operation.
- (3) The application, as submitted, also confirms that the applicant does not intend to comply with the stated zoning requirements of the City that all the roadway surfaces within this area be paved. Their material suggests they will use some type of road dust control. The zoning laws require them to have the surfaces paved. Any deviation from that requirement does require a separate hearing after notice, before this Planning Commission, to consider any such deviation. Such matter cannot be addressed today.

In a nutshell, the application, from its face, indicates they do not own the land on which they are seeking to obtain this permit, do not intend to comply with the zoning rules for elevator location and setback from the roadway, probably cannot, in any way, structure the project to prevent grain dust, road dust, noise, traffic and vibration problems to emanate from the site at an increased amount, and they also have indicated they are refusing to pave the roadway surfaces, as required by the zoning laws. For these reasons, and others, which I will expand upon, this conditional use permit should be denied today.

I appear today to formally object to a conditional use permit being granted for a new steel elevator and related truck unloading equipment, in the vicinity of the 100 Block of South Elm, which is zoned I-1 Light Industrial. Throughout today's hearing, I will phrase comments as mine, but they are not only my point of view. I represent numerous Abilene residents, including many in the vicinity of this site. Rather than having all these persons come down, and repetitively tell you the same thing, I am speaking for myself and numerous other parties affected on all points I share with you.

While today does represent two hours of commendable public service for you, a wrong decision does amount, to a life sentence, for those who live in the vicinity of this site and are unable to afford to relocate to get away from the problems created by this elevator.

The Abilene Zoning Codes have, since 1995, had a presumption that elevators cannot be constructed in light industrial zoning areas. There is a provision that theoretically could allow elevator construction, as a conditional use, but the burden would be on the applying party to show, by clear and convincing evidence, that their proposed usage would generate few effects felt off of the site, such as vibration, noise, odor, dust and traffic problems. Past performance and physical impossibility prevents the applicant from being able to meet these burdens.

The stated purpose of the Abilene zoning laws are to protect and serve the public health, comfort and general welfare of the citizens of Abilene, by regulating and restricting the location and use of buildings and land. Since 2000, the City has regrettably failed to enforce its zoning laws in the vicinity of 1<sup>st</sup> and Elm, to the detriment of the whole community, especially for those of us who live within a few blocks of 1<sup>st</sup> and Elm.

I, and my clients, contend this requested elevator construction is a classic example of just the type of building and land usage that should not be permitted. We respectfully request you enforce existing zoning laws and deny the conditional use permit requested for the expanded use of this site.

Although now in the past, the City, in 2000, did erroneously permit the construction of two steel elevators, at south 2<sup>nd</sup> and Elm Streets, in violation of existing zoning laws.

Later, in 2005, the City also erroneously allowed the creation of a railroad loading dock in the area of these two steel elevators. These two erroneous City actions, taken more than ten years ago, have resulted in a demonstrated constant problem with the operation of those structures. There has been a regular problem with dust, traffic, noise, vibration and other problems felt off this site, since these two metal elevators began operation in 2000. City records can document these problems and complaints. The City did have the Kansas Department of Health and Environment come to the site to verify the grain dust leaving from the site. The KDHE, on more than one occasion, used an opacity meter and verified that the grain dust being disbursed, off-site, was in violation of any state permitted standards. The response of the elevator operator, to this finding, was to start loading their grain cars, after midnight, so monitoring staff couldn't be available and the opacity meter wouldn't work in the dark. This pattern of deception has continued.

The demonstrated grain dust problem occurs both when trucks are off-loading and when the auger system is working to load the rail cars. A south wind disburses the grain dust blocks to the north, and the north wind distributes the grain dust blocks to the south. I will share with you numerous scientific studies which document, dust release, when handling grain, is unavoidable. Air displacement into the dump pit, grain breakdown, etc., will always cause toxic and explosive grain dust to be generated and unless 100% shrouded, to be dispersed into the environment.

Both my children and grandchildren have allergy problems. About 13 years ago, they had to stop traveling to Abilene to visit at my home, due to allergy problems caused by both currently blowing grain dust, and grain dust previously accumulated, on our property. We have to rinse out our air conditioner filters multiple times each season, rinse off the screens on our screened-in porch frequently, and are never able to have a clean car, if it is left outside of the covered garage. We did not have these problems prior to the construction of the two steel elevators and the grain-loading operations.

Grain dust is an inherent problem with the operation of steel elevators and related grain moving and loading facilities. That is one reason that zoning codes were changed in the mid-90s, as elevators nationwide, started to move away from the tall, concrete elevators, which worked relatively well, to these cheaper, less-confining, steel elevator operations. The nature of the grain-handling at these operations does inherently allow the disbursal of

grain dust. These structures are designed that way. Created grain dust must be either efficiently captured or dispersed and not confined, as grain dust is six times as explosive, as black powder.

There is also a problem with regular rock dust as this elevator operator has refused to create a paved surface on all the traveled surfaces. Their heavily loaded semi-trucks simply powder the rock surface and regular rock dust blows whenever any of these elevators surfaces are traveled by any type of motor vehicle. When last asked about this roadway dust at a City Commission meeting, about six weeks ago, the current elevator owner indicated there were no plans to pave the road surfaces, (despite the fact current zoning laws require such pavement). Hence, rock dust problem will increase due to the increased amount of truck traffic coming onto the site if the new elevator is permitted.

My home, and the homes of many of my clients, do have central air conditioning. Hence, an inquiring mind might wonder why I have window air units protruding from certain windows in my home. These air conditioners are used to drown out the noise of the railroad car loading and banging that goes on at the site during the early morning hours when rail cars are being loaded, under the present arrangement. I had to replace two of these air conditioners, last week, as they were completely crudded up with accumulation of dust coming from this site. We don't need to window air conditioners for cooling but use them as a blocking noise to avoid the loud, regular noise coming from the box car loading and train concussions coming from this elevator area in the late night hours. I would challenge any of you to go down there about 2:00 A.M., when they are loading those grain cars and slamming the large metal lids on the top, slamming the trains together, etc. It often sounds like a thunderstorm and will shake my house with train concussions. It is difficult to get a good night's sleep when this facility is in general operation. This problem has not occurred the last few months, as the grain cars have been temporarily kept out of the area, and have not been doing their regular nightly loading.

If this new grain elevator is allowed to be constructed and utilized, it is reasonable to assume they will significantly increase the amount of loading and off loading activity at the facility. Their goal is to make this a regional transport location, thereby substantially

increasing the amount of both noise and dust coming from the site, which zoning laws should prevent.

The rail car loading and transporting from this site has caused vehicular traffic problems in the past. Over the last summer, when these rail cars were made up into a unit for transportation, they have blocked all of the downtown crossings for well over an hour, multiple times. The Gavilon switch engine personnel have little concern for public safety and inconvenience, and think nothing of blocking the crossings for extensive periods of time. The City of Abilene has declined to enforce an ordinance preventing the blocking of the crossings, against Gavilon, to the detriment of the traveling public and safety of anyone located south of the tracks. If yet larger trains are made up, it is reasonable to assume these crossing blockages will occur more frequently. With the U-shaped formation of the track make ups, it is quite possible that all city crossings of both the Union Pacific and the Santa Fe tracks would be completely blocked when a full train is being assembled. It takes only twelve rail cars to block all of the crossings from Cedar Street through Buckeye. It is reasonable to assume this expanded railway operation will seek to have rail cars made up in the 50 to 100-car range which would block all crossings in town. This is a traffic problem that should not be allowed to occur under the present operation, and certainly should not be allowed to expand, if they effectively double the size of the operation of this regional plant.

A new bridge was built on Third Street recently. It does have a weight limit to protect its longevity. Semi-tractor/trailers operated for this elevator facility do travel, in a loaded condition, from the west, across this bridge, making a turn south on Elm Street to this elevator south. The City has repeatedly requested that these loaded trucks travel down Buckeye and then east on reinforced First Street to the elevator, and that only unloaded trucks leave on Elm Street, going across this bridge. This restriction is frequently disregarded and may be causing structural damage to the new Third Street bridge. Expanding the use of this facility will only create the opportunity for additional use of this new bridge, both by existing trucking companies, and by new trucking companies, that may haul grain into town for this proposed regional transport facility.

I have had friends and clients who have moved out of our neighborhood, and some have even moved out of town, as a result of the dust, noise and traffic problems that the

existing operation causes in the area. It is reasonable to assume that if you add volume to the existing problem, it will exacerbate all of the above-mentioned problems and other folks will have to consider relocating to avoid the problems caused by this operation. Abilene residents should not see their property devalued and their living conditions made intolerable when the zoning ordinances you should apply are designed for our protection.

Although not particularly pertinent, there is no economic need for additional storage capacity at this site. The presently-existing elevators in Dickinson County, and the existing elevators at this site, have more than enough capacity to serve all of our area farmers, even during the peak harvest times. The only purpose for this expanded elevator is to allow this foreign corporation to make a larger profit by having yet more grain hauled into Abilene, strictly for its transport out by train from Abilene.

Again, a factor you need not consider but one that has been floated, is the currently ongoing, illegal elevator construction, in the city street right-of-way, which has been allowed to occur. It has been suggested that the City might have some liability for admittedly wrongfully issuing a building permit for the site. City Attorney Mark Guilfoyle has shared with me that the City has no potential liability, when a conditional use permit is not granted for this site. There is a specific state statute which states the City is not liable for administrative errors of its staff in wrongfully issuing a building permit for this new elevator. The zoning laws clearly stated this elevator could not be built in this location without a full hearing and issuance of conditional use permit by the City and the elevator is charged with that knowledge. They were wrong to begin, and then continue construction, with knowledge elevators are not allowed in this zoning area.

This is not a theoretical problem. We have already seen the damages caused by the present operation of the two steel elevators and the illegal location of the train-loading facility at this site since 2005. We see the noise, dust, traffic and other problems caused by the existing site. There is a presumption in the law that an elevator should not exist at this site, and the burden of proof, to show by clear and convincing evidence, that the allowance of yet another massive elevator at this site will not create any problems is a prerequisite to the issuance of a conditional use permit. The facts are clear and a conditional use permit should not be issued for this proposed new elevator at the site. Please enforce the existing zoning laws for the benefit of we citizens of Abilene and don't be bullied by a foreign limited liability company that has thumbed its nose at every

rule and regulation that exists, to build an unpermitted structure in the city street right-of-way before this hearing. That risk was theirs and your responsibility is to protect we citizens.

Regrettably, your denial of a conditional use permit for this new construction will not shut down the presently offending operation, but it will have the effect of not allowing those problems to dramatically increase.

MINIMUM STANDARDS FOR ISSUANCE  
OF CONDITIONAL USE PERMIT AT 1<sup>ST</sup> AND ELM

1. Applicant must show, by clear and convincing evidence, that no explosive and toxic grain dust will be dispersed into the environment by their operation. (Since this is a physical impossibility without a completely shrouded site, they cannot provide this proof.)
2. All surfaces at the present site that will be traveled by any type of vehicle must be paved to prevent the creation of rock dust, which would otherwise leave the site. (Current existing laws require this but they have failed to do so and have suggested they may not do it in the future).
3. Since required additional paving will create drainage problems, the applicant should be required to construct adequate drainage for the site, which meets both City and EPA requirements at their own expense, before operation of the site.
4. To avoid traffic problems, the applicant should be required to show, by clear and convincing evidence, that when making up railroad cars, crossings in the City will not be blocked for more than ten minutes at any time. (Due to geographical conditions, this is a physical impossibility and, therefore, a permit should not be issued).
5. The elevator should not be allowed to operate between 10:00 P.M. and 7:00 A.M., so that the noise created, especially by train loading and moving, does not keep area residents up all night long.
6. The applicant should be required to construct the planned improvements on their own land, not in the City right-of-way, disregarding the 20-foot setback requirements. (This requirement is so basic it is amazing that it needs to be stated, but they have built this structure literally into the City street right-of-way and have done so in a knowing fashion).
7. If convinced that the applicant can meet the above-standards, the conditional use permit should be issued only for a six month period, with requirement that it lapse at that time unless extended after a new public hearing to document actual operation. (Since they have essentially created the structure they desire before coming to this hearing, this condition should not dissuade from their planned usage).

## ARTICLE 22

### OFF-STREET PARKING, LOADING AND UNLOADING REGULATIONS

**22-305. Surfacing.** All off-street parking facilities, loading areas, vehicular storage areas and drives and access to and from such areas shall be surfaced and maintained with four (4) inches of asphalt, or concrete to create a permanent all-weather, dust-free surface. Such paving must be completed prior to occupancy of the facility that the paving is intended to serve, unless temporary occupancy approval is received from the Zoning Administrator. An exception to the surfacing requirements may be granted by the Board of Zoning Appeals in instances where the off-street areas take access from a graveled public street.

Gravel areas in existence prior to the effective date of these regulations may be maintained with six (6) inches of gravel, including base, as an alternative to these surfacing requirements.

The Zoning Administrator may, upon receiving a specific written request from an owner of a property, authorize temporary occupancy for a time period not to exceed twelve (12) months prior to accomplishing the required paving or a portion thereof.

In reviewing a request for temporary occupancy prior to accomplishing required paving, the Zoning Administrator shall consider the following criteria:

- a. Season of the year.
- b. Affect on the adjoining property.
- c. Surfacing of the connecting street.
- d. Surfacing of existing adjoining parking facilities.

Should the owner receive approval of the Zoning Administrator for a delay in paving, the owner shall, prior to occupancy, present written verification to the Zoning Administrator that guarantees all paving shall be complete prior to the deadline given by the Zoning Administrator.

**22-306. Lighting.** Any lighting provided to illuminate any parking facility shall be designed and installed in such a manner as to reflect away from any residential use upon adjoining properties.

**22-307. Drainage.** All parking facilities shall be graded and/or designed with storm drainage facilities so as to channel surface water away from adjoining properties and to an approved storm drainage system.

that a county had the implied power to dispose of real property where a statute authorized the county to establish or maintain recreational facilities and land was conveyed under an agreement to establish such facilities thereon or on other land to be purchased with proceeds of the sale of the land conveyed.<sup>5</sup> And a conveyance of realty by a county upon the happening of a contingency stated in the deed by which the county acquired the realty was neither void nor ultra vires.<sup>6</sup>

### § 551. Exchange of property.

Municipal corporations do not have inherent power to exchange municipal real property.<sup>7</sup> The power to exchange municipal real property, or certain types thereof, has sometimes been granted to municipal corporations by legislation or constitutional provisions expressly conferring such power;<sup>8</sup> and in some instances such power has been derived by implication from express grants of related power or powers construed as including the power to exchange realty.<sup>9</sup> Statutory authority to exchange municipally owned realty may sometimes be drawn so as to relate in terms only to one or more specific types of realty.<sup>10</sup> Some statutes, however, have expressly or by implication granted to municipal corporations the power to exchange municipal realty generally.<sup>11</sup>

Generally speaking, such exchange power as a municipal corporation may have with respect to any municipally owned realty can be exercised only for a legitimate public or municipal purpose.<sup>12</sup> As a prerequisite condition to the validity of an exchange of municipal realty, it has sometimes been laid down by constitution, statute, or charter, in substance, that the value of the property to be received by the municipality in such exchange must not be less than (or must exceed) the value of the realty which the other party is to receive from the municipality.<sup>13</sup>

Where a municipal corporation seeks to authorize and effectuate an exchange of some of its real property for other property, the propriety and

5. *Montgomery County v Maryland-Washington M. Dist.* 202 Md 293, 96 A2d 353.

6. *Byars v Cherokee County*, 237 SC 548, 118 SE2d 324.

7. *Annotation*: 60 ALR2d 220, 223, § 2.

8. *Milwaukee v State*, 193 Wis 423, 214 NW 820, 54 ALR 419.

*Annotation*: 60 ALR2d 220, 226-228, §§ 4, 5.

By virtue of a statute authorizing a municipality to exchange any "lands," a city owning a tract of land having a somewhat dilapidated garage or warehouse thereon had the power to exchange such land and building for other land and a building owned by a private corporation, plus a payment of \$20,000 in cash by the private corporation to the city and waiver of the sum of \$5,744 due such corporation from the city. *Bruno v Long Branch*, 21 NJ 68, 120 A2d 760, 60 ALR2d 216.

Under its home rule charter the city of Tucson had such power as to sale and disposition of its property that it could vacate and deed to a private property owner a portion of two alleys upon which private build-

ings encroached, in exchange for a dedication of other land for an alley in the same general location. *Tucson v Arizona Alpha of Sigma Alpha Epsilon*, 67 Ariz 330, 195 P2d 562.

9. *Roberts v Northern P. R. Co.* 158 US 1, 39 L Ed 873, 15 S Ct 756; *East Chicago Co. v East Chicago*, 171 Ind 654, 87 NE 17. *Annotation*: 60 ALR2d 220, 224-226, § 3.

10. *Fraser v Teaneck Tp.* 1 NJ 503, 64 A2d 345.

*Annotation*: 60 ALR2d 220, 230, 231, § 7 [a].

11. *Wilkie v Walmsley*, 173 La 141, 136 So 296; *Bruno v Long Branch*, 21 NJ 68, 120 A2d 760, 60 ALR2d 216; *Bobo v Spartanburg*, 230 SC 396, 96 SE2d 67; *Carter v Greenville*, 175 SC 130, 178 SE 508.

*Annotation*: 60 ALR2d 220, 230-232, §§ 7-8.

12. *Annotation*: 60 ALR2d 220, 228, § 6.

13. *Bruno v Long Branch*, 21 NJ 68, 120 A2d 760, 60 ALR2d 216; *Genola Town v Santaquin City*, 96 Utah 88, 80 P2d 930, reh den 96 Utah 104, 85 P2d 790.

*Annotation*: 60 ALR2d 220, 229, § 6.

vest such corporations with some degree of local sovereignty, independent of the legislature. 37 Am Jur, Municipal Corporations § 111. Moreover, the general rule is that municipal corporations possess and can exercise only such powers as are granted in express words, or those necessarily or fairly implied in or incident to the powers expressly conferred, or those essential to the accomplishment of the declared objects and purposes of the corporation. 37 Am Jur, Municipal Corporations § 112.

The power to exchange municipal real property, or certain types thereof, has sometimes been granted to municipal corporations by legislation or constitutional provisions expressly conferring such power (see §§ 4 and 5, *infra*); and in some instances such power has been derived by implication from express grants of related power or powers construed as including the power to exchange realty, as shown in § 3, *infra*.

A third and largely theoretical aspect of the general problem is the existence of inherent or "common-law" power on the part of a municipality to exchange any of its real property.<sup>2</sup> On this question, which of course assumes the absence of any legislative or constitutional grant of exchange power to the municipality, there is remarkably little, if any, direct authority in the reported cases.

About the most that can be said here is that the more general indication of the cases on the present subject of annotation is that municipal corporations generally do not have inherent power to exchange municipal real property; that for the exchange power to exist it must arise under an express or implied grant thereof by higher authority.

As considering that where there was no power to sell a public street, there was no power to exchange it for other land, see *Beebe's Heirs v Little Rock* (1900) 68 Ark 39, 56 SW 791, *infra*, § 7[a].

Dicta to the effect that even if land included in a highway was owned by the town in fee, it was beyond the power of the town council to give such land to plaintiffs by way of damages for the taking of plaintiffs' land for a new highway is found in *Frank W. Coy Real Estate Co. v Pendleton* (1924) 45 RI 477, 123 A 562, *infra*, § 13[a].

By inference, some recognition of the absence of any inherent power on the part of a municipal corporation to exchange its real property may be found in the cases dealing with the existence of implied exchange power under a statutory or constitutional grant of related power, such as a power to sell realty (see cases in § 3, *infra*); and in those involving statutes expressly granting such exchange power, noted in §§ 4, 5, *infra*.

On the other hand, a South Carolina opinion has expressed the view that a municipality in that state had the power to exchange its city hall property, which had become inadequate for the governmental purposes to which it was devoted, for another tract of land with a more adequate building thereon to be used as a city hall, even in the absence of the implied authority found in statutes authorizing cities and towns to purchase and to sell and convey any realty. *Carter v Greenville* (1935) 175 SC 130, 178 SE 508, *infra*, § 11. The determination that the city had the power to make the particular exchange seems not to have rested upon this suggested view and it seems, on the whole, that the expression thereof should be regarded as obiter.

It should be recognized that any inherent power on the part of a municipality to exchange municipal realty, if it exists at all, might well be of a restricted nature, not applicable to all types of realty owned by the municipality. See generally §§ 6-8, *infra*, dealing with the extent and conditions of municipal power to exchange realty.

2. On the closely related subject of implied or inherent power of a municipal corporation to sell its real prop-

erty, see the instructive comment note in 141 ALR 1447-1462.

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## Measurement of particulate matter emissions from corn receiving operations with simulated hopper-bottom trucks (2004)

by R. D. Billate , R. G. Maghirang , M. E. Casada

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### Abstract

**ABSTRACT.** Dust emissions from grain elevator operations can be a safety and health risk as well as a nuisance. Fundamental data on air entrainment and dust emission are needed for designing adequate and effective dust emission control methods. This study measured the amount of entrained air and emitted dust during corn receiving operations at an elevator operated by the USDA-ARS Grain Marketing and Production Research Center in Manhattan, Kansas. Shelled corn (maize) was unloaded from a storage bin, representing a hopper-bottom truck, to the receiving pit at rates of 17 to 282 kg/s and drop heights of 38 to 56 cm. Airflow rates were measured with propeller anemometers. The emission rates of total suspended particulates (TSP) and particulate matter smaller than 10 m aerodynamic diameter (PM10) were measured with high-volume particulate samplers. The amount of air entrained per unit volume of grain decreased with increasing grain flow rate (0.26 to 2.07 m<sup>3</sup>/m<sup>3</sup>). The emission rates of TSP (8.3 to 52.1 g/metric ton of grain received) and PM10 (0.6 to 8.1 g/t) decreased with increasing grain flow rate and decreasing drop height.

### BibTeX

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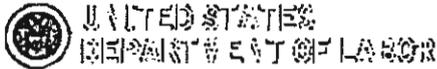
### Citations

- 49 [Compilation of Air Pollutant Emission Factors, AP-42 5th Edition and Supplements, Office of Air Quality Planning - EPA - 1995 \(Show Context\)](#)
- 7 [Emission factor documentation for AP-42 Section 9.9.1 - Institute - 1998 \(Show Context\)](#)
- 5 [Air entrainment and dust generation from a falling stream of bulk material - Cooper, Arnold - 1995 \(Show Context\)](#)
- 4 [Characterization of grain dust properties - Martin - 1981 \(Show Context\)](#)
- 3 [Summary of OSU grain elevator dust emission study and proposed grain elevator emission factors Report to the Oklahoma Air Quality Council - Kankel, Noyes - 1995 \(Show Context\)](#)
- 3 [Experimental examination of factors that affect dust generation, Am Ind Hyg Assoc J; 52: 521-8 - MAE, Leith, et al. - 1991 \(Show Context\)](#)
- 2 [Laboratory methods for testing fans for rating - AMCA - 1985 \(Show Context\)](#)
- 2 [Fugitive emissions control for solid materials handling operations - Dennis, Bubenick - 1983 \(Show Context\)](#)
- 2 [Minimum explosible concentration as affected by particle size and composition - Garret, Lai, et al. - 1982 \(Show Context\)](#)
- 2 [Examining the use of additives to control grain dust in a commercial grain elevator - Lai, Martin, et al. - 1984 \(Show Context\)](#)
- 2 [Physical and biological characteristics of grain dust - Martin, Sauer - 1976 \(Show Context\)](#)
- 2 [Emission factors for grain receiving and feed loading operations at feed mills - Shaw, Buharivala, et al. - 1998 \(Show Context\)](#)
- 1 [Particulate matter \(PM-10\) Available at www.epa.gov/airquality/97/brochure/pm10.html Accessed on 10 - EPA - 1997 \(Show Context\)](#)
- 1 [Variables affecting dust emission from corn - Martin - 1985](#)
- 1 [Dust generation from handling powders in industry - Pflinke, Leith, et al. - 1995 \(Show Context\)](#)
- 1 [Comparison of particle size distribution data obtained with cascade Impaction samplers and from Coulter Counter analysis of total dust samples - Trefftis, Kacsmar, et al. - 1987 \(Show Context\)](#)

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**SAFETY AND HEALTH TOPICS:**

# Grain Handling

Standards   Hazards   Evaluating and Controlling Exposure   Other Resources

Safety and Health Topics ▾

OSHA has developed this webpage to provide workers, employers, and safety and health professionals useful, up-to-date safety and health information on grain handling facilities.

### What are grain handling facilities?

Grain handling facilities are facilities that may receive, handle, store, process and ship bulk raw agricultural commodities such as (but not limited to) corn, wheat, oats, barley, sunflower seeds, and soybeans. Grain handling facilities include grain elevators, feed mills, flour mills, rice mills, dust pelletizing plants, dry corn mills, facilities with soybean flaking operations, and facilities with dry grinding operations of soybean.

### What are the hazards in grain handling facilities?

The grain handling industry is a high hazard industry where workers can be exposed to numerous serious and life threatening hazards. These hazards include: fires and explosions from grain dust accumulation, suffocation from engulfment and entrapment in grain bins, falls from heights and crushing injuries and amputations from grain handling equipment.

Suffocation is a leading cause of death in grain storage bins. In 2010, 51 workers were engulfed by grain stored in bins, and 26 died—the highest number on record, according to a report issued by Purdue University (PDF). Suffocation can occur when a worker becomes buried (engulfed) by grain as they walk on moving grain or attempt to clear grain built up on the inside of a bin. Moving grain acts like "quicksand" and can bury a worker in seconds. "Bridged" grain and vertical piles of stored grain can also collapse unexpectedly if a worker stands on or near it. The behavior and weight of the grain make it extremely difficult for a worker to get out of it without assistance. OSHA has sent notification letters to approximately 13,000 grain elevator operators warning the employers to not allow workers to enter grain storage facilities without proper equipment, precautions (such as turning off and locking/tagging out all equipment used so that the grain is not being emptied or moving into the bin) and training.

Grain dust explosions are often severe, involving loss of life and substantial property damage. Over the last 35 years, there have been over 500 explosions in grain handling facilities across the United States, which have killed more than 180 people and injured more than 675. Grain dust is the main source of fuel for explosions in grain handling. Grain dust is highly combustible and can burn or explode if enough becomes airborne or accumulates on a surface and finds an ignition source (such as hot bearing, overheated motor, misaligned conveyor belt, welding, cutting, and brazing). OSHA standards require that both grain dust and ignition sources must be controlled in grain elevators to prevent these often deadly explosions.

Falls from height can occur from many walking/working surfaces throughout a grain handling facility. Examples of such surfaces include (but are not limited to) floors, machinery, structures, roofs, skylights, unguarded holes, wall and floor openings, ladders, unguarded catwalks, platforms and manlifts. Falls can also occur as workers move from the vertical exterior ladders on grain bins to the bin roof or through a bin entrance.

Mechanical equipment within grain storage structures, such as augers and conveyors, present serious entanglement and amputation hazards. Workers can easily get their limbs caught in improperly guarded moving parts of such mechanical equipment.

Storage structures can also develop hazardous atmospheres due to gases given off from spoiling grain or fumigation. Workers may be exposed to unhealthy levels of airborne contaminants, including molds, chemical fumigants (toxic chemicals), and gases associated with decaying and

### Highlights



[Download the Grain Handling Safety Poster \(PDF\)](#)

With Lives at Risk in the Grain Industry, OSHA Launches Safety Initiative

Read the News Releases:

Wisconsin, Ohio, Kansas, Nebraska, Missouri, Illinois

- Hazard Alert: Dangers of Engulfment and Suffocation in Grain Bins. OSHA.
- WARNING: Entering grain storage bins is EXTREMELY DANGEROUS! (PDF). OSHA Wallet Card 3329-06-11N.

Other Related Topics

- Agricultural Operations
- Sweep Auger Settlements
  - Western Grain Marketing, LLC (PDF)
  - Northern Grain Marketing, LLC (PDF)

DeBruce Grain Elevator Explosion

**Best Management Practices (BMPs) for Grain Elevators**  
(Adopted 12/4/07; Revisions adopted 7/15/14)

**Applicability**

The BMPs listed in this document shall apply at all country grain elevators, country grain terminal elevators, and grain terminal elevators as defined below. This document has been adopted by reference in 567 Iowa Administrative Code (IAC) 22.10(455B) and can only be modified or updated after completion of an administrative rulemaking conducted in accordance with the Iowa Administrative Procedure Act (Iowa Code chapter 17A). Facility-wide and equipment specific BMPs are included that apply to both existing equipment and new equipment, unless specified otherwise.

Where requirements for BMPs in construction or operating permits exist that are more stringent than those specified in this document, the more stringent BMPs shall be implemented. The applicable requirements provided in 40 Code of Federal Regulations (CFR) Part 60, Subpart DD, "Standards of Performance for Grain Elevators," as adopted in 567 IAC 23.1(2)"ooo," shall apply for subject grain terminal elevators and grain storage elevators, in addition to the BMPs provided in this document.

As provided for in 567 IAC 23.3(2)"c," the department may, upon notification to the grain elevator's owner or operator, require the owner or operator to implement additional practices and measures not already being implemented as precautions to prevent the discharge of visible emissions of fugitive dust beyond the property line of the facility which the emissions originate on. Additionally, visible emissions from equipment or air pollution control equipment operating at a grain elevator shall not equal or exceed 40 percent opacity (567 IAC 23.3(2)"d"), or the opacity specified in a permit if the equipment is permitted, whichever is lower.

**Definitions**

For the purposes of this document, the terms "country grain elevator," "country grain terminal elevator," and "grain terminal elevator" shall have the same meaning as defined in 567 IAC 22.10(1).

**General Maintenance, Upkeep and Repair**

-Maintain and operate equipment and air pollution control equipment at all times in a manner consistent with good practice for minimizing emissions. Air pollution control equipment includes but is not limited to, quick closing doors, enclosures, air curtains, wind deflectors, grain oiling equipment, loadout socks and drop-down spouts or sleeves, baghouses and vent filters, and cyclones.

-Equipment and air pollution control equipment malfunctions shall be remedied in an expeditious manner so as to minimize the amount and duration of excess emissions.

-Air pollution control equipment shall be operated when the air emission source is in operation and shall be checked daily for proper operation. This requirement does not apply on days that the air emission source does not operate.

-Routine maintenance of equipment and air pollution control equipment shall be scheduled during periods of process shutdown to the maximum extent possible.

Adopted 12/4/07; Revisions adopted 7/15/14

- Clean internal and external areas, including floors, roofs and decks, as necessary to minimize dust to the atmosphere when the facility is receiving, transferring, or loading out grain.
- Clean the yard, ditches and curbs as necessary to minimize accumulation of grain, chaff, and grain dust.

#### **Grain Handling Equipment**

Grain handling equipment includes but is not limited to bucket elevators or legs, scale hoppers, turn heads, scalpels, cleaners, trippers, and headhouse and other such structures.

- Grain handling equipment shall be cleaned, enclosed, or controlled as necessary to minimize visible dust emissions to the atmosphere to 5% or less opacity when the equipment is being operated.
- Operation of aeration fans shall be minimized during loading of grain into storage bins to the extent possible.

#### **Grain Unloading Stations (Dump Pits) and Grain Loading Stations (Loadouts)**

- Dump pits with enclosures shall be maintained and operated so as to minimize the emissions of dust to the atmosphere resulting from the dumping and handling of grain.
- Dump pits with induced draft fans installed must use fans with a capacity of at least 50 cfm/sq. ft. of airflow at the effective grate surface, where the area of the effective grate surface is the area of the dump pit grate through which air passes, or would pass, when aspirated.
- If feasible, loadouts shall use socks and drop-down spouts or sleeves, or equivalent, which extend at least 6 inches below the sides of the receiving container to minimize grain free-fall distance, except for topping off.
- To the extent possible, the flow of the grain through the spout shall be regulated so as to minimize dust emissions from the receiving container when the container is empty to only partially full.
- If grain oiling is used, grain should be oiled after receipt at the grain unloading station and prior to transfer to bin storage to allow for the maximum control effectiveness. Grain oiling applied elsewhere in the process, instead of at the grain unloading station, will result in a lower control effectiveness and less credit for control in the PTE calculation tool.

#### **Grain Dryers**

- Column dryers shall have screen perforations on replacement screens or new dryer screens no greater than 0.094 inch.
- Grain inlets and grain outlets to dryers shall be enclosed.
- Rack dryers shall have a maximum screen house filter size of 50 mesh on replacement screen house filters or new dryer screen house filters.
- The volume of grain passing through the dryer shall not exceed the manufacturer's recommended capacity.
- Dryer screens should be inspected before each dryer start-up.

#### **Grain Vacuuming (Grain Vac) Operations**

Grain vac operators must employ best management practices as necessary to reasonably prevent the discharge of visible emissions of fugitive dusts beyond the lot line of the property on which

Adopted 12/4/07; Revisions adopted 7/15/14

the grain vac is being operated. These BMP are examples of reasonable practices to minimize the generation of fugitive dust emissions from grain vac operations:

- For grain loadouts use socks and drop-down spouts or sleeves, or equivalent, which extend at least 6 inches below the sides of the receiving container to minimize grain free-fall distance, except for topping off.
- Operate the vac at times when the wind direction and speed would minimize offsite impact.
- Vary the speed of the vac operations to minimize dust emissions.
- Utilize directional discharge to minimize offsite impact.
- Evaluate the use of additional control measures, such as add on controls, if needed to comply with 567 IAC 23.3(2)"c".

**Recordkeeping Requirements**

All grain elevators subject to these BMPs shall record BMPs used during times of grain vac operation. In addition, wind speed and direction and date and time of grain vac operation shall be noted.

With the exception of grain vac operations, there are no other specific recordkeeping requirements associated with BMP for Group I facilities. However owners or operators of Group I facilities are encouraged to maintain records as appropriate to demonstrate that applicable BMP are being implemented.

# Grain Dust

by Mary Andersen  
MU School of Medicine

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Grain dust has been known for decades to cause lung problems. However, it has always been difficult to say just how much damage is caused by this problem. In December, a group of Canadian researchers published the results of a 15 year study on grain dust exposure which helps to put this problem in perspective. It showed a continuous drop in lung function with increasing exposure to grain dust. Symptoms of breathlessness, cough and phlegm also increased in proportion to the amount of dust workers had been exposed to. The researchers suggested that the OSHA standard of 10 mg/cubic meter should be lowered, because measurable damage to the lungs can occur at levels as low as 4 mg/cubic meter. To the credit of commercial grain operators, this study showed that they have been conscientious in their efforts to keep a dust-free environment. The median dust level to which workers were exposed was 2 mg/cubic meter, a level low enough to avoid detectable damage. However, some workers, especially those involved in grain transfer operations, were exposed to much higher and much more damaging levels.

Although farmers breathe less grain dust and are less likely to suffer severe effects from it, some do get symptoms of exposure ranging all the way from stuffy nose to asthma, chronic bronchitis or chronic obstructive pulmonary disease (COPD). Since private farmers don't fall under OSHA regulations, they need to take steps to protect themselves. Some good measures have already been taken. For example, most farmers now harvest grain from the comfort of a well-insulated cab. Wearing a dust mask or at least staying upwind from grain during transport and grinding operations is an easy way to avoid breathing grain dust. Gene Andersen, a farmer from Vernon County, Missouri, has gone a step further. He installed a vacuum system to clear dust and debris from his grain during transfer into his elevator. In doing this, he was able to improve the grade and moisture content of the grain as well.

Diagnosing grain dust exposure can be tricky. Different people may react differently to the same type of grain dust. Symptoms, however, are generally allergic in nature, and while a physician may not be able to rule out other possible causes, treatment is available that will greatly improve the quality of life for those who suffer from grain dust-related illnesses.

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## Physical Properties of Five Grain Dust Types

by Calvin B. Parnell, Jr.,\* David D. Jones,\* Ross D. Rutherford,\* and Kerry J. Goforth\*

Physical properties of grain dust derived from five grain types (soybean, rice, corn, wheat, and sorghum) were measured and reported. The grain dusts were obtained from dust collection systems of terminal grain handling facilities and were assumed to be representative of grain dust generated during the handling process. The physical properties reported were as follows: particle size distributions and surface area measurements using a Coulter Counter Model TALL; percent dust fractions less than 100  $\mu\text{m}$  of whole dust; bulk density; particle density; and ash content.

### Introduction

The Department of Agricultural Engineering, Texas Agricultural Experiment Station, Texas A&M University has been involved in the study of grain dust explosions and cyclone design for a number of years. Grain dust physical properties have been studied to assist in explaining phenomena associated with laboratory explosions using various dust fractions derived from different groups. In addition, cyclone efficiency evaluations and design criteria require substantial data on dust physical properties.

In order for grain dust explosions to occur, four ingredients must be present. These ingredients are fuel, confinement, ignition source, and oxygen. The fuel for a grain dust explosion is grain dust in suspension above the minimum explosive concentration (MEC). Containment is a requirement for an explosion to occur in that it allows a buildup of pressure resulting in rupture of the confinement. However, containment is also necessary to achieve the MEC of grain dust, which is in the range of 60  $\text{g}/\text{m}^3$  (1).

The dispersibility and combustion rates of dust are governed by chemical and physical properties of the dust involved. How easily and uniformly a dust is suspended into the air depends on its particle size distribution and density. The rate of combustion is highly dependent on the exposed surface area of dust that can readily react with oxygen. These physical properties are the key to defining dust explosibility and developing

are the key to defining dust explosibility and developing an explosion hazard indication.

Different laboratory techniques have been employed by various researchers in an effort to quantify dust characteristics. Plemons (2) and Martin (3) performed particle size analysis by wet sieving, dry sieving, and Coulter counter techniques. Wado, Hawk, and Watson (4) also used Coulter counter techniques to determine particle size distributions. A summary of a portion of the work done in this area is shown in Table 1.

By far, the most explosive grain dust fraction is that less than 100  $\mu\text{m}$  (5). The smaller fractions of grain dust are most explosive because the surface area per unit mass increases as the particle size decreases. However, larger fractions (250-500  $\mu\text{m}$ ) in sufficient concentrations can be made to explode. The surface areas of grain dust have been determined by Deshpande and Matthews (6) and Martin (4). Each of these researchers used adsorption techniques and Martin also used a light obscuration method. Martin found that the surface area for grain dust varied from 0.6 to 0.9  $\text{m}^2/\text{g}$ . Deshpande and Matthews found that the surface area for grain dust ranged from 0.6 to 1.96  $\text{m}^2/\text{g}$ .

The bulk density and particle density affect the handling and conveying characteristics of particulate material. Chang and Martin (7) developed models to predict the density distribution and weight of grain dust in self-packed columns. They found that the bulk density of self-packed dust increased linearly as the depth of the pile increased. These tests were performed on wheat, sorghum, and corn dust. Figure 1 shows the relationship between the vertical density distribution of grain dust in a self-packed grain dust column.

\*Department of Agricultural Engineering, Texas A&M University, College Station, TX 77843-2117.

TABLE 1. Summary of past particle size analysis of grain dusts.

Researcher	Techniques	Dusts	Mass mean diameter, $\mu\text{m}$
Plemons (7)	Coulter Counter	Rice	31.75*
	Wet sieving	Corn	19.87*
	Dry sieving	Soybean	25.17*
		Wheat	32.97*
		Sorghum	36.92*
Martin (4)	Coulter Counter	Soybean	30.00*
	Wet sieving		
	Dry sieving		
	Capture velocity		
Wada (5)	Coulter Counter	Corn	13.70*
		Soybean	15.50*

\*Mass mean diameter of whole grain dusts as determined by Coulter Counter techniques with a 400  $\mu\text{m}$  apparatus.  
 \*Mass mean diameters of whole soybean dusts as determined by Coulter Counter techniques and read from graphical presentation of results.  
 \*Mass mean diameters of whole corn and soybean dusts as determined by Coulter Counter techniques.

Plemons and Parnell (8) and Martin (4) determined the particle densities of grain dusts using Beckman air pycnometers. Plemons and Parnell found the particle densities for rice, corn, wheat, soybean, and sorghum dust which range from 1.41 to 1.90  $\text{g}/\text{cm}^3$  for wheat and soybean dust, respectively. Martin found the particle density of whole "grain" dust to be 1.49  $\text{g}/\text{cm}^3$ .

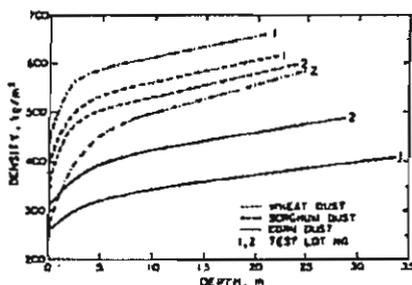


FIGURE 1. Vertical density distribution of grain dust in a self-packed dust column (7).

The percent of ash present in a grain dust sample is a measure of the inorganic material content and represents that fraction which is incombustible. Plemons and Parnell (8) tested wheat, corn, soybean, rice, and sorghum dust for ash content (Table 2).

Proper management of grain dust can be enhanced by increased knowledge of dust properties. The particle size, density, ash content, and surface area of grain dust particles affect the explosibility and handling characteristics of grain dust (4).

Table 2. Summary of past research on ash contents of grain dusts.

Dust	Ash content (dry basis), %	
	Plemons and Parnell (8)	Martin (4)
Soybean	32.56	12.1-40.5
Corn	1.88	4.1-9.1
Wheat	12.20	7.3-25.8
Sorghum	7.6	
Rice	31.45	

### Procedure and Results

Dust samples from five grains (soybeans, rice, corn, wheat, and sorghum) were obtained from baghouse filters of terminal elevators on the Texas Gulf Coast and stored in an environmental chamber until laboratory tests were performed. (A series of laboratory tests was performed to determine the particle size distribution, particle density, bulk density, ash content, and surface area of each of the five types of dust.)

### Percent (by Weight) of Dust Less than 100 $\mu\text{m}$

The percent by weight of dust less than 100  $\mu\text{m}$  is a measure of the mass of readily ignitable particles present in whole grain dust. This physical characteristic was determined using a wet sieving process performed on each of the five types of grain dust.

Approximately 1 g of whole dust was suspended in 25 ml. of methanol. Separation was insured by placing the dust/methanol solution in an ultrasonic bath for 2 min. This solution was poured through a nylon filter screen with 100  $\mu\text{m}$  openings, and filtrate was collected in small preweighed containers.

### PHYSICAL PROPERTIES OF GRAIN DUSTS

The containers holding the filtrate were placed in an oven for 24 hr at 66°C to allow complete evaporation of the methanol. The dried filtrate and containers were reweighed to determine the net weight of particulate less than 100  $\mu\text{m}$ . Equation (1) was used to determine the percent of dust less than 100  $\mu\text{m}$  present in whole dust:

$$PLT_{100} = \frac{W(p)}{W_{total}} \times 100\% \quad (1)$$

The particle densities of each of the five grain dusts were determined by finding the weight of a known volume of grain dust. A preweighed container was completely filled with approximately 80  $\text{cm}^3$  of grain dust. The net weight of the grain dust was found by placing the dust filled container on a Mettler Model P1000 top-loading scale. This procedure is currently being revised to provide for more accurate analysis of the bulk densities of grain dusts.

The particle densities of each of the five grain dusts

The means, standard deviations, and coefficients of variation of six samples of each of the five types of grain dust are presented in Table 8. Ash contents of the whole grain dusts ranged from 5.12% for soybean dust to over 30% for rice. This would indicate that rice dust contains a large amount of inorganic matter.

Table 8. Ash contents of soybean, rice, corn, wheat, and sorghum dusts using a baffie furnace.

Dust	Ash content, %	SD, %	CV, %
Soybean	5.2	0.223	4.25
Rice	30.6	0.414	1.36
Corn	12.0	0.173	1.40
Wheat	7.19	0.485	6.88
Sorghum	9.69	0.376	3.90

### Conclusion

Physical properties of grain dust play an important role in explaining dust explosibility and handling characteristics. Analysis of interaction between these properties will aid in the development of an explosion hazard indicator and in the design and evaluation of dust handling/separation equipment.

Results of the laboratory analysis of wheat, corn, rice, soybean, and sorghum dust are as follows: bulk density, 0.150–0.308 g/cm<sup>3</sup>; particle density, 1.43–1.69 g/cm<sup>3</sup>; % < 100 µm (by weight), 34.3–50.6%; mass mean diameter (dust < 100 µm), 10.7–14 µm; ash content, 5.12–30.6%.

### Future Research

A promising dust control method for grain elevators is the addition of oil to grain. Over one hundred elevators in the midwest are already applying mineral oil to all their grain and preliminary results have proven beneficial. The Food and Drug Administration has approved an additive level of 0.02% by weight food grade (white) mineral oil. Further research at Texas A&M University includes a computer simulation of the operation of elevator dust control systems for comparison

of the cost of conventional dust control to oil additive costs. Also, grain samples taken at elevators using oil additives are being analyzed as to dust content and particle size distribution. These data will be used in future work concerning detection of the oil concentration on grain and effects of various concentrations of foreign matter.

The authors gratefully acknowledge the financial support of the Texas Agricultural Experiment Station in the pursuit of this research. Thanks also to Debt Graf Carol for collecting the data in this report and to Sharon Woods for her patience in typing this manuscript.

### REFERENCES

1. Palmer, K. N. *Dust Explosions and Fires*. Chapman and Hall, London, 1973.
2. Plemons, D. S. Evaluating chemical and physical properties of grain dust for use in an explosion hazard indicator. Graduate Thesis, Department of Agricultural Engineering, Texas A&M University, College Station, TX, December 1981.
3. Martin, C. R. Characterization of grain dust properties. *Trans. ASAE* 24: 738–742 (1981).
4. Wade, F. J., Hawk, A. L., and Watson, C. A. A survey of grain dust properties at large grain terminal. In: *Proceedings of the International Symposium of Grain Dust*, Kansas State University, Manhattan, KS, 1979.
5. Plemons, D. S., and Parnell, C. B. Developing an explosion index based on chemical and physical properties of grain dust. ASAE Paper No. 81-3068, American Society of Agricultural Engineers, St. Joseph, MI, 1981.
6. Deshpande, U. A., and Matthews, J. C. Adsorption of CO and CH<sub>4</sub> on grain dust: surface area measurements by adsorption of N<sub>2</sub> and CO<sub>2</sub>. In: *Proceedings of the International Symposium of Grain Dust*, Kansas State University, Manhattan, KS, 1979.
7. Chang, C. S., and Martin, C. R. Bulk density characteristics of grain dust. *Trans. ASAE* 27: 898–902 (1984).
8. Plemons, D. S., and Parnell, C. B. Comparison of physical and chemical characteristics of grain dust from five different grain dust. ASAE Paper No. SWR-81-604, American Society of Agricultural Engineers, St. Joseph, MI, 1981.
9. Beckman Instruments Instructions, Model 820 Air Comparison Pycnometer. Beckman Instruments Inc., Fullerton, CA, 1982.
10. Coulter Electronics Inc. Instruction and Service Manual for the Coulter Counter, Model TALL, Hialeah, FL, 1975.
11. Duke Scientific Corporation. Package Data Sheet, Palo Alto, CA, May 1984.

## HIGH-FIDELITY ANALYSIS OF COMBUSTIBLE DUST EXPLOSIONS

Like 



K&C has leveraged their work for the Department of Defense to develop a unique approach to more effectively assess the personnel and property hazards from combustible dust explosions and fires, using methods consistent with NFPA 68.

[Download our Capability Statement \(assets/inspire/CombustibleDustExplosions.pdf\)](#)

### Requirement

OSHA and NFPA codes require an assessment of all physical and health hazards posed by combustible dusts. Processors, manufacturers and importers must consider the potential hazard exposures that may occur under normal conditions of use or in foreseeable emergencies.

### Problem

Ease of ignition and the severity of combustible dust explosions and fires are complex to assess as such events are influenced by several factors including particle size, moisture content, ambient humidity, oxygen available for combustion, the shape of dust particles, and the concentration of dust in the air. These physical characteristics can change during manufacturing, use or while the material is being processed. Furthermore, even weak explosions can cause significant damage, injury and death, such as a sugar (dust explosion class: St 1) fueled explosion in 2008 that killed 14 workers.

### Solution

K&C's unique approach utilizes high-fidelity computational methods to model the internal expansion of high pressures gases associated with combustible dusts. The explosion and subsequent damage to the facility can be calculated with predictions for debris breakup, debris velocity, blast pressures, fire migration and heat transfer, facilitating quantitative assessment of the associated hazards for personnel and property.

### Benefits

In addition to meeting enforced OSHA and NFPA requirements for hazard assessments, this approach supports parallel safety and operational activities, including:

- Design of mitigation measures to reduce risks to personnel and property.
- Design of new or retrofit construction by providing blast/debris loading.
- Siting of new/adjacent facilities by providing safe standoff distances.
- Quantitative risk and loss estimation for facility managers and insurers

### Existing Clients

- Global providers of food and agriculture products and services
- US exporters of grains, oilseeds, and wheat to global markets.
- Consultant civil and structural engineering firms

### Publications

- Joseph Abraham, Joseph Valancius, and Joseph M. Magallanes (2014) High Fidelity Computations of Grain Silo Explosions and Resulting Blast/Debris Loads on Nearby Structures. Structures Congress 2014: pp 234-245

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0 Vulnerability Assessment (services/vulnerability-assessment-and-mitigation/vulnerability-assessment-blast-shock-impact)

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High-Fidelity Analysis of Combustible Dust Explosions (services/vulnerability-assessment-and-mitigation/high-fidelity-analysis-of-combustible-dust-explosions)

Perimeter Defense Design and Analysis

0 Structural Engineering Design

0 Research/Development

0

### CASE STUDIES BY INTEREST



STAKEHOLDERS



SECURITY SUPERVISOR



ENGINEERS & ARCHITECTS

### ASK AN EXPERT

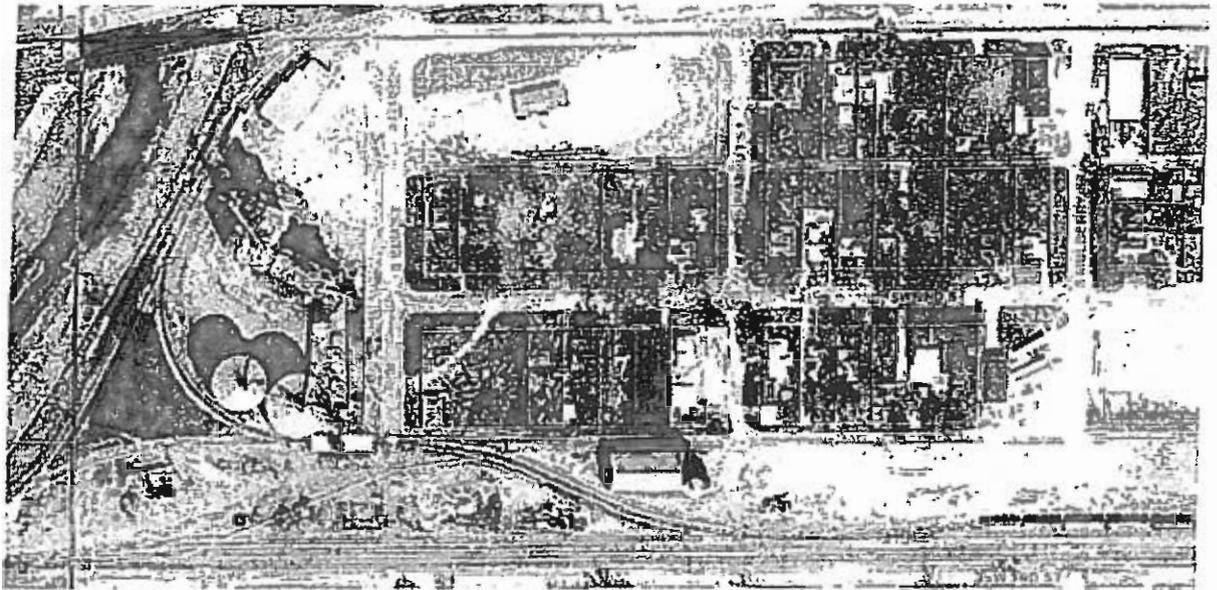
Our experts are ready to help you answer your questions. [Ask A Question \(ask-an-expert\)](#)

FACT SHEET CONCERNING DEBRUCE  
GRAIN/GAVILON GRAIN/FLINT HILLS GRAIN, LLC  
TO BE SHARED WITH PLANNING COMMISSION FOR 5/12 MEETING

<u>Date</u>	
3-21-79	Foreign corporation known as DeBruce Grain, Inc., registered to do business in the State of Kansas.
3/79 - 1995	DeBruce Grain, Inc. operated <u>concrete elevators</u> for the purpose of receiving and distributing grain in the vicinity of First and Elm Street.
1995	Abilene Zoning laws were changed to change entire area around DeBruce to <u>light-industrial</u> which did not permit elevators to exist or be expanded in that area. (Existing concrete elevators were grandfathered, but could not be expanded).
7-1-97	City of Abilene erroneously issued a building permit to expand the usage of this non-conforming use.
2-2-2000	City of Abilene erroneously issued building permit for two <u>steel elevators</u> , in violation of its own zoning laws. Since the erection of these elevators, there has been a radical change in use of the property that has caused constant dust, traffic, noise, vibration and other problems throughout the area. Zoning laws should have prevented these problems.
2004	City of Abilene adopted questionable remedial zoning laws, (for an unrelated situation) saying all structures constructed, as of that date, were now legal. This effectively legalized these two offending steel elevators.
7-22-05	City of Abilene erroneously issued a building permit for a railroad loading dock in the area of the two steel bins. This was in effect an expansion of a non-conforming use which is not permissible under the Abilene Zoning laws. Since this date, the dust, noise and vibration problems emitting from this area have significantly increased with the added problem that large train units are filled at the facility, frequently blocking all city crossings for more than an hour at a time, during daylight hours. Citizens that should have been protected by zoning regulations have suffered since this date.
2-3-12	Gavilon Grain, LLC, a foreign limited liability company, was authorized to do business in Kansas and did merge with DeBruce Grain, Inc.
11-3-14	Flint Hills Grain, LLC, a foreign limited liability company, was authorized to do business in Kansas.

- 2-1-15 Flint Hills Grain, LLC did purchase substantially all land owned by Gavilon Grain, LLC, in the vicinity of the 100 and 200 Block of South Elm Street in Abilene, Kansas. (It being alleged that Gavilon Grain, LLC does own 80% of the stock of Flint Hills Grain, LLC.)
- 2-18-15 City of Abilene did erroneously issue a building permit to construct a 750,000 bushel, 105 foot tall, steel grain bin with conveyers, to Flint Hills Grain, LLC, showing the address to be 513 West 1<sup>st</sup> Street, Abilene.
- 3-24-15 Flint Hills Grain, LLC did begin above-ground construction in the 200 Block of North Elm Street, knowing the construction was in violation of the 20-foot setback required and was, in fact, being built more than six feet into the platted street right-of-way of South Elm.
- 3-25-15 to date The City has confirmed that the construction project is in violation of the building permit, totally disregarding the required 20-foot setback and is being constructed more than six feet into the City street right-of-way. The City also has confirmed that this steel elevator is not permitted to be constructed in this I-1 zoning area, without a conditional use permit, which cannot be granted unless there is a public hearing and a finding by both the Planning Commission and the City Commission that the proposed land usage "will generate few effects felt off-site, such as vibration, smoke, noise, odor, glare, dust and other effects" and "The district is not intended to create obnoxious noise, glare, dust or odor, or create intensive lot or land coverage". The burden of proof to establish these facts is on the applicant. While aware the area was not zoned for a new steel elevator, and the construction, as being performed, violates the setback rule and is constructed into a city street, Flint Hills Grain, LLC has sped up the construction of this non-permitted elevator, having the crews even work on weekends to erect it as rapidly as possible.
- 4-21-15 Notice was published in the Abilene Reflector-Chronicle that Flint Hills Grain, LLC is seeking a conditional use permit to construct a 105 foot steel storage bin and truck receiving system at 109 South Elm, and a hearing will be held before the Abilene Planning Commission, commencing with a work session beginning at 4:00 P.M. on Tuesday, May 12, 2015, at the Abilene Public Library. By the time this first hearing is held, the entire steel elevator assembly will possibly be totally constructed, into the city street right-of-way, before the hearing even commences. Despite repeated requests to stop construction, made to the City of Abilene, Flint Hills Grain, LLC has been allowed to construct this offending structure knowing zoning laws do not permit the same, and that it is being built partially in the street right-of-way.

Dickinson County Property Data - 0211152102006001000



Date	Type of Permit	Work Done	Cost of Project
1/6/1967	Electrical	New Service	\$ -
4/16/1974	Building	10" x 22" New Office & Scale	\$ 40,595.00
10/29/1981	Building	Spouting & Conveyor	\$ 184,000.00
8/21/1985	Building	Addition/Alteration to an existing building	\$ 172,000.00
8/7/1987	Building	Reduce size of the Warehouse	\$ 3,500.00
9/9/1987	Building	Enlarge Office Building	\$ 18,000.00
10/11/1989	Sign	Sign Erected	\$ -
5/22/1989	Building	Remodel of Facility	\$ 250,000.00
5/22/1989	Curb Cut	3 Curb Cuts	\$ -
7/1/1997	Building	20 x 24 Addition w/Basement	\$ 41,600.00
8/12/1997	Electrical	Misc. Electrical Work	\$ -
8/13/1997	Mechanical	Misc. Mechanical Work	\$ -
2/2/2000	Building	Additional Storage Space, 2 Bins & Replacement of Old Shipping Scale	\$2,042,301.00
3/9/2000	Electrical	Temporary Electrical	\$ -
5/26/2004	Building/Electrical	Grain Probe	\$ 4,500.00
7/22/2005	Building	84 x 22 Rail Loading Cover	\$ 57,053.00
7/13/2005	Mechanical	Misc. Mechanical Work	\$ -
3/31/2006	Demolition	Demo Old 50' Concrete Bins/Foundations	\$ -
1/15/2015	Building	Excavation to remove rubble	\$ 50,000.00
2/4/2015	Building	Construct 750,000 Bushel Grain Bin w/Conveyors	\$3,500,000.00



# PERMIT

PERMIT NO 2000-23-

## APPLICATION

Building  Electrical  Temporary Electrical  Plumbing  Mechanical  Other

Method of Payment  Cash  Check

1. **DEBRUCE GRAIN ELEVATOR 513 W. FIRST ABILENE KS** Permit ID No.

2. **SEE ENCLOSED DESCRIPTION**

3. **DEBRUCE GRAIN INC. P.O. Box 34621 KANSAS CITY MO** Phone 816-421-8182

4. **PATRIOT MILLWRIGHT 9541 WOODSON OVERLAND PARK KANSAS 66207** Phone 913-381-7994

5.   
 6.

7. Class of Work:  NEW  ADDITION  ALTERATION/REMODEL  REPAIR  DEMOLITION  OTHER

8. Describe Work: **SEE COVER LETTER**

Living Area	Garage Sq. Ft.
Addition Sq. Ft.	Stories Height
Total Sq. Ft.	Land Area

Coverage %	Occupant Load	Occ. Class
9. Use of Building		UBC Bldg. Type

10. Value of Work: \$ **2,042,301.00**

11. Total Permit Fees **\$ 6,199.25**

12. Builder Declaration  
**MISSEN ELECTRIC 1115 B ROAD HAMPTON NE 68843 402-723-5277**

Plumbing

Mechanical

I hereby declare that the information on this application is correct, and that as owner or builder, I agree to comply with all applicable building codes, relating to building construction.  
 Signature: *[Signature]* Date: **2/2/00**

Builder/Contractor  Owner  Agent for Owner  Agent for Contractor

**Building Inspection Department**

Zoning District	H.C. District	Flood Zone
setbacks: Front Yard	Rear Yard	L. Side Yard
R. Side Yard		

Special Conditions:

Planning	Engineering
Zoning	Fire Dept.

Approved For Issuance By: *[Signature]* Date: **2-10-00**

Work Sheet		Base	
Building		\$15.00	
Each Additional \$1000.00 X \$3.00 =			<b>6,123.00</b>
Additional Inspections:	\$5.00		
Footings	\$5.00		<b>5.00</b>
Foundation Wall	\$5.00		<b>5.00</b>
Framing	\$5.00		<b>5.00</b>
Final	\$5.00		<b>5.00</b>
Electrical	Unit	Base	\$10.00
Service Entrance	\$4.00ea.		<b>4.00</b>
Tamp. Service	\$1.00ea.		
Dryer Unit	\$3.00ea.		
Switches	\$ .15ea.		
Receptacles	\$ .15ea.		
Range Motors	<del>\$3.00ea.</del> See List Attached		<b>27.35</b>
Welding Outlet	\$3.00ea.		
Water Heater	\$3.00ea.		
Plumbing	Unit	Base	\$10.00
Sewer	\$10.00ea.		
Septic	\$20.00ea.		
Water Service	\$ 4.00ea.		
Gas Pipe	\$ 4.00ea.		
Traps	\$ 1.50ea.		
Toilets	\$ 1.50ea.		
Water Heater	\$ 3.00ea.		
Irrigation System	\$ 3.00ea.		
Mechanical	Unit	Base	\$10.00
Furnace/Boiler Units	\$4.00ea.		
Air Con Units	\$4.00ea.		
Range Connect	\$2.50ea.		
Gas Pipe	\$4.00ea.		
Water Heater (Vent)	\$2.50ea.		
Fence	Requires Additional Worksheet		
Curb cut			
Relocate Bldg.			
Sign			
<b>Total Of Applicable Units</b>			
<b>PERMIT FEE BASES PLUS UNITS EACH</b>			<b>\$ 6,199.25</b>

Pd. Mar 6, 2000

**CITY OF ABILENE**  
**PLANNING COMMISSION**  
**MEETING MINUTES**

May 12, 2015  
Study Session at 4:00 p.m.  
Meeting at 4:30 p.m.  
Abilene Public Library  
209 NW 4<sup>th</sup> Street

**Members Present:** Gene Bielefeld, Rod Boyd, Steven Olson, Travis Sawyer (Vice-Chair) and Michelle Stephens

**Members Absent:** Kyle Campbell (Chair) and Bruce Dale

**Staff Present:** David Dillner, Jane Foltz and Jennie Hiatt

**Others Present:** Commissioners Dee Marshall, Tim Shafer and Dennis Weishaar (see attached list for others present)

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**Call to Order & Roll Call.**

Seeing that a quorum was present Vice-Chair Sawyer called the meeting to order.

Hiatt took roll call with five commissioners present and two absent.

**Approval of Agenda.**

Bielefeld made a motion to approve the agenda as written. The motion was seconded by Olson. The motion passed unanimously. (5-0)

**Approval of Meeting Minutes – April 14, 2015.**

Olson made a motion to approve the minutes as written. The motion was seconded by Bielefeld. The motion passed unanimously. (5-0)

**Business.**

1. Election of Officers.

Bielefeld made a motion to elect Campbell as Vice-Chair. The motion was seconded by Olson. The motion passed unanimously. (5-0)

Boyd made a motion to elect Sawyer as Chair. The motion was seconded by Stephens. The motion passed unanimously. (5-0)

2. **Public Hearing, PC 15-4**, a request for a Conditional Use Permit to construct a 105' steel storage bin & truck receiving system at 109 N. Elm Street, Abilene, KS.

Dillner reminded the commissioners to talk into their mike so that everyone can hear, also if you come up to make public comments the mike is on so please talk into it and state your name and address. He then presented the staff report in its entirety.

Olson asked Guilfoyle about enforcement possibilities and what process.

Guilfoyle said if there is a failure on part of the applicant to follow through with the CUP requirements there can be a cease and desist order until such time that they come in compliance, it would be an injunction basically.

Sawyer asked if there were any further questions, seeing none he asked if the applicant was present.

Gary Hanson stated I'm a lawyer from Topeka here on behalf of Flint Hills Grain, LLC. With me here today to make presentations are Rick Benware, Senior Director of Operations for the Gavilon Group in Omaha, Gavilon is one of owners in the joint venture of Flint Hills Grain and also Beth Weibert, the manager of the facility here in Abilene. Thank you for the opportunity to support this application for Conditional Use Permit this afternoon. In just a moment Beth is going to talk generally about Flint Hills Grain's operations here in Abilene, followed by Rick who will talk about some of the more technical aspects of the project and in particular those aspects that address some of the environmental aspects that have been brought to our attention throughout the course of this application. Before introducing Beth and letting her begin her presentation there is one thing matter that I would like to address and that is from what I've read that there is a perception by some that the City and the applicant have not followed the regulations and that perception is because the facility is under construction and the CUP has not been granted. That is not the case. There was no such attempt by either party. The company has been in early and regular contact with the City on this project and through the course of that there have been numerous discussions about the preceding and how to do so. Actually in my view of the law and of my firm, a CUP was not required. That as an allowed non-conforming use Kansas has adopted a modern instrumentalities doctrine that allows the natural growth and development of the non-conforming use and in all fairness this could fall under this doctrine. Fortunately we don't have to deal with that today because when questions were raised about the appropriateness of the procedures, as those were raised, the City requested that the owner file a CUP application and it did so and it has been dealing in good faith thru that CUP application process and in the mean time the City had issued a building permit for this construction and the owner through their contractors have been building under that duly issued and authorized building permit. Now what we have today just as Mr. Dillner has reported is a very thorough report by staff on this CUP and result of this process very appropriately it recommends a set of

conditions to be attached to that permit. We have studied those conditions and they are very reasonable, they're fair, they're doable and the company is prepared to comply, fully with that set of conditions that were just provided to you. With that we urge you to give your favorable decision and that the governing body issues the CUP and with those conditions that have been described. With that I would like to turn it over to Beth and then after Rick speaks we would entertain any questions you might have.

Beth Weibert, I am the location manager at Flint Hills Grain and in the industry for last 9 years and in Abilene for 8 of those years. A little background on the facility here in Abilene, the current concrete elevator that you can see there has been on this location since 1950 and an even older elevator structure stood on this ground previously. So for more than 65 years through various ownerships a grain elevator has operated on this facility. In February the facility became known as Flint Hills Grain a joint venture between a local owned Kansas Coop AgMark and Gavilon Grain. Having been employed here for 8 years through various owners of this facility I can personally attest to the current owner's attention to the environment and safety. I have seen tremendous advancements made in these areas during my tenure at the Abilene facility. These two companies AgMark & Gavilon both have the financial resources as well as the personnel expertise to maintain the upgrades and are committed to being a good neighbor. We currently employ 15 full time employees at Flint Hills Grain three of which have been with the facility for over 30 years. We are proud of the value we bring to the City of Abilene and the surrounding areas as well as our closeness to the community. What does Flint Hills Grain do? I've had a number of people say what is a shuttle facility? Flint Hills Grain is an efficient shuttle loader facility. Shuttle facilities load grain on trains and send them to destinations for export. One of the unique competitive advantages that this facility offers to both our farm and coop customers are the fact that we are serviced by the BNSF and the UP railroad. The railroads give us access to global markets and so we are able as a result to offer our customers both farmers and coop customers higher prices than they would receive otherwise from local truck markets. We are proud that we trade with over 500 farmers in the state as well as many local coops. Our trade territory covers a draw area of approximately 150 miles around Abilene area. So this brings us to the point of why we are upgrading. Many of you have probably noticed the advancements that have been made in production agriculture including larger farm equipment and a growing number of semi trucks and trailers on the farm. To keep up with our customers' needs we recognize the importance of increasing our storage capacity and including our speed. As our farmers get faster and their equipment gets faster we need to be able to accommodate them at our facility. We have been working with the City of Abilene to operate within the city requirements for an upgrade to the facility. Some of you may know that Salina operates 3 large shuttle shippers similar to ours. If Abilene didn't have such a facility that we operate it is very likely that many of our customers, not certainly all, but many of them in attendance today, who have numerous semis, would go to Salina with their grain as well as coops who are currently bringing grain to us for export. And that would represent 10-20 million bushels of grain that would go right over this town of Abilene and we would miss out on opportunities to feed those truck drivers, to fuel them, to replace their tires and any other activities that they might take part in while in the City of Abilene. The new bin helps us buy and store more grain. We have installed a receiving pit and scale to get trucks through our facility more quickly and also to address some of the traffic and flow issues and that should help expedite that as well. This upgrade helps us stay competitive which is critical in an industry

such as this a commodity based industry. To be competitive and terms of prices and to get more local grain out to the food, feed and fuel customers who need it. What does this bring or how does this affect the city? Naturally we bring value to the city by tax revenue. Last year we paid over \$55,000 in taxes, with the addition obviously this tax base will grow. I was also pleased to find that last year we spent nearly \$200,000 locally in Abilene, when we went thru we looked at businesses that operate in Abilene and how many dollars spent and \$200,000 in a town the size of Abilene I think is very commendable. What's harder for any of us to conceptualize, but a semi holds approximately 1,000 bushels. Our facility typically uses 12-20 million bushels a year. This grain is brought in almost exclusively on trucks and those are the trucks that are stopping to buy fuel, buying meals and the dollars those trucks spend while they are in town is a magnitude far and above what Flint Hills Grain spends just in this town. This doesn't include the construction workers who have been working at our facility who have been purchasing hotel stays as well as food and drink and other items while they are in town. So, I think that paints a pretty clear picture of what we are doing for the City of Abilene. How does our improvement affect the local population and Rick is going to discuss this more specifically. But, obviously whenever a company be it AgMark and Gaviolon choose to make a major capital improvement project such as we have done here, we look at better ways to control dust and noise. The scope of this project also includes a number of steps aimed directly at controlling and reducing dust emissions and noise from our facility. Which Rick will discuss in detail. We would like to thank our supporters. We appreciate the support that we have received local farmers, businesses in Abilene and residents of Abilene that are in no other way connected to agriculture as well as many coops and the Kansas Grain and Feed Association. We feel really honored to have received 175 signatures on our petition, as well as 16 letters of support from local businesses. With this support, we feel will continue to be strong business for Abilene while we conduct ourselves in a way that complies with local laws and benefits the Abilene community. I'll turn it over to Rick Benware.

Gary Hanson handed out a packet of information to the commissioners and staff.

Rick Benware, Flint Hills Grain, Sr. Director of Operations, Omaha, Nebraska. I want to thank everyone for your time this afternoon. Beth has explained a little bit about this project and the benefits of it and why we are trying to improve the facility and improve our grain handling process for receiving and shipping at our facility. Just a little bit of detail about the project itself, the project entails basically two parts. We are going to put the new bin up in this area right here 750,000 storage bin that most people have been able to see as it's not hard to see as you drive by the facility. We put in a new truck receiving facility right in this area here that will allow us to dump trucks at our new receiving system. Part of that grain storage facility we have made the decision to install fan silencers on the aeration fans, so the silencers will address the noise level of those fans when we have to operate those aeration fans on that new bin. So, silencers will be installed as part of this project to help address the noise concerns of the fans. On the new receiving pit that we are installing there it is designed to increase our receiving capacity. One of the reasons that we need to increase our receiving capacity is so that we can get the trucks in and out faster. As Beth explained the farmers have much larger equipment, are farming on a much larger scale and dead time down for them is time that they are losing in the field and being able to get their crop out of the field based on weather conditions etc. So will be able to run the trucks through the facility at quicker rate, so they are in and back out of our

facility, so it's an efficiency stand point. We will also be able to take grain straight from the trucks and we'll be able to put them in what we call our rail shipping bins right here on the drawing and this allows us to reduce some of the internal handling we have to do right now. Currently when we bring in grain we'll dump it out here on the receiving gear or maybe this outside pit here. When we dump grain here we have to convey into what we call our concrete house. We have one, two, three house here, we have to elevate up to convey into the house and then to get it back over so that we can load it out on the trains we have to convey it back up again and convey across through the bins and then elevate again and convey to rail load out. So, by putting in this outside receiving pit we are going to be able to dump more grain straight to the rail bins which will allow us to reduce the amount of handling. When you handle grain you can break up the grain and cause dust. By reducing the handling you are going to reduce some of the dust that this facility produces by reducing handling. One of the other things that we are doing over on the new receiving pit is we are installing what's called baffles and what a baffle is, is under where you dump the grain into the receiving pit it's just a mechanical device, basically it's a metal plate that just hangs vertically down and it's in a closed position at normal operation when the grain actually dumps through the pit and goes through the baffles it opens up the baffles where the grain is and the rest of the baffles will stay closed and so that reduces any type of dust emissions that would try to what we call boil out or roll out receiving pit. So the mechanical baffles are being installed in this receiving pit. One of the concerns that have been voice is the roads, the truck roads that are on our facility. We went out and dug down just to find out what the existing base is on our gravel road and we found, we dug down in six different places across our property and we found out we've got over 6 inches of existing gravel bed on our truck road and actually found that part of it has up to 12 inches of gravel as a bed on our existing truck road, so we've got a good foundation out there, but we've made the decision that we are going to use a product called road genesis. It's a dust control product and the way you do that is, we will actually go into our property. We will actually do a little bit of ripping of the existing gravel up. This is an organic product that ADM Alliance Company has developed it and we will go in and spray that product into the existing gravel bed and then grade and work that product into the gravel bed. It helps form a seal on that gravel bed and helps to control dust. This product lasts approximately three years, so you don't have to treat but once every three years. It's a product that's being used elsewhere in Kansas and in your packet there are some letters that we provided that shows this product being used. It is our understanding that the Corps has approved this product, we have not been able to track that letter down, but the Corps has approved this product as a dust control product on gravel roads. That is one thing that we are doing to address the dust on the roads. Another thing that we are doing is changing the truck pattern on our property itself. Where before they've come in and the trucks would come in and weigh and then make a sharp turn around to get to the south side pit. All of our traffic is still going to come in off of 1<sup>st</sup> or Elm Street and do the same pattern as before, but now they will come in and they'll go to this pit here, and then come through and go to this pit here and then everybody will go straight back out to the new scale and then come back out. We've reduced this turning that we were doing before here, where the trucks were basically making a 180° spin and just any time you have trucks running on gravel is a tendency to possibly chew up that gravel, so we've reduced that 180° radius and made that truck pattern through our property more efficient. We are modifying, this is one of the things I think that we mentioned in our application, and we are modifying the belt loader. This belt here conveys from the concrete over to the metal bins and there is what we call a belt loader with a spout that

discharges the grain onto the belt and so we are modifying the belt motor to seal that area up better, so that we can reduce dust emissions in that area. We are doing this in a couple of different ways, we are adding some sheet metal, we are adding some rubber belting to enclose that area off, rubber belting down off the spout to the actual conveyor belt to seal that area off, so that the grain goes onto and stays on the belt. There's an existing dust aspiration system right there and by enclosing that area off with the belting and with the sheet metal it will allow that dust pickup system to actually aspirate better in that area and help control the dust in that area and more efficiently. We had a third party contractor come in, one of the things that we are looking at is maintenance repair operation of our equipment so we hired a third party contractor to come in and look at our dust filters and what a dust filter is, is basically in the aspiration system when you draw air off of the equipment, off of storage etc. it goes through a mechanical device where it has fabric filters, bags that are inside this device and so it filters the air so it knocks the dust out of the air before the air is discharged back out into the atmosphere. So, we hired this contractor to come in and look at the dust filters to see if we could find any issues with it number one and make any efficiency improvements that would make it operate more properly. We have, since they've been there, replaced three of the airlocks, that's the discharge mechanism on the bottom of the filters and all the airlock does is it forms a seal, because you have air going through there and you need to have a sealed container so this airlock discharges the dirt and keeps the air from discharging out the bottom of the filter so it forms a seal. If the airlock gets worn out you get a gap and you get air bleeding around it so it reduces the efficiency. We've done that, and we are in the process of tracking down a new air compressor, we've determined that there is not enough air supplied to properly purge the bags. The way a filter works is that you have a pulse of air from an air compressor that purges these bags on a time sequence and so we've determined that we don't actually have enough air compressor air to purge properly to maintain an efficient operation. So, we are in the process of buying a new air compressor that will provide enough air so that the bags will purge properly. The big efficiency issue with the filter is making sure you keep the bags clean. So we are addressing that problem with the filters. We are modifying our truck load out. We have a truck load out right here where we have, what we call a side mount with an extra spout off of the bins and we have a gate there where we will actually pull a truck up alongside the bin and then we discharge grain out of the bin into the truck. We are purchasing what is called a DSH spout. It is a mechanical device that works off of a choke feed. Steel manufactures this and in the packet we just handed you there's some information in the back about that DSH spout. But, the way it works is, the grain comes out of the bin and drops through the spout and drops it into the DSH spout which has springs on it and when the spout is loaded the springs drop down and the product discharge out and it transfers the grain and dust together and you get control of the discharge of the grain into the truck to reduce the dust when you are loading the truck. It's very efficient and reduces dust when you are loading out by 98%. So it's a very efficient piece of equipment and they will install it on the load out spouts. One of the things that were mentioned was preventative maintenance. We have preventative maintenance procedures at our facilities where we do annual inspections on our equipment; we do monthly inspections and some things we do on a daily basis. We will be supplying as a condition the annual inspections of our equipment, but this allows us to make sure that our equipment is operating properly, because if we find an issue with it, then we address that issue, so we do have that preventive maintenance. As mentioned earlier we are governed by the Kansas Department of Health and Environment. We have an air permit that we have to abide by; there are EPA regulations that we have to abide

by and there are OSHA regulations that we have to abide by and this facility was actually inspected, the last inspection KDHE was completed on 7/28/14 with no issues noted. The last thing, I think there was a question about the existing rail load out, the existing conveyor on the rail load it is not changing, so the load out system here is not changing, but the thing we are working on is the dust filter on the load out and that's one of things we are addressing is the efficient operation of that dust filter, we actually have a dust aspiration hood on our load out system and by addressing the efficiency issues we will be able to aspirate more properly on the grain load out, so we are addressing that part of it. The last comments that I would like to make are leadership overall. There is new ownership at this facility and with the new ownership comes new expectations. I've been in the grain business for 35 years and we've got the highest expectations that I've seen ever in my 35 years. So we have a pretty high bar. We have new leadership from the corporate office and the corporate office leadership has very high expectations for every facility that we are involved in. We got new location leadership in Beth and Brandon; he's a new who started with us two weeks ago. So we have new leadership here to change the expectations of this facility and they understand cooperate expectations and they understand the leadership expectations. So, everything the bar has been raised for this facility and not only this facility, but every facility across the board that we are involved in. We are very committed to be a good neighbor, very committed to doing what is right, very committed to follow the rules and regulations and we want to continue to support Abilene and the local agriculture needs in this facility and I appreciate you all's time.

Sawyer asked if the commissioners had any questions for the applicant at this time.

Bielefeld asked Benware if there are any local, reasonably close elevators that use this product on the gravel.

Benware replied, the Road Genesis? I'll have to find out where the closest one is Sir. I can't answer that off the top of my head. I know that there is a facilities that are using it presently in Kansas, but I just don't know how close they are, but I could get that information to you.

Olson asked if the two existing pits were going to be modified in any way with baffles or do they already exist.

Benware replied long term, yes they will be addressed.

Bielefeld asked how long.

Benware stated within the next year.

Sawyer asked about the noise suppression you were talking about with the fans. Can you explain a little bit about how that works and if there's any information that actually quantifies how much suppression takes place?

Benware replied we can get documentation from the fan manufacturer that shows they are called silencers and basically it's a piece of duct work with insulation that's installed inside, but

we can get that documentation for you. They are saying that we'll reduce the noise level by 15 decibels by using these silencers.

Bielefeld commented, you said it was going on the new bin, is it going on the two other old bins as well?

Benware replied these two existing bins do not have any aeration fans on them at the present time.

Bielefeld, how about the concrete bins?

Benware there are no aeration fans on those either.

Sawyer asked if there were any other questions. He then opened the public hearing and explained protocol.

Floyd Danner, 615 SW 3<sup>rd</sup> Street, I live within 150-200 feet from the elevator in question. I have dealt with problems, dust and noise for years and years. My family as well as other families has dealt with this for years. I have worked with the KDHE as well as the state in trying to correct some of these problems that have occurred in the past. I worked with Mr. Guilfoyle, he knows me, and he knows his history of what I've tried to get accomplished to no avail. The dust problems have continued and I feel with this project they will continue. I helped with the dust filtrations at AcuBlast Corporation and Abrasive Blast systems in Abilene which manufactures dust filtration systems. I would like to ask these gentlemen if they have explosive vents on their dust outlets, do they have any kind of safety, if one of these filters or cartridges that it shuts the system down until repaired. I would also like to ask you if there is any kind of spark resistant handling devices to eliminate any kind of dust explosion. We all know that dust will create explosion. I served as fire rescue for eight years in the military and I took training in structural apparatus firefighting as well as crash rescue and I have dealt with this type of situation before. I ask the Planning Committee to kind of review this and I won't take up much of your time. As Mr. Royer stated it appears that the violation to the City Zoning Code which allowed construction to this bin to halted, which they were allowed to continue. We have a building and zoning code that are good if they are enforced. We as taxpayers rely on the people, the City Manager, the Commission, and Planning Commission to make good decisions in the interest of the people of the community. It appears to me that has not been done, by allowing these people to go ahead and construct the building, without a legal permit. I must say to you today that I personally feel that once again the City of Abilene has let the people down, by allowing Flint Hills Grain to continue to erecting this building or bin. So I would say to the Planning Commission lets eliminate this eye sore and get back to working for what's best for the safety of the people of Abilene, thank you.

Guilfoyle stated that before we go any further I would like to clarify that I did not represent Mr. Danner personally regarding this facility. I did represent the City on issues that we had when I first came on board as City Attorney in about the year 2000. We were trying to get some dust issues settled and KDHE was involved.

Danner, I would like to ask these gentlemen to put in writing in response to some of the questions I asked about these safety requirements on the removal of the dust and the safety and shutdown of the system if the filters or cartridges should fail. I would like for them to present to the City or the Planning Commission if these have been done and complied with.

Hank Royer, Attorney here in Abilene and I live upstream from this elevator at 309 N. Vine. I have some remarks that I definitely want to share with you. I represent a lot of people who are affected down there, as well as neighbors in the immediate proximity as well as my neighbors. I really think I could sit down after these first two statements, but I won't. The first one is that you don't have the authority to shut down the two steel bins they have there for the outside operation which is causing our problem. It was grandfathered in 2004, it wasn't well thought out, but it was grandfathered in. Today we are not talking about shutting down anything and I'm glad to hear that they are going to make these great improvements on what we've already got there. The only issue you have today is whether you are going to allow them to double or triple or whatever this massive structure will do in their operation now. So, anybody here that's here that thinks I'm anti-agriculture, I own lots of farms, and I'm not against agriculture. We're not shutting it down, we have enough capacity there already, and they're going to keep running what they've got there whether you give them this one or not. It's just a function of increasing an admitted problem that they've talked to. The second part of this is everything that they've talked to today is says that were going to reduce the dust, we're going to improve this; we know that the filters haven't worked down there before; we've owned it all these years. This young lady, Beth has worked down there for 8 years, the filters haven't been working. Why haven't they replaced them before? They say don't worry in the next year or so we'll get around to fixing some of this stuff. Well they've been here all these years and they haven't fixed it. Everything they've said is we're going to try and reduce the dust. Well your Zoning Code says that they cannot create dust in an I-1 Zoning. In Zoning I-2, which is Heavy Industrial, they can create things that produce vibration, odor, glare, dust and other problems that travel off site. This is not an I-2 Zoning. They basically are admitting that what they cause in problems there is I-2 Zoning and they can't come into I-1 Zoning and create that dust. You can't approve it, by their own admission, their going cause more problems by adding more capacity, running things that they may fix, if you believe them in the future. I probably should sit down after that, but I won't. I am going to probably going to read a lot of my remarks, because the way this works is we're making a record right now, this is for the City Commission if you approve it or disapprove it either way, this is a record for them, no new evidence can be introduced at the City Commission meeting. If someone feels aggrieved after the City Commission meeting then it goes to the District Court this again is the record, were not allowed to introduce new evidence, so what I'm going to say I'm providing copies to the clerk and I provided some of them to you all ahead of time. I'm going to read, because I want it in the record, just like David read his comments for the record, twice for us today. I do thank you for the opportunity to address you and share the point of view of many neighbors directly affected by the Gavilon/Flint Hills Grain operation in the vicinity of 1<sup>st</sup> and Elm. In my 40 years practicing law here in Abilene, and especially during the 25 years I served as a judge, I learned that getting facts before making a decision is usually the best course of action. Regrettably, you don't have the neighborhood point of view as Mr. Dillner failed to show up at a meeting he scheduled to meet with we concerned neighbors regarding this project Wednesday at 9:30 am two weeks ago, we were prepared to share our point of view, but per other commitments he didn't show up. He

called at 5:00 pm and said he was sorry he didn't show up, but that didn't help us much. Hence, our point of view is not shared in any of the material he sent to you before this meeting. He didn't hear from us, because he didn't come to the meeting, so he couldn't tell you what we've said, that's why I'm going to be here today to tell you what we would've told him if he'd come to the meeting we had for him. To be fair to all concerned, you must consider this conditional use permit application today on its merits, as if the ground were presently vacant. You have to consider like that thing isn't there, although it is there. Had the proper protocol been followed, that would have been the situation, that wouldn't be there and you would be having this discussion on raw ground. The suggestion by Mr. Hanson that they didn't even have to ask to put this in this, that it's an expansion of a non-conforming use, is hogwash. The ordinances in the City of Abilene they grandfathered us in 2004 specifically said you cannot expand a non-conforming use. Anything you've got here in 2004, we'll let you keep it, this had to do with a trash hauling service in east Abilene, but it covered everything, including their two grain bins down there. But, it said specifically you can't expand, so they could not come to you or could not deal with this as a non-conforming use, despite his statement that state wide this is a policy. Well we have a law that says you can't, so they had to come to you with this conditional use permit and they did not do that and they are charged with knowledge of that. So, as I go on to expand on my following comments, from the face of the conditional use permit, that they have submitted, the applicant wants you to approve: 1. Plans that show the applicant doesn't own the land where the elevator is to be built. The survey shared and I provided you copies if any of you forgot them I've got more copies. That shows that their drawing indicates the elevator is to be built six feet seven inches into the City street right-of-way, rather than 20 feet back from the City right-of-way as is required by the zoning ordinances. Hence, the structure contemplated and actually has been built now, should be located 26.7 feet further west to have it constructed on their property and comply with our setback rules. When they came to town to do this, they needed to know what the laws were; they're on record for failing to find out this law is their own fault, not the City's fault. They should have known what they were doing before they came here and planned this. For purposes of today's hearing, you must consider the facts as they exist and not on some speculation that there might be a land transfer sometime in the future to cure part of this problem. In my opinion, I'm not a City Attorney like Mark is, I'm not well versed in municipal law, but as I read the law this morning after I read what Mr. Dillner sent out to all of you, I do not think the City is permitted to make such a transfer for the benefit of this organization. Reading from Am Jur on this subject and I didn't provide copies of that to you because I didn't have it until this morning. I'm quoting from 56 Am Jur second section 551 Exchange of Property, "Municipal Corporations do not have inherent power to exchange municipal real property, generally speaking, such exchange power as a municipal corporation may have with respect to any municipality owned realty can be exercised only for a legitimate public or municipal purpose. The value of the property to be received by the municipality is such exchange must not be less than (or must exceed) the value of the realty which the other party is to receive from the municipality." You don't have to consider this fact as you only have an application before you from Flint Hills Grain, which, from its face, shows they don't own the land on which they want to construct this elevator. This is not a dual application by the City of Abilene and Flint Hills Grain, and cannot be considered as such, since the City of Abilene owns 6 feet of where they want to build this. The City didn't join with them and apply for this Conditional Use Permit, so you don't even have one of the owners of land before you today. Flint Hills doesn't own all of the land that they want to build on and they say maybe someday in

the future, if my reading of the law is wrong, where it says that the City can't exchange ground with them, they might someday try to work something out. But the irony of that is that even if the City was informed to swap ground with them, which I don't think by law that they can, it will not solve the problem. If you look at the survey their elevator is presently located 18.87 feet west of the curb line, that's where it starts. They have to have a 20 foot setback, the City is going to have to swap them this 18.87 feet, plus another 1.3 feet of the road right-of-way to get the 20 foot setback, so you are going to have to actually give them part of the street, if it's legal, which I don't think it is. Anyway they don't own the land and you can't grant a permit to somebody that doesn't own the land. I might want to build a steak house up there in the Highland Addition, but I can't apply for it unless I own the land up there. I can't come in and get a Conditional Use Permit for a steak house in a residential area unless I own it. It's so basic; I won't discuss it any further. 2. The zoning laws designed to protect the community adjoining this facility were changed in 1995 and they presume that an elevator can't be constructed on this site because of grain dust, road dust, noise, traffic, vibration and so forth. I will expand on these factors in a few minutes. Even the City's report to you does state that normally required screening cannot be used down there, the City has a requirement for that and they say opps we aren't going to be able to do it down here, just hope they don't create too much dust. 3. The application, as submitted, also confirms that the applicant does not intend to comply with the stated zoning requirements of the City that all the roadway surfaces within this area be paved. Their material suggests they will do some type of road dust control. The zoning laws of the City of Abilene require them to have the surfaces paved. Any deviation from that requirement does require a separate hearing before you, after notice and you cannot consider such deviation today, because they've not applied for it or given notice of the hearing. They say they're just going to put something on the rock down there that deteriorates and this wonderful product might last three years, they have to replace it in three years. I don't know whether it gets bad in six months, one year or whatever, but they're going to have to replace it every three years to get any efficiency. If you look at their map they're incorporating even new areas, they are making a turnaround after second onto raw ground down there and at a minimum they would have to pave this new ground. In my opinion they have to pave it all, because they cannot expand a non-confirmative use, they are actually allowing them to change the use of the property with this new truck rigging and all of this. In my opinion they have to pave the whole area and they have said they're not going to do that, so at some rate in my initial remarks there, the application, from its face, indicates they don't own the land on which they are seeking to obtain a permit, they don't intend to comply with the zoning rules for elevator location and setback from the roadway, probably cannot, in any way, structure the project to prevent grain dust, road dust, noise, traffic and vibration problems to emanate from the site at an increased amount, and they have indicated they are refusing to pave the roadway surfaces, as required by the zoning laws. For these reasons, and others, which I will expand on now, the conditional use permit should be denied. My other comments here, that I did share with you, I tried to deliver to all of you yesterday, I hope you got it and if you didn't, I apologize. I was running a little late, my secretary and I had a miscommunication and it just got done yesterday, anyway, I appear today to formally object to a conditional use permit being granted for a new steel elevator and related truck unloading equipment, in the vicinity of the 100 Block of South Elm, which is zoned I-1 Light Industrial. Throughout today's hearing, I will phrase comments as mine, but they are not only my point of view. I represent numerous Abilene residents, including many in the vicinity of this site. Rather than having all these persons come down, and repetitively tell you the same

thing, I am speaking for myself and numerous other parties affected on all points I share with you. While today does represent two hours of commendable public service for you, a wrong decision does amount, to a life sentence, for those of us who live in the vicinity of this site and are unable to afford to relocate to get away from the problems that this elevator creates for us and those problems are real. The Abilene Zoning Codes have, since 1995, had a presumption that elevators cannot be constructed in light industrial zoning areas. There is a provision that theoretically could allow elevator construction, as a conditional use, but the burden would be on the applying party to show, by clear and convincing evidence, that their proposed usage would generate few effects felt off of the site, such as vibration, noise, odor, dust and traffic problems. Past performance, we've got track record down there folks and physical impossibility, which they've even admitted today, prevents the applicant from being able to meet those burdens. Even under their best case scenario, if they start upgrading equipment, we're still going to have dust coming from that site and it's not supposed to happen in this type of zoning area, in an I-1 zoning they are not supposed to create toxic dust. The stated purpose of the Abilene zoning laws are to protect and serve the public health, comfort and general welfare of the citizens of Abilene, by regulating and restricting the location of buildings and land. Since 2000, the City has regrettably failed to enforce its zoning laws in the vicinity of 1<sup>st</sup> and Elm, to the detriment of the whole community, especially for those of us who live within a few blocks of 1<sup>st</sup> and Elm. I, and my clients, contend this requested elevator construction is a classic example of just the type of building and land usage that should not be permitted. We respectfully request you enforce existing zoning laws and deny the conditional use permit requested for the expanded use of this site. Although now in the past, the City, in 2000, did erroneously permit the construction of two steel elevators, at south 2<sup>nd</sup> and Elm, I think it's 2000, David not 2004 when they actually built them and that's confirmed with what Mark said with the dust problems and everything created then. They created it in violation of existing zoning laws back in 2000. Later, in 2005, the City also erroneously allowed the creation of a railroad loading dock in the area of these two steel elevators. They didn't come before you for a conditional use permit for that either. They were required to in 2005, they were grandfathered in on the other, but in 2005 they had to come. The City allowed them to do it. These two erroneous City actions, taken more than ten years ago, have resulted in a demonstrated constant problem with the operation of those structures. There has been a regular problem with dust, traffic, noise, vibration and other problems felt off site, since these two metal elevators began operation in 2000. City records can document these problems and complaints. The City did have the Kansas Department of Health and Environment come to the site to verify the grain dust leaving from this site. The KDHE, on more than one occasion, used an opacity meter and verified that the grain dust being disbursed, off-site, was in violation of any state permitted standards. The response of the elevator operator, to this finding, was to start loading their grain cars, after midnight, so monitoring staff, which had to come from Salina incidentally, couldn't be available and the opacity meter wouldn't work in the dark. This pattern of deception has continued. If KDHE can't get here and they're loading in the dark, it doesn't help much. The demonstrated grain dust problem occurs both when trucks are off-loading at those open sites, when you're dumping that grain in there the air displacement comes back up with the grain dust and when the auger system is working to load the rail cars. They admitted the filter wasn't working over at the rail cars, so we were getting dust. They were dumping it in there and it was blowing everywhere. A south wind disburses the grain dust blocks to the north, and the north wind distributes the grain dust blocks to the south. So the fact that a little bit of that around there is I-1 doesn't mean much if

you live two blocks away like I do and you have the mess there. You can just think 20-50 feet away; you have to think because the wind in Kansas does move that grain dust, which is very light. I shared with you, I provided it before, I won't hash through it, numerous scientific studies which document, dust release, when handling grain, is unavoidable. There is no technology in existence that will not allow grain dust to escape when it's being handled by an elevator, there's none. Air displacement into the dump pit, grain breakdown, etc., will always cause the toxic, explosive grain dust to be generated and unless 100% shrouded, to be dispersed into the environment. There's no proposal to shroud anything, they've got these open pits out there. They're going to use the presently inoperable equipment out there. Both my children and grandchildren have allergy problems. About 13 years ago, they had to stop traveling to Abilene to visit at my home, due to allergy problems caused by both currently blowing grain dust, and grain dust previously accumulated, on our property. We have to rinse out our air conditioner filters multiple times each season, we have to rinse of the screens on our screened-in porch frequently, and are never able to have a clean car, if it is left outside of the covered garage. We did not have these problems prior to the construction of the two elevators and the grain-loading operations. The concrete elevators were fine, we didn't have that problem, they were there for years, we didn't have that problem with them, but we have had ever since they put those steel bins down there. Grain dust is an inherent problem with the operation of steel elevators and related grain moving and loading facilities. That is one reason that zoning codes were changed in the mid-90s, as elevators nationwide, started to move away from the tall, concrete elevators, which worked relatively well, to these cheaper, less-confining, steel elevator operations. The nature of grain handling at these operations does inherently allow the dispersal of grain dust. These structures are designed that way. Created grain dust must be either efficiently captured or dispersed and not confined, as grain dust is six times as explosive, as black powder. That was something that was addressed by the gentleman preceding me. There is also a problem with regular rock dust as this elevator operator has refused to create a paved surface on all the traveled surfaces. Their heavily loaded semi-trucks simply powder the rock surface and regular rock dust blows whenever any of these elevators surfaces are traveled by any type of motor vehicle. When last asked about this roadway dust at a City Commission meeting, about six weeks ago, the current elevator owner indicated there were no plans to pave the road surfaces, (despite the fact current zoning laws require such pavement). Hence, rock dust problem will increase due to the increased amount of truck traffic coming onto the site if you allow them to expand their operation at this site. My home, and the homes of many of my clients, do have central air conditioning. Hence, an inquiring mind might wonder why I have window air units protruding from certain windows in my home. These air conditioners are used to drown out the noise of the railroad car loading and banging that goes on at that site during the early morning hours when rail cars are being loaded, under present arrangement. I had to replace two of these air conditioners, last week, as they were completely clogged up with accumulation of dust coming from their site. We don't need window air conditioners for cooling but use them as a blocking noise to avoid the loud, regular noise coming from the box car loading and train concussions coming from this elevator area in the late night hours. I would challenge any of to go down there about 2:00 A.M., when they are loading grain cars and slamming the large metal lids on the top, slamming the trains together, etc. It often sounds like a thunderstorm and will shake my house with the train concussions. It is difficult to get a good night's sleep when this facility is in general operation. The problem has not occurred the last few months, as the grain cars have been temporarily kept out of the area, and have not been doing their regular nightly

loading. So we have a problem now, if you allow them to increase, double their capacity for these trains to be loaded and let the grain sit there, were going to have these problems exacerbate. We can't shut down what we've got, but we can sure stop it from getting worse. If this new grain elevator is allowed to be constructed and utilized, it is reasonable to assume they will significantly increase the amount of loading and off-loading activity at the facility. Their goal is to make this a regional transport location, thereby substantially increasing the amount of both noise and dust coming from the site, which zoning laws should prevent. That's why we have these laws. The rail car loading and transporting from this site has caused vehicular traffic problems in the past. Over the last summer, when these rail cars were made up into a unit for transportation, they have blocked all of the downtown crossings in Abilene for well over an hour, multiple times. The Gavilon switch engine personnel have little concern for public safety and inconvenience, and think nothing of blocking the crossings for extensive periods of time. The City of Abilene has declined to enforce an ordinance preventing the blocking of the crossings, against Gavilon, to the detriment of the traveling public and safety of anyone located south of the tracks. If yet larger trains are made up, it is reasonable to assume these crossing blockings will occur more frequently. With the U-shaped formation of the track make ups, it is quite possible that all city crossings of both the Union Pacific and the Santa Fe tracks could be completely blocked when a full train is being assembled. It takes only twelve rail cars to block all of the crossings from Cedar Street through Buckeye. It is reasonable to assume this expanded railway operation will seek to have rail cars made up in the 50 to 100 car range which would block all crossings in town. This is a traffic problem that should not be allowed to occur under the present operation, and certainly shouldn't be allowed to expand, if they effectively double the size of the operation of this regional plant. If you look at that, that's only 12 rail cars circling the whole thing. Once you get another two cars there you start blocking Elm, if you come down you block Cedar, Buckeye all the way along there. You can't have a train of any length without blocking crossings. I know it takes a while to load those up, but blocking the crossings for well over an hour is absurd and creates a public safety issue. A new bridge was built on Third Street recently. It does have a weight limit to protect its longevity. Semi-tractor/trailers operated from this elevator facility to do travel, in a loaded condition, from the west, across the bridge, making a turn south on Elm Street to this elevator south. The City has repeatedly requested that these loaded trucks travel down Buckeye and then east on reinforced First Street to the elevator, and that only unloaded trucks leave on Elm Street, going across the bridge. This restriction is frequently disregarded and may be causing structural damage to the new Third Street Bridge. Expanding the use of this facility will only create the opportunity for additional use of this new bridge, both by existing trucking companies, and by new trucking companies, that may haul grain into town for this proposed regional transport facility. I have had friends and clients who have moved out of our neighborhood and some have even moved out of town, as a result of dust, noise and traffic problems that the existing operation causes in the area. It is reasonable to assume that if you add volume to the existing problem, it will exacerbate all of the above-mentioned problems and other folks will have to consider relocating to avoid the problems caused by this operation. Abilene residents should not see their property devalued and their living conditions made intolerable while the zoning ordinances you should apply are designed for our protection. Although not particularly pertinent, there is no economic need for additional storage capacity at this site. The presently-existing elevators in Dickinson County, and the existing elevators at this site, which won't ever be shut down have more than enough capacity to serve all of our area farmers, even during peak harvest times. The only

purpose for this expanded elevator is to allow this foreign corporation to make yet a larger profit by having yet more grain hauled into Abilene, strictly for its transport out by train from Abilene. Again, a factor you need not consider but one that has been floated is the currently ongoing, illegal elevator construction, in the city street right-of-way, which has been allowed to occur. It has been suggested that they City might have some liability for admittedly wrongfully issuing a building permit for this site. City Attorney Mark Guilfoyle has shared with me that the City has not potential liability, when a conditional use permit is not granted for this site. There is a specific state statute which states the City is not liable for administrative errors of its staff in wrongfully issuing a building permit for this new elevator. The zoning laws clearly stated this elevator could not be built in this location without a full hearing and issuance of a conditional use permit by the body and the elevator is charged with that knowledge. They were wrong to begin, and then continue construction, with knowledge elevators are not allowed in this zoning area. This is not a theoretical problem. We have already seen the damages caused by the present operation of the two steel elevators and the illegal location of the train-loading facility at this site since 2005. We see the noise, dust, traffic and other problems caused by the existing site. There is a presumption in law that an elevator should not exist at this site, and the burden of proof, to show by clear and convincing evidence, that the allowance of yet another massive elevator at this site will not create any problems is a prerequisite to the issuance of a conditional permit. They've said that it will create additional problems, they'll be more dust. They might try to clean it up, but they're going to have more trucks dumped there, they're going to have more train cars loaded and they cannot control the dust 100%. The facts are clear and a conditional use permit should not be issued for this proposed new elevator at this site. Please enforce the existing zoning laws for the benefit of we citizens of Abilene and don't be bullied by foreign limited liability company that has thumbed its nose at every rule and regulation that exists, to build an unpermitted structure in the city street right-of-way before this hearing. That risk was theirs and your responsibility is to protect we citizens. Regrettably, your denial of a conditional use permit for this new construction will not shut down the presently offending operation, but it will have the effect of not allowing those problems to dramatically increase. Thank you for bearing with me, but I felt I needed to get the community, the neighbor's point of view relayed too.

David Joyce, 412 SW 2<sup>nd</sup> Street, you can see it right there on the map. I can see the where the trucks come in and the scales from my backyard and standing on my back porch. You can't have a clean car in that neighborhood, I wash our vehicles and within an hour the dust is back on there, to the point you can't tell it was ever washed. The health issues, the dust is so great that my Father-in-Law a little over a year ago died in that very house that we live in now from lung cancer and I had to go to extra expense to do everything I could to seal the house to keep the dust out and that was during the winter months when there's not as much truck traffic, but it was from the grain bins that was being generated. The grain dust, I mean peoples allergies and I've spoken to just about all my neighbors within those four blocks there. Plus nine, eleven year ago I use to live over there at 413 W. 1<sup>st</sup> just up the street, even closer to the elevator than I am now, the problem existed then and they refused to acknowledge there was even a problem they would go out there and wet down the rock. We all know how our heat is here in Kansas, you wet down the rock, I don't care how much you wet it down, it don't take 15 minutes and that dust is flying again. I've been in the trucking industry myself for the last 15 years, before I lost my medical card. I've driven grain trucks and I've hauled driven rock trucks down to the

oil fields in Oklahoma and that product they're talking about they used in the oil fields down there and in the rock quarries that I hauled out of and it was not efficient and it did not work. So, I know firsthand about the product that they are talking about, because I drove the truck on it and these are the issues that people are talking about. We are all in favor of economic development, but not at the expense of all of us, all of our health. We live in that part of town because it's the cheapest part to live in rent wise, okay and my wife's a disabled vet and like I said I can't drive a truck anymore, you see what I do for a living, I work part time at Auto Zone. It's not sound for the City to disregard the people that live there and are directly affected health wise and safety wise by the expansion of this. If they want to do more safe guards, I mean for what they are proposing to do it's more costly than putting a 4-5 inch layer of asphalt over an admitting good bed that they already have of 6-12 inches of bedding. It's less expensive, I worked years in the construction field, and asphalt hot mix is cheaper than concrete and it don't require the steel reinforcement that concrete does. So, why can't they just lay a 4 inch layer of asphalt over there and then they would comply with Mr. Royer's point about the use of pavement on all traveled areas and it would actually be less expensive than what they are proposing. I appreciate your time, I appreciate you listening, like I said I'm speaking on behalf of, I went out last night and spoke with all of my neighbors. I walked around the neighborhood just to get their input and they all feel the same way I do and these are the concerns we have living in direct vicinity of the elevators. Thank you.

Michela Brown, 504 SW 2<sup>nd</sup> Street, directly behind the elevator. Listening to everyone say that they talked to all the neighbors, nobody has ever come to talk to me. I was born and raised in Abilene, Kansas and moved to our current house in 2008. Our home has been in the family since 1965, my father-in-law and his parents moved there and he lived there until he was in his 20's and 30's. It sat empty for a while then we children started moving in. We had seen the elevator was there and we choose to live there and we love the facility. We share the alleyway with the elevator and don't have any issues. My family and I do suffer from severe allergies and asthma, the dust has nothing to go against that, it does not cause it to be any worse, then it was when we lived north of town. I have a child that plays out doors and on many nights has friends over and have never been affected by anything from the elevator. We don't have any issues with any sort of smoke, odor, vibration or glare from the elevator, nothing more than what you would have from any other facility in town. We do have our windows and doors open as much as we can to keep the heat and a/c costs down. We do not have any more extreme dust then we did when we lived up north. Our vehicles are not fully covered in grain dust, there is a little bit, but you are going to have that no matter where you live at in town, that's part of small town living. The trains are not bothersome to us, again no more noise than anything else around town. The local truck drivers are friendly and courteous, they look out for others as they come through the elevator and I feel that the elevator should be allowed to continue to build and use the bin. This itself shows the town is in need of growth, we do need that growth and that profit coming in.

Rick VanNess, 507 SW 2<sup>nd</sup> Street, I've got bruised lungs, so I will try to talk get through. The grain dust is really bad done there; I don't care what anybody says. Of course maybe it's because I live a block and a half closer. One the things I won't to point out is I don't live on the south side of town because it's cheap down there, that's home. I've lived in that house since 1969. When my Mom couldn't take care of it anymore I bought it and still live there.

I've been pretty well with the grain elevator. I haven't been over there calling names or fighting or nothing. My biggest point is, in the beginning, if everything would have been done legally, what's the problem. If they legally had this built the way it is, I wouldn't have a problem, you know. I was told I can't build my six foot fence to the sidewalk, can't go past the front of the house. So, if I go home and do that, somebody's going to be beating on my door saying you're tearing that down or we will. So, my point is they would just start off legally from the ground up. A building permit was gotten until Mr. Royer brought it up. My point is I think you need to look at it from a legal stand point. I know one thing, the elevator; once they get it built they aren't going to tear it down. Right across the street from them is a garage that was the where the tore the house down. That garage is legal. If you go down there and look it's a long, long ways from where they're at to where that garage is at. I just think that if this thing goes through their way it's just pretty much opening up, I think the City of Abilene, hey rules, regulations, zoning who cares, they got away with it, and we'll do just whatever we want. I don't want that. I just think the whole thing should be looked at more on a legal matter than on a good or bad. Thank you.

Jon Koffman, Koffman Electric, 125 N. Elm, I own the property just north of the railroad tracks from Gavilon facility. I've been there for several years and over the years I have experienced grain dust just like everyone else has, but today you look out the door of my shop and you look over there and see construction going on and I can personally attest to, as Koffman Electric have been working to install and repair some of that dust collection system. I don't know all the ins and outs on your conditional use permit and regulations and how you can mandate with this permit, but I would like to see things better and everybody else would too and I think with this permit and with them installing the equipment, we need to give them the opportunity to do that. Like I said nobody wants the grain dust, allergies, just a mess, but at the same time they are trying to do it and we're trying to stop them. So, I think that we need to listen to them. Like I said I can attest, we've been involved in installing this equipment and repairing old equipment that's been there for years under the old DeBruce and Gavilon, but it seems like with the new ownership, with Flint Hills Grain there's a little bit different attitude towards repairs and the need for community approval I should say, but they are making steps towards that and I've seen that first hand, so I would like to see this conditional use work for everybody and I believe that there's equal ground there to be gained. Like I said nobody wants to see any problems, but I think we can use this permit to help them move on with their facility and we can also have a better facility there for us to live with. Thank you.

David Joyce, can I just say one more thing; I just want to say a lot of us aren't trying to stop the construction or anything like that. Our biggest concern is we want to see the problems that currently exist fixed, before these new problems are even completed. You know we want to see the old fixed first, that way it at least shows good faith that they are actually going to do something.

Donna Brown, 510 NW 4<sup>th</sup>, which is only four blocks from the spot that we're talking about. I have run a daycare in that home for numerous years. My children go outside to play, the trains are not bothering them, they take naps every day, they are not woke up from the trains, the dust is not bothering them, they have a good time and I don't believe that building this building to use for our agricultural community is going to cause any more problems health wise or any

other way for the children that I take care of in this community. I have had many children in the last 35 years of childcare in that home that they didn't die from the grain dust, ya some of them have got allergies, but there's not one person that doesn't have some kind of allergies of some kind that's not necessarily associated with grain dust. I'm going to make mine short and sweet, because I don't understand all of that legal stuff, I just know that like I said for the 35 years that I've run a daycare there's children that are adults now out in our community that are striving productive adults, so the grain dust and the train noise did not corrupt them in any way. Thank you.

David Collman, Collman Trucking, 1300 W. 1<sup>st</sup>, two blocks west of the elevator. We employ 10 people and plan to employ 3 more with this expansion. All of our people are local, so all of that money stays here and goes right back into our community. So, this project is huge for my companies' growth and it's good for the economy of Abilene.

Gary Liby, 1001 N. Kuney, I know I'm a little bit out of the zone here, but I've been having a breathing problem for quite some time and even my doctor says we are getting a little concerned about the air quality in Abilene. The thing I'd like to find out is, these folks they got a business going and they've got to be allowed to expand that business, but they should still stay within whatever the zoning regulations say. They've already got a building permit, it's been issued, and they've got that, so they need a conditional use permit to build this elevator it's apparently already there. Has anybody been down there in this area to look at that area down there? Have you all been down there? All the commissioners stated yes. Well, if you haven't I'd invite anybody down there to take a look. They may have already decided about whether or you're going to close the street or not. Have you already done that? That's been brought up. I think that's another option is to close that street. They've been talking about doing some of that too, that might solve part of the problem. These folks here aren't the problem, what I wonder is the folks say they're going to put this equipment in that's going to take care of the dust and so forth, hey that sounds like a good explanation to me. I've been involved with some of that electronic stuff like that over the years and hey they've got the stuff that can do that. My question is, when are they going to do it and after they get it in, who with the City is going to inspect it or keep up with them to see that they are adhering to what they say. I don't know if the City's doing that and we haven't done it for years. I think it's something that we need to examine. We've got a good City staff and we've always have had, but it's something that we need to address and look at. I think the City is a large part of this problem, whether its communications or whatever it is, I plan on going to the commission meeting to, so I'll bring this up there, but I think that has a lot to do with what's going on. They really need to clean up their act if they give out a permit, I read all that stuff on my little screen computer with the permit that, the two different permits that they applied for and got. You know there's some of that stuff on there that I couldn't even hardly read and I will tell you I couldn't figure out who signed for and approved it, it's just things like that, that need to be addressed I think. I thank you very much.

Dillner stated if you are going to leave please use the south entrance as the library is locked up downstairs.

Sawyer asked if there were any more public comments before closing the public hearing.

Dillner stated the City did receive some petitions in support of the project that I do need to state as part of the public record. I'm not going to name all of the names, but I am going to do is state that 147 signatures were obtained the petition states “

Sawyer stated, before I ask the commissioners if they have any questions, I would like to thank everybody that showed up today. It makes a huge difference when you have the public input, so I really appreciate everybody that took the time to come out here and speak. Are there any more questions?

Guilfoyle stated, Travis you need to close the public hearing.

Sawyer stated, I apologize, sorry I had closed the public portion before David spoke, but didn't slam my gavel, so that's my fault. Any more questions?

Boyd stated, it looks to me like even without this new structure, the grain bin, so the they're going to have to eliminate the dust whether this new structure is completed or not or if we accept the conditional use permit.

Bielefeld stated I don't know if I have any questions, but have some comments. I'm a farm boy, farmed for 10 years after college. I visited a couple of coop managers, I was surprised to find out that the old type of concrete elevator, the old way of storing grain compared to the open access to the grain bin. The old concrete structures are far more dangerous than the new grain bins that they use, because of the well head up there at the top of the elevator is concentrated dust. When they dissipate the dust it becomes much safer, the problem is catching that dissipated dust and I am concerned about, not that I don't trust you people, but I'm concerned about maintaining the rules of what we are saying we want done. I think that the aeration fans should go on all of those bins with the silos treatment on it. I think they could do it now and in my opinion, I don't think everybody agrees with me, but in my opinion everyplace an 18 wheeler goes, it should be asphalt. I don't think it would be that much cost to you. I know it would be a lot from what we think, but I think for a grain facility of this size I don't think it would be that much cost. I do think that they could precede, but I think these people have got a lot of legitimate complaints. The problem is, is whenever it was built, it was built in the wrong place. It should have been on the north side of town, because every town in Kansas has grain elevators, it's the wheat state. We've got to deal with it. Not only do we have wheat and grain sorghum like we use to, we've got Milo, we've got a lot of different grains that we're dealing with now and corn has doubled its yield. So, the environmental hazards of the grain dust and the gravel are legitimate and I think that we need to monitor that and maintain and keep a firm grip on it and the regulation. That's all I have to say.

Olson as I may comment on the servicing, is with the way I read 22.305 in the second paragraph, this would be grandfathered in, because it was existing prior as far as the gravel. Am I correct on that?

Guilfoyle replied, yes.

Olson continued, so as much as adding the treatment in, I think that would a huge step forward as long as it's monitored as well.

Sawyer added, there were some comments made as far as doubling the capacity, what does that mean to you, is it doubling?

Weibert, currently were about 1.25 million bushels and this adds 750,000 bushels of capacity.

Sawyer replied, ok so not quite. Thank you.

Boyd asked are your trains the length that they are now, will this increase the length of the train?

Weibert replied it will not change. With the new directional facility you are utilizing the trains from the BN and UP railroad and those are from 100-110 cars depending on what the railroad issues and we load these trains when the railroad sends them and that's per our requirement, so we're not manipulating in anyway the timing. The railroad gives you a set period of time, so it's to our advantage to load them the minute that they get there as efficiently as possible, with as little crossover of the streets as possible.

Bielefeld asked how many hours do they give you?

Weibert replied we get 15 hours.

Olson asked how long does it take to load a car or the train.

Weibert replied we will typically load the entire 100-110 cars in 12-15 hours.

Stephens asked when will these steps be implemented to help with the ones that are listed here, the steps that are being undertaken for us to be able to control the dust and the noise. Was there a time frame on that?

Benware replied, some of those steps have already been completed or are in the works. The road treatment will be done as soon as we obtain approval. The air compressor issues filter issues we've addressed with the DSH spout. I talked about the truck load out is in the works of being ordered. We had a contractor out today measuring up for the spout changes, so the pit baffles are installed, air locks have been changed, so were probably 50 % of it completed already.

Stephens asked is this on good faith or will the City check up on this.

Dillner replied that's a good question, so the way that works is, they will progress with their meeting the conditions of the conditional use permit, assuming it's approved. However, they will not receive a certificate of occupancy, in other words they will not be allowed to use the facility for its intended purpose until such time the City completes a final inspection, which would be an inspection of all of the conditions to make sure that in fact all of the fans have

been installed as they've informed us, the ground application has been installed etc. and once that final inspection is completed and they've obtained their certificate of occupancy and they would then be able to operate as a grain storage facility for that particular bin, that's how the process would work.

Benware added the fan silencers will done by June 1<sup>st</sup> so the only piece that won't be completed will be the road treatment.

Sawyer asked if there were any more questions or comments.

Bielefeld asked before harvest or after harvest?

Benware replied as far as the road treatment or?

Bielefeld replied the road treatment.

Benware replied we had the contractor already scheduled, but we put him on hold. We will contact him as soon as we receive approval and then we'll have to work out a schedule with him.

Bielefeld stated I was thinking the first part of June for harvest, that's pretty close.

Guilfoyle stated I'm assuming you would like some legal advice on this. The applicant's Attorney Mr. Hanson had brought up just briefly the issue whether or not they had to have the Conditional Use Permit application even to operate. There is some case law that says maybe not, the advantage to going through this process is that the City actually has the right to issue some conditions, which would be enforceable and provides better protection for the citizens and the City itself, because you control what happens there, the intensity of use, dust, control anything like that. So, it's an advantage for the City to have this process that we are doing today. As to the comment that Mr. Olson made, he's correct in 22-305, as far as surfacing gravel areas in existence prior to the effective date of the regulation, which would be the Off Street Parking, Loading and Unloading Regulations of the Abilene City Code, prior to the effective date of these regulations it may be maintained with six (6) inches of gravel, including base, as an alternative to these surfacing requirements, so they are in compliance if they've got that 6 inches of gravel or better. It sounds to me like they're ready to add some more dust control or whatever, but for now they would be in compliance. The Conditional Use Permit could be approved by either an extension of the use or as an enlargement of the use. We've got 21-4, C-1 of the Zoning Code talking about extensions that are prohibited as to a structural or land area, which is the whole area that they're located, other than that actually physically occupied by the non-conforming use. Well, that's, that entire area, that's not that certain structure, that's the entire area where they're located, so if it's a non-conforming use there, they can continue that non-conforming use as to the whole area. An enlargement of an existing structure should not create any additional nonconformity or increase the degree of existing nonconformity, and I know that Hank also cited Am Jur. Well there's 101 CJS Zoning, pages 955-956, general speaking, the rule forbidding the enlargement or extension of nonconforming use does not prevent an increase in the amount of use within the same area, so that a

nonconforming use may be not only continued, but also increased in volume and intensity. A nonconforming use is not limited to the precise the magnitude thereof in which it existed at the date of the ordinance, which would be the zoning ordinance, may be increased by natural expansion. A nonconforming use is not unlawfully enlarged or extended, although the number of employees has almost doubled. Natural growth of a business or an increase in the amount of the business done is not a change from the nonconforming use permitted by the zoning ordinance. So legally speaking I think that you can grant the Conditional Use Permit based on these legal interpretations, my interpretations, I know Hank has a difference of opinion, but based on my interpretation of what we have in the law, I think you would be right in your interpretation as I have given it to you there and again going back to whether or not a Conditional Use Permit even had to be obtained. With a Conditional Use Permit you retain control of issues involving dust, etc. The issue about whether or not if they encroach on City land, whether or if we can do any kind of land swap or anything like that, that's a legal issue not before this board. You should not consider that, that's something between the City, Attorney, Hank and Mr. Hanson. We're going to be the ones who work on that, we won't decide on it, the City Commission will address that issue, but we'll be handling the legal end of that and you don't even have to consider it.

Sawyer asked if there were any further comments. Seeing no more questions or comments, the Chair would entertain a motion.

Bielefeld made a motion to recommend approval of PC 15-4, with the following conditions to the City Commission.

- The property owner shall dedicate sufficient real property to the City to address, to the satisfaction of the City Attorney, the existing encroachment on the public right-of-way and to bring the property into compliance with existing setback requirements for the applicable zoning district.
- The Applicant is proposing several items to address dust and noise issues of the operation (see attached Exhibit). With regard to Item 4, any replacement of aeration fans or related equipment must be of similar or higher quality grade.
- With regard to Item 5, the property owner shall apply an acceptable surface treatment on-site to reduce dust caused by vehicular traffic entering, traveling through, and exiting the site prior to the issuance of a Certificate of Occupancy. The Applicant will submit to the City a specification sheet of the product proposed for use. The City will monitor the site for dust resulting from vehicular movements on the site following the issuance of the Certificate of Occupancy.
- Applicant shall provide the City with an annual inspection report of the facilities and providing documentation of any repairs completed during the year to address any mechanical equipment issues.
- The Applicant shall comply with all applicable federal and state environmental air quality laws.

- A Certificate of Occupancy for the new facility shall only be granted upon submittal of an approved traffic plan which addresses the following items: 1) traffic movements to and from the site shall not unduly impede public access to the public right-of-way; and 2) trucks shall not double stack on any public street in a manner that prevents public use of the public right-of-way.
- The City will enforce the provisions of the Conditional Use Permit as provided in Article 30 of the Zoning Regulations. Such enforcement may include revocation of the Conditional Use Permit.

The motion was seconded by Boyd. The motion passed unanimously. (5-0)

Dillner stated that the next step in the process is the City Commission meeting, they will actually review the item in their June 2<sup>nd</sup> Study Session and on the will review and consider for action at the June 8<sup>th</sup> Regular Meeting at 4:00 pm in this room at the Abilene Library. Please exit from the south entrance, thank you.

**Comments.**

The next meeting is scheduled for June 9, 2015.

**Adjournment.**

The meeting was adjourned by consensus.

Minutes Submitted,

\_\_\_\_\_  
David Dillner  
City Manager

Minutes Approved,

\_\_\_\_\_  
Travis Sawyer, Chair  
Kyle Campbell, Vice-Chair

ROBERT H. ROYER, JR.

JOHN C. ROYER (1853-1940)  
PAUL H. ROYER (1890-1987)  
ROBERT H. ROYER (1924-1978)

LAW OFFICES OF  
**ROYER & ROYER**  
CHARTERED

101½ N.W. THIRD  
P. O. BOX 413  
ABILENE, KANSAS 67410  
785-263-1370  
FAX # 785-263-1371

March 31, 2015

COPY

City of Abilene  
Planning and Zoning Administration Office  
419 North Broadway  
Abilene, Kansas 67410

Re: Flint Hills Grain Elevator, First and Elm

Dear Tim,

I write this letter as a follow up to our two conversations on Monday, March 30. Our discussions were predicated on the fact that the construction that is ongoing does not comply with the 20-foot setback from the road right of way. You indicated you were investigating that issue and in our second conversation you indicated someone had surveyed the area, but surveyed the wrong side of the street.

Further investigation based on our discussions does raise yet another new issue. The area in question is zoned I-1 which is defined as light industrial. I-1 is defined as industry that "generates few effects felt off site, such as smoke, noise or odor". This contrasts with heavy industrial which does "often produce vibrations, smoke, noise, odor, glare, dust and other effects that travel off-site".

One of the major continuous complaints concerning this operation is that it is a heavy industrial use site because it does generate vibration, noise, dust and other effects that travel off-site.

The new zoning ordinance, which was adopted in November of 2014, does not have grain elevators as a permitted use within I-1 zoning. The zoning document does state that a grain elevator could be a conditional use, but it would require a formal hearing and approval for use for that purpose. To the best of my knowledge, this building permit was issued, without proper zoning, as there has been no conditional use permit issued for this new elevator being constructed. The new elevator will admittedly cause additional noise, dust and other effects that will travel off-site.

The present construction project should be terminated as it is not in compliance with the permitted construction in that I-1 zoning without a conditional use permit. Attached hereto are the first two pages of the Industrial District zoning regulations, citing the points above-mentioned.

Page 2  
March 31, 2015

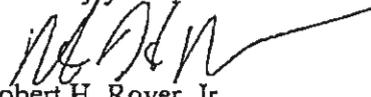
As previously discussed, even if the construction were permitted, it has to be more than 20 feet back from the road right of way. Article 20 does provide that the front yard measurement is from the street right of way fronting a property, and the street line or street right of way line is the dividing line between lot and the contiguous street.

As previously mentioned, Elm Street is an 80-foot wide street and the set back has to be 20 feet from the road right of way line, not the existing road surface. There is no exception for this in industrial areas as they still require the 20-foot setback.

For the above reasons, this office would respectfully suggest that construction should immediately cease, at the site, as the building permit was issued in error, as the area is not properly zoned for permitted grain elevators and the construction, as being performed, is in violation of the 20-foot setback rules that would exist, even if the area were properly zoned for an elevator (which it is not).

As a citizen of Abilene and representative of many clients, I would request that the city staff do its job and address this matter in a prompt fashion.

Sincerely yours,



Robert H. Royer, Jr.  
of the firm.

RHR, JR.:rj  
Enclosures  
CC: Brenda Finn Bowers  
John Ray  
Dennis Weishaar  
Kari Payne  
Angie Casteel  
David Dillner

## ARTICLE 15

### INDUSTRIAL DISTRICTS (I-1 and I-2)

#### Sections:

- 15-1 Intent
- 15-2 Permitted and Conditional Uses
- 15-3 Development Standards
- 15-4 Height and Yard Regulations
- 15-5 Sign Regulations
- 15-6 Parking Regulations
- 15-7 Screening Requirements

#### SECTION 15-1 INTENT

15-101. ~~It is the intent of the industrial districts to provide for areas of light and heavy industrial uses and for other compatible uses. Light Industrial (I-1) uses generate few effects felt off-site, such as smoke, noise or odor. Heavy Industrial (I-2) uses tend to be basic or primary industries which do often produce vibration, smoke, noise, odor, glare, dust and other effects that travel off-site.~~

#### SECTION 15-2 PERMITTED AND CONDITIONAL USES

15-201. ~~In the industrial zoning districts the uses listed in Table 15-1 within the designated zoning districts are permitted uses or conditional uses as designated. Conditional uses require the issuance of a Conditional Use Permit in accordance with the provisions of Article 26. No building, land or premises shall be used and no building or structure shall be hereafter erected or altered unless otherwise provided for in these regulations, except as listed in Table 15-1.~~

2014 Zoning

**TABLE 15-1  
Industrial Zoned Districts  
Permitted and Conditional Uses**

P = Indicates Permitted Uses

C = Indicates Conditional Uses

	USE	I-1	I-2
1.	Agricultural.	P	P
2.	Airplane hangars.	P	C
3.	Animal hospitals, veterinarian clinics, and kennels.	P	P
4.	Automobile and truck wrecking or salvage yards, junk yards and scrap processing yards.		C
5.	Bottling works.	P	P
6.	Building material sales including lumber yards (except for ready-mix concrete and similar uses which emit dust, odor and smoke.)	P	
7.	Car and truck wash establishments	P	
8.	Carpenter, cabinet, plumbing or sheet metal shops.	P	P
9.	Contractor's office and equipment storage yard.	P	P
10.	Dry cleaning and/or laundry plants.	P	P
11.	Farm implement sales and services.	P	
12.	Feed and seed stores, grain elevators.	C	P
13.	Frozen food lockers.	P	P
14.	Greenhouses and nurseries, retail and wholesale.	P	P
15.	Light manufacturing, processing or fabrication operations, providing that such use is not noxious or offensive by reason of vibration or noise beyond the confines of the building or emission of dust, fumes, gas, odor, smoke or other particulate matter.	P	
16.	Machine shops, tool and die shops, and similar establishments	P	P
17.	Machinery sales and storage lots, including motor vehicles.	P	C
18.	Manufacturing, processing or fabrication establishments which are not noxious or offensive by reason of vibration, noise, dust fumes, gas, odor.		P
19.	Manufactured home production, storage and sales of units produced on-site.		P
20.	Motor vehicle repair or body shop.	P	P
21.	Offices and service yards for the Kansas Department of Transportation.	P	P
22.	Other uses which may be noxious or offensive by reason of the emission of odor, dust, smoke, gas, noise or vibration.		C

4/13/2015

For the past year, this City Commission and City staff have painstakingly spent dozens of hours analyzing and adopting revised zoning regulations for the City of Abilene. Each and every chapter was reviewed and refined to be very precise. The number one purpose of these zoning regulations, as shown in the attached document, in Section I-201, is to "promote and serve the public health, safety, morals, comfort and general welfare of the citizens of Abilene." The secondary purpose of the zoning regulations was to obtain the objectives of the comprehensive plan, including the objectives of future land use maps. The third stated purpose of the zoning code was to preserve and protect property values by regulating and restrict the location and use of buildings and land.

After much debate, in November of 2014, the new zoning code was adopted to implement these stated protections for the citizens of Abilene.

At a date well prior to last year, DeBruce Grain did install two metal elevators, expanding their operation in the vicinity of the 100 and 200 Block of South Elm Street. They did so under an old zoning ordinance, a copy of which is attached. That zoning ordinance did state that storage elevators were not permitted to be in that area. Only under a conditional use permit and special permission from the City could such construction occur. To the best of my knowledge, no conditional use permits were ever acquired for this site and, hence, the metal elevators that existed on this property prior to 2014 are probably in violation of city zoning. Since the construction of those two other metal elevators, we neighbors have complained of public health issues, have seen our property values decline, and have seen a decline in our general welfare. Prior City Commissions have acted to force some nominal remediation of the problems caused by DeBruce. That is in the past.

Recently, on February 18, 2015, the City staff did error in issuing a building permit to a foreign limited liability company known as Flint Hills Grain LLC. This foreign limited liability company did purchase the site in question, formerly known as Gavilon Grain on February 1, 2015. As part of their due diligence in the purchase, Flint Hills Grain LLC should have determined this site did not allow construction of an elevator, in this I-1 zoning area, without the issuance of a conditional use permit. There is no dispute the site is not eligible for construction of this new metal elevator, under either the prior, or newly adopted zoning ordinances of the City of Abilene.

## ARTICLE 1

### TITLE AND PURPOSE

#### Sections:

- 1-1 Title
- 1-2 Purpose and Intent
- 1-3 Consistency with Comprehensive Plan
- 1-4 Jurisdiction
- 1-5 Authority
- 1-6 Zoning Administrator
- 1-7 Official Zoning District Map
- 1-8 Conflicting Provisions
- 1-9 Transitional Provisions
- 1-10 Severability
- 1-11 Activities Governed by These Regulations

#### SECTION 1-1 TITLE

1-101. These regulations, including the zoning district maps incorporated herein, shall be known and cited as the "Zoning Regulations for the City of Abilene, Kansas." For convenience they are also referred to in this document as "these Regulations".

#### SECTION 1-2 PURPOSE AND INTENT

1-201. These zoning regulations, adopted pursuant to Kansas law are enacted for the purpose and intent of:

- a. Promoting and serving the public health, safety, morals, comfort, and general welfare of the citizens of the City of Abilene.
- b. Obtaining the objectives of the comprehensive plan, including the objectives of future land use maps.
- c. Preserving and protecting property values.
- d. Regulating and restricting location and use of buildings and land.
- e. To create zoning districts sensitive to the peculiarities of the allowed uses and designed to protect and enhance the values inherent in each zone.

Old Zones

ZONING REGULATIONS		ZONING DISTRICTS													
LAND USE CATEGORY	A	AR	RS	R1	R2	R3	R4	MHP	U1	U2	U3	U4	U5	U6	U7
<b>INDUSTRIAL (CONTINUED)</b>															
Electricity regulating substations	C	C		C	C	C	C		C	C	C	C	C	C	C
Electrometallurgical products and processing - manufacturing															
Electronic equipment - manufacturing															C
Engines and turbines - manufacturing															P
Explosives - manufacturing and storage	C														C
Fabrics product - manufacturing															C
Farm machinery and equipment - manufacturing															C
Fertilizers and chemicals - manufacturing and storage															C
Firearms - manufacturing															C
Food processing and packaging															P
Footwear - manufacturing															P
Foundries, iron, steel and non-ferrous															P
Freight warehouses															P
Furniture - manufacturing															P
Glass products - manufacturing															C
Grain and feed processing and sales	C														P
Grain mill products - manufacturing and storage	C														C
Industrial and commercial machinery, equipment and supplies - wholesale and storage															P
Industrial waste disposal															C
Leather products - manufacturing	C														P
P PERMITTED USE: C CONDITIONAL USE	A	AR	RS	R1	R2	R3	R4	MHP	U1	U2	U3	U4	U5	U6	U7

Building  Electrical  Temporary Electrical  Plumbing  Mechanical  Other

PERMIT TYPE

Commercial  Residential  Industrial



Method of Payment:  Cash  Charge

- 1. Project Site Address: 513 W. 1st Street, Abilene, KS 67410
- 2. Owner of Record of the Property: FLINT HILLS GRAIN, LLC 1331 CAPITAL AVE. OMAHA, NE 68102
- 3. General Contractor: HABCO INC. 248 E BERS RD SALINA, KS 67401 785-823-0440
- 4. Engineer: MANLEY Structural Eng. 107 S. 7th SALINA, KS 67402
- 5. Class of Work:  NEW  ADDITION  ALTERATION/REMODEL  REPAIR  DEMOLITION  OTHER

6. Describe Work: CONSTRUCT NEW 105' STEEL BARN RECEIVING SYSTEM See Drawing # P539-008

Living Area: N/A Garage Sq. Ft.: N/A  
Addition Sq. Ft.: N/A Stories/Height: N/A  
Total Sq. Ft.: 11,000 Land Area: 1/4 ACRE

Coverage %: 250 Occupant Load: N/A Occ. Class: N/A

7. Use of Building: AGRICULTURAL UBC Bldg. Type: N/A

8. Value of Work \$ 3,500,000

9. Total Permit Fees (use worksheet): \$ 10,532 Paid 02-09-15

10. Builder Declaration (List Contractors):

Electrical: WACHTER ELECTRIC INC.

Plumbing: N/A

Mechanical: HABCO

I certify that I have read this application and state that the above information is correct, and that I as owner or builder, do agree to comply with all city adopted building codes, relating to building construction.

Signature [Signature] Date 2-18-15

Builder/Contractor  Owner  Agent for Owner  Agent for Contractor

Building Inspection Department

Zoning District: F-1 H.C. District:  YES  NO Flood Zone: X

Set Backs: Front Yard 20 Rear Yard  L. Side Yard  R. Side Yard

Special Conditions: \_\_\_\_\_

Zoning JA Engineering [Signature] Fire Dept. \_\_\_\_\_

Approved for Issuance By: [Signature] Date 02-18-2015

Worksheet			
	Unit	Base	
<b>Building</b>			<b>\$15.00</b>
Each Additional \$1000 X	\$3.00		
Additional Inspections	\$5.00		
Footings	\$5.00		
Foundation Wall	\$5.00		
Framing	\$5.00		
Final	\$5.00		
<b>Electrical</b>			<b>\$10.00</b>
Service Entrance	\$4.00		
Temp Service	\$1.00		
Dryer Unit	\$3.00		
Range Unit	\$3.00		
Welding Outlet	\$3.00		
Water Heater	\$3.00		
<b>Plumbing</b>			<b>\$10.00</b>
Sewer	\$10.00		
Septic	\$20.00		
Water Service	\$4.00		
Gas Pipe	\$4.00		
Traps	\$1.50		
Toilets	\$1.50		
Water Heater	\$3.00		
Irrigation System	\$3.00		
<b>Mechanical</b>			<b>\$10.00</b>
Furnace/Boiler Unit	\$4.00		
AC Unit	\$4.00		
Range Connection	\$2.50		
Gas Pipe	\$4.00		
Water Heater (vent)	\$2.50		
Fence*	\$10.00		
Curb Cut*	\$10.00		
Demolition*	\$20.00		
Sign*	TBD		
Roof*	\$20.00		
Knox Box*	TBD		
Total Applicable Units			
PERMIT FEE / UNIT			

s Paid 02-09-15

\*requires additional worksheet

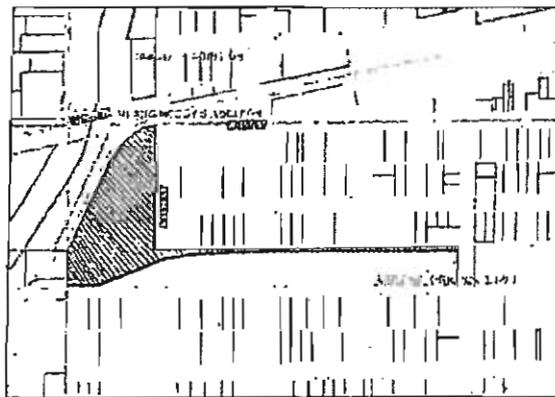
(First Published in the Abilene Reflector Chronicle Tuesday, April 21, 2015)

NOTICE OF PUBLIC HEARING

The Abilene Planning Commission will conduct a public hearing at 4:30 p.m., Tuesday, May 12, 2015 at the Abilene Public Library, 209 NW 4th Street, to consider PC 15-4, a request for a Conditional Use Permit to construct a 105' steel storage bin and truck receiving system located at 109 S. Elm, Abilene, Ks. and legally described as:

A tract of land located in the Northwest Quarter of Section 21 and the Northeast Quarter of Section 20, both in Township 13 South, Range 2 East of the 6th Principal Meridian, Dickinson County, Kansas, and also parts of Blocks 6, 7, 8, 9, and 10, Original Town of Abilene, Dickinson County, Kansas, according to the recorded plat thereof, being part of the tracts described in the Warranty Deed recorded in Book 217 at Page 696, and part of tracts described by the Quitclaim Deed recorded in Book 208 at Page 694, both of the Dickinson County Records, and being more particularly described as follows:

Commencing at the Northwest corner of said Section 21; thence along the West line of vacated Vine Street and the West line of said Section 21; South 0°01'52" West, 562.04 feet to a point on the Easterly line of the Flood Control right-of-way as described in misc book 136 at page 576 of the Dickinson County Records, the Point of Beginning marked with a 1/2" Bar and Cap; Thence along said flood control right-of-way, North 89°19'38" West, 20.46 feet to a 1/2" bar; thence along said flood control right-of-way line and along a non-tangent curve to the right, having a chord bearing South 52°16'47" West, a Delta Angle of 35°37'52", a radius of 362.47 feet and a curve length of 225.38 feet to a 5/8" bar and cap; Thence leaving said flood control right of way, South 00°14'34" East, 22.36 feet, to a 5/8" bar and cap; thence North 64°51'12" East 63.73 feet to a 1/2" bar and cap; thence South 89°50'05" East, 130.00 feet to a point of the West line of vacated Vine Street and on the West line of said Section 21, marked with a 1/2" bar and cap ( 0.2' West); thence South 89°50'05" East, 151.73 feet to a 1/2" bar and cap; thence North 73°02'00" East, 319.97 feet to a 1/2" bar and cap; thence North 84°53'13" East, 170.46 feet to a 1/2" bar and cap; thence North 89°45'52" East, 134.62 feet; to a 5/8" bar and cap, thence North 89°59'35" East, 1105.83 feet to a point on the West right-of-way line of Cedar Street, as now established, marked with a 5/8" bar; Thence along said West right-of-way line, North 00°05'14" West, 17.99 feet to a point on the South line of an alley in said Block 10, marked with a 5/8" bar and cap; thence along the South line of said alley, through said Blocks 10, 9 and 8, South 89°57'19" West, 1445.08 feet to a point on the West right-of-way line of Elm Street; as now established; thence along said West right-of-way line, North 00°01'05" East, 528.80 feet to the Northeast corner of said Block 6, marked with a 1/2" bar; thence along the North line of said Block 6, South 89°50'05" West, 154.11 feet to a point on the East line of said flood control right-of-way, marked with a 1/2" bar and cap; thence along said flood control right-of-way line the following calls and distances; along a non-tangent curve to the left, having a chord bearing of South 36°42'58" West, a Delta angle of 20°00'31", a radius of 380.00 feet and a curve length of 132.70 feet to a bar and cap; Thence South 26°42'34" West 260.60 feet to a bar and cap; Thence along a curve to the right, having a chord bearing of South 28°17'06" West, a Delta angle of 03°08'49", a radius of 1939.27 feet and a curve length of 106.51 feet to a point on the East line of vacated Vine Street, also being the West line of said Block 7, marked with a 1/2" bar and cap; thence continuing along said flood control right-of-way line and along the East line of vacated Vine Street, South 00°01'52" West, 86.24 feet to a point on the North line of a vacated alley; thence South 89°57'31" West, 11.00 feet to the centerline of vacated Vine Street, marked with a 1/2" bar and cap; thence South 01°16'08" West, 4.34 feet to a 5/8" bar and cap; thence North 89°19'38" West, 10.91 feet to the point of beginning and contains 5.60 acres, more or less.



This tract is for conditional use only and cannot be used for other purposes unless specifically stated. Public Hearing notice is required. A plat will be recorded by the City Engineer if approved by the Planning Commission. -Dickinson County -KS

This hearing is open to the public and comments are welcome. Upon conclusion of the public hearing, the Planning Commission will render a recommendation to the City Commission. If you have any questions contact me at (785) 263-2355 or send e-mail to [development@abilenecityhall.com](mailto:development@abilenecityhall.com).  
TIM HAMILTON,  
Community Development Director

To: City of Abilene  
 Planning Commission  
 419 N Broadway  
 Abilene, KS 67410  
 Attn: David Dillner, City Manager

RECEIVED 5/12/2015  
 CITY OF ABILENE  
 OFFICE OF THE CITY CLERK  
 BY: *Erin Sankup*

PETITION IN SUPPORT

The undersigned support and hereby request approval of the Application for Conditional Use Permit dated April 14, 2015 for the property owned by Flint Hills Grain, LLC, located at 513 W First Street, Abilene KS, for the steel grain bin and related improvements at that location on the terms submitted by the applicant, together with any related permits, approvals or actions.

Name (Please Print)	Address	Date	Phone	Signature
1. PAT ROBSON	1900 Beckman	5-5-15	263-1554	<i>[Signature]</i>
2. TIM PACK	1320 MEADOWLARK	5-6-15	280-1162	<i>[Signature]</i>
3. KATIE BARRETT	2163 FAIR ROAD	5-07-15		<i>[Signature]</i>
4. SUE ROBSON	1900 Beckman	5-5-15	263-1554	<i>[Signature]</i>
5. BRUCE HETTENBACH	1602 HICKOK	5-12-15	263-7277	<i>[Signature]</i>
6. MICHAEL ROBSON	2000 N. MULBERRY	5-12-15	263-3897	<i>[Signature]</i>
7. JANICE SPILLAN	904 N CEDAR	5-12-15	700-4174	<i>[Signature]</i>
8. ERDIE HOLT	1915 W. 1ST	5-12-15	263-2663	<i>[Signature]</i>
9. JUAN SHELTON	410 NE 13TH ST	5-12-15	500-0174	<i>[Signature]</i>
10. DIANE TERRIS	111 S. MADISON	5-12-15	280-0377	<i>[Signature]</i>
11. MICHELLE RIFFEL	906 MAPLE ST.	5/12/15	787-9475	<i>[Signature]</i>
12. ROBERT BERNIS	301 WILKINSON	5/12/15	263-7498	<i>[Signature]</i>
13. ANNA ROBSON	2000 N. MULBERRY	5-12-15	263-3897	<i>[Signature]</i>
14. ROBERT ROBSON	504 N.E. 12 <sup>th</sup>	5-12-15	263-4553	<i>[Signature]</i>
15. ANNE ROBSON	504 N.E. 12 <sup>th</sup>	5-12-15	263-4553	<i>[Signature]</i>
16. ANNA LINDA	1105 SPENCEWAY	5-12-15	443-4935	<i>[Signature]</i>
17. JESSIE PETERSON	307 N VAN BUREN ST	05-12-15	785-201824	<i>[Signature]</i>
18. <i>[Signature]</i>	1001 N. VAN BUREN	5-12-15	785-232116	<i>[Signature]</i>
19. ELISIA HUSSELMAN	714 N ELM	5-12-15	785-2639188	<i>[Signature]</i>
20. ANDREW K JAWORSKI	416 RIDGE RD	5-12-15	785-491077	<i>[Signature]</i>

To: City of Abilene  
 Planning Commission  
 419 N Broadway  
 Abilene, KS 67410  
 Attn: David Dillner, City Manager

PETITION IN SUPPORT

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Name (Please Print)	Address	Date	Phone	Signature
1. Lorin Lefert	1689 <sup>Abilene</sup> 3400 Ave	5-11-15	785-461-5515	<i>Lorin Lefert</i>
2. Rex Craig	2960 <sup>Talmage</sup> Main St KS	5-11-15	785-479-1873	<i>Rex Craig</i>
3. Wade Lang	1761 Fair Rd	5-12-15	479-2246	<i>Wade Lang</i>
4. Steven Lang	1637 Flag Rd	5-12-15	479-5596	<i>Steven Lang</i>
5. Cameron Lang	1637 Flag Rd	5-12-15	479-5596	<i>Cameron Lang</i>
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RECEIVED 5/11/15  
 CITY OF ABILENE  
 OFFICE OF THE CITY CLERK  
 BY: *Sherry Soukup*

To: City of Abilene  
 Planning Commission  
 419 N Broadway  
 Abilene, KS 67410  
 Attn: David Dillner, City Manager

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Name (Please Print)	Address	Date	Phone	Signature
<sup>1</sup> David A. Collman	1300 W. 1st	5-5-15	785-479-1545	<i>David A. Collman</i>
<sup>2</sup> Shannon Henry	351 Hwy 40	5-5-15	785-479-3414	<i>Shannon Henry</i>
<sup>3</sup> Thomas C Howard	2291 Fair Rd	5-5-15	479-0585	<i>Tom Howard</i>
<sup>4</sup> Tom Nold	1303 W. 1st	5-6-15	263-2105	<i>Tom Nold</i>
<sup>5</sup> Rick L Black	1006 E 1st	5-6-15	200-0316	<i>Rick L Black</i>
<sup>6</sup> Eldon Sims	1515 SW 2nd	5-6-15	263-4016	<i>Eldon Sims</i>
<sup>7</sup> Evelyn Johnson	301 1/2 Paloma	5-6-15	263-2030	<i>Evelyn Johnson</i>
<sup>8</sup> Tabitha Area	1506 NW 4th	5-6-15	200-1314	<i>Tabitha Area</i>
<sup>9</sup> Stan Feltz	932 1900 Ave	5-6-15	263-6310	<i>Stan Feltz</i>
<sup>10</sup> Ken Manning	607 N W 3	5-6-15	203-7013	<i>Ken Manning</i>
<sup>11</sup> MARK PICKERING	1708 Overhill	5/6/15	263-3653	<i>Mark Pickering</i>
<sup>12</sup> Sarah Pickering	2006 W. First	5-16-15	263-7812	<i>Sarah Pickering</i>
<sup>13</sup> Joshua P. B. B.	1226 W 1st St	5-6-15	479-577	<i>Joshua P. B. B.</i>
<sup>14</sup> Maudie E. Dantz	333-2800 Selma	5-6-15	479-0832	<i>Maudie E. Dantz</i>
<sup>15</sup> Dennis L. Everett	1800 Overhill Rd	5/6/15	479-6931	<i>Dennis L. Everett</i>
<sup>16</sup> Morty L. Hendri	402 SE 6th	5/7/15	280-2026	<i>Morty L. Hendri</i>
<sup>17</sup> Steve Overdorf	510 E 1st	5/7/15	263-5814	<i>Steve Overdorf</i>
<sup>18</sup> Michael Parson	307 SW 4th	5-7-15	200-7658	<i>Michael Parson</i>
<sup>19</sup> Kevin Hoekman	410 NE 15th	5-7-15	479-0257	<i>Kevin Hoekman</i>
<sup>20</sup> John Shaffett	2089 Flag Rd	5-7-15	200-0577	<i>John Shaffett</i>
Dusty Emig	102 Skipper Rd	5-7-15	534-3202	<i>Dusty Emig</i>
John Brady	2144 EFL Rd	5-7-15	785-479-3463	<i>John Brady</i>
DAVID BERNER	1402 NW 5th	5-7-15	785-479-6674	<i>David Berner</i>

To: City of Abilene  
 Planning Commission  
 419 N Broadway  
 Abilene, KS 67410  
 Attn: David Dillner, City Manager

PETITION IN SUPPORT

The undersigned support and hereby request approval of the Application for Conditional Use Permit dated April 14, 2015 for the property owned by Flint Hills Grain, LLC, located at 513 W First Street, Abilene KS, for the steel grain bin and related improvements at that location on the terms submitted by the applicant, together with any related permits, approvals or actions.

Name (Please Print)	Address	Date	Phone	Signature
1. Jeremy Garza	303 SW 2nd St	5-5-14	785-2007142	
2. Michael Ash	109 E 9th	5-5-14	200-4243	
3. Laura Farley	310 W 3rd	5-5-14	200-6050	
4. Brandon Lessy	110 E Lafayette Ave	5-6-15	868-8221	
5. James L. Swank	363 Walnut	5-6-15	785-493-5011	
6. Chad Stortzen	2151 Hwy 15	5-7-15	785-200 4026	
7. Rex McMahan	205 Quail Rd Hope KS	5-6-15	785-258-4224	
8. Robert V. Larson	1328 500th Hope KS	5-6-15	785-258-0004	
9. George W. Davis Jr	Abilene KS 591 1701 Ave	5-6-15	785-479-2119	
10. Ed Gatoewsky	214 E. 3rd Hope	5/6/15	785-366-7291	
11. Lucas H. (C)	509 Quail Rd Perinton KS	5/6/15	787-360/0571	
12. Winstan Goodwin	912 N Vine St	5-6-15	785 479 0803	
13. Zack Hebrecke	2014 Eden Rd	5-6-15	7844790976	
14. Rosetta A. Hauser	1607 W 4th St	5-6-15	785 226 3235	
15. April Hauser	107 Madison	5-6-15	577-6050	
16. Murl Garver	904 N. Buckeye	5-7-15	263-7189	
17. Judy Luthi	1349 2700 Ave	5-8-15	598-2497	
18. Raymond Luthi	2475 Hwy 43 Abilene	5-8-15	785-479 0357	
19. LINDA CHASE	1974 HAWK RD ABILENE	5-8-15	785-280-0754	
20. FRANKIE HOTTEN	3000 Mac Blvd	5-8-15	785 263 5223	

To: City of Abilene  
 Planning Commission  
 419 N Broadway  
 Abilene, KS 67410  
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Name (Please Print)	Address	Date	Phone	Signature
1. JRM ZOOK	917 2700 Ave	5-5-15	263-6208	JRM Zook
2. Phil Maknox	2828 Indy Rd	5-5-15	263-6309	Phil Maknox
3. Jon Koffman	125 Elm St	5-5-15	263-3401	Jon Koffman
4. Alysa Urbanek	200 E 1st	5-5-15	577-3150	Alysa Urbanek
5. Mark Berns	304 Wheatridge	5/5/15	263-1252	Mark Berns
6. Donald Raab	101 Sunrise Blvd	5/5/15	479-1898	Donald Raab
7. Chuck Hansen	501 N Brady	5/5/15		Chuck Hansen
8. Jeff Wilkins	2678 Indy Rd	5/5/15	200-0252	Jeff Wilkins
9. Leann Sanders	2191 Eden Rd	5-5-15	280-9669	Leann Sanders
10. Ed Wilson	1120 S Buckeye	5/5/15	200-0580	Ed Wilson
11. Matt McAsay	2284 Ferr Rd	5/5/2015	565-4113	Matt McAsay
12. Nick Craig	2208 N. Brady	5/5/2015	280-0763	Nick Craig
13. Nathan Dickman	309 W. 6th	5/5/2015	366-3454	Nathan Dickman
14. Jeremiah Wood	2322 Van N	5/5/15	770-772	Jeremiah Wood
15. Tim Berggren	1249 1100 Ave	5/5/15	785-5653649	Tim Berggren
16. Luas Wilson	541 Old 40	5/5/15	785-280-0283	Luas Wilson
17. Michael Humeink	300 N Cedar St.	5/5/15	402-770-0803	Michael Humeink
18. Amber Reiff	1143 Hwy 15	5/5/15	785-280-1408	Amber Reiff
19. Michele Brown	504 SW 2nd St	5/5/15	785-263-6051	Michele Brown
20. Samantha Lefer	1689 3400 Ave	5/5/15	785-477-4544	Samantha Lefer

To: City of Abilene  
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Name (Please Print)	Address	Date	Phone	Signature
1. Kody Chase	569-2700	5-5-15	388-2770	<i>[Signature]</i>
2. Kerby Chase	569 2700 Ave	5-5-15	388-2770	<i>[Signature]</i>
3. Ross Freeman	2928 GULF RD	5-5-15	280-0263	<i>[Signature]</i>
4. Darin Wiley	571 2700 Ave	5-5-15	280-3150	<i>[Signature]</i>
5. Tom Haslouer	1768 2100 Ave	5-5-15	556-0552	<i>[Signature]</i>
6. RAYMOND BROWN	510 NW 4TH AVE	5-5-15	223-7802	<i>[Signature]</i>
7. JACK Cammer	307 CHARLES Rd	5-5-15	209-0327	<i>[Signature]</i>
8. Terra Hummel	522 W 4th	5-5-15	223-7260	<i>[Signature]</i>
9. Larry Kael	1443 3rd Detroit	5-5-15	200 1109	<i>[Signature]</i>
10. Bob Riggins	2351 W Detroit	5-5-15	479 4505	<i>[Signature]</i>
11. Harold Trubn	1592 2600 Ave	5-5-15	5982470	<i>[Signature]</i>
12. Jared Hoover	1569 2800 Ave.	5-5-15	598-2446	<i>[Signature]</i>
13. Dennis Chartier	2658 Mink Rd	5-5-15	598-2391	<i>[Signature]</i>
14. Nicholas M. Hubert	746 2500 Ave	5-5-15	777-PEED	<i>[Signature]</i>
15. Rick VanDerCreek	1209 1900 Ave	5-6-15	217-5947	<i>[Signature]</i>
16. Cody Jenne	1700 NW 14th	5-6-15	280-0602	<i>[Signature]</i>
17. Walter Holt	1085 1935 LN	5-6-15	200-4762	<i>[Signature]</i>
18. John R. Mays Jr	2787 Lark Rd	5-6-15	200 0330	<i>[Signature]</i>
19. Jim BOTTORFF	718 N Mulberry	5-6-15	200-0696	<i>[Signature]</i>
20. Larry Jenner	102 Westwood	5-6-15	263-4741	<i>[Signature]</i>

To: City of Abilene  
 Planning Commission  
 419 N Broadway  
 Abilene, KS 67410  
 Attn: David Dillner, City Manager

PETITION IN SUPPORT

The undersigned support and hereby request approval of the Application for Conditional Use Permit dated April 14, 2015 for the property owned by Flint Hills Grain, LLC, located at 513 W First Street, Abilene KS, for the steel grain bin and related Improvements at that location on the terms submitted by the applicant, together with any related permits, approvals or actions.

Name (Please Print)	Address	Date	Phone	Signature
1. Beth Weibert	746 2500 Ave. Abilene	5-5-15	785-880-2370	
2. TRISH DAN	1010 N Cedar St	5-5-15	785-479-0543	
3. Kim Hansen	411 West First	5-5-15	785-250-1154	
4. Lawrence Corcoran	411 West First	5-5-15	785-262-6416	
5. Krenny Kohman	842-1900 Ave	5-5-15	479 1740	
6. D. Niff	1372 Hwy 11, AB	5-5-15	785-220-	
7. Brian Lantz	85 N Elm	5-5-15	785-280-1259 785-280-0231	
8. Scott Leister	304 Grand Blvd	5-5-15	785-479-1036	
9. Chris Hase	108 N. Madison	5-5-15	785-479-7553	
10. Max Kohman	201 NE 12th	5-5-15	785-200-7358	
11. Kristyanna Kohman	201 NE 12th	5-5-15	785-200-7112	
12. CURTIS W. STOFFER	1904 FAITH AVE	5-5-15	785-280-6195	
13. DUANE C. ZOOK	2117 LINDEN DR.	5-5-15	785-819-2339	
14. Dale Koop	2465 Hing 15	5-5-15	785-763-1420	
15. Dylan Luthi	907 NW 2nd	5-5-15	785-280-2120	
16. Cody Marley	1010 N. Cedar	5-5-15	785-280-1965	
17. Tarrut Lewis	110 E Lafayette Ave	5/5/15	316-281-0880	
18. Glenn Cole Jr.	913 W 1st	5/5/15	785-280-1820	
19. Wilson Luthi	110 W 5th	5/5/15	785-200-4250	
20. Rich Farley	504 Schneider	5/5/15	785-200-8250	

To: City of Abilene  
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 419 N Broadway  
 Abilene, KS 67410  
 Attn: David Dillner, City Manager

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Name (Please Print)	Address	Date	Phone	Signature
1. Gregg Wilson	2201 S Washington	5/6/15	785-200-0580	Gregg Wilson
2. Kate Strunk	883 1900 Ave	5/6/15	479-1231	Kate Strunk
3. Ken Book	400 N. Mulberry	5-16/15	280-1826	Ken Book
4. Chris Wilson	2097 Fair Rd.	5/6/15	200-0585	Chris Wilson
5. Bryan Wilson	410 NW 5th	5/6/15	200-0589	Bryan Wilson
6. Aaron Strunk	1596 Hawk RD	5/4/15	479-6972	Aaron Strunk
7. Debbie Smart	2231 Eden Road	5/6/15	280-0255	Debbie Smart
8. Mark T. Wilson	2097 Fair Rd.	5/6/15	200-0594	Mark T. Wilson
9. Dee Rodda	2230 Camp Rd	5/8/15	655-3937	Dee Rodda
10. Paul Rodda	2230 Camp Rd	5/8/15	655-3939	Paul Rodda
11. LARRY Young	114 E 1st	5-8-15	263-7813	Larry Young
12. Tara Wayne	501 N Brady	5-8-15	571-7010	Tara Wayne
13. Larry Pipes	2391 Indy Rd	5-8-15	263-1508	LARRY PIPES
14. Linda Pipes	2391 Indy Rd	5-8-15	263-1508	Linda Pipes
15. Sherry Leister	304 Grand Blvd	5-8-15	263-9883	Sherry Leister
16. Steven L. Hoover	2976 Hwy 15	5-8-15	479-1601	Steven Hoover
17. Paula J. Young	114 E 1st	5-8-15	263-7813	Paula J. Young
18.				
19.				
20.				

To: City of Abilene  
 Planning Commission  
 419 N Broadway  
 Abilene, KS 67410  
 Attn: David Dillner, City Manager

PETITION IN SUPPORT

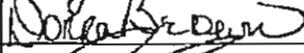
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Name (Please Print)	Address	Date	Phone	Signature
1. REBECCA COLLMAN	1300 W. 1 <sup>st</sup> AVE	5/7/15	479-6502	Rebecca Collman
2. Miles Martin	879 Sherman Ct	5/7/15	817-795-1819	Miles Martin
3. Jose Stephens	14105. Ninth St.	5/7/15	(785) 643-773	José Stephens
4. Mike Bartee	207 W 4th Street Abilene KS	5/7/15	785-577-463	Mike Bartee
5. Margo Fulton	411 S.W. 2nd Abilene KS	5-7-15	479-1751	Margo Fulton
6. Mike Fulton	411 S.W. 2nd Abilene KS	5-7-15	280-3822	Mike Fulton
7. Stan Parson	701 N Kenburn	5-7-15	479-1182	Stan Parson
8. D.E. LEAFORD	1900 W. 1st, Ave	5-7-15	479-3238	D.E. Leaford
9. Greg Houston	1650 Indyl RD	5-7-15	280-0260	Greg Houston
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To: City of Abilene  
Planning Commission  
419 N Broadway  
Abilene, KS 67410  
Attn: David Dillner, City Manager

PETITION IN SUPPORT

The undersigned support and hereby request approval of the Application for Conditional Use Permit dated April 14, 2015 for the property owned by Flint Hills Grain, LLC, located at 513 W First Street, Abilene KS, for the steel grain bin and related improvements at that location on the terms submitted by the applicant, together with any related permits, approvals or actions.

Name (Please Print)	Address	Date	Phone	Signature
1. Angela Shumik	510 NW 4th	5-6-15		
2. Donna Brown	510 NW 4th	5-6-15		
3. David Brown	504 SW 2nd	5-6-15		
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To: City of Abilene  
Planning Commission  
419 N Broadway  
Abilene, KS 67410  
Attn: David Dillner, City Manager

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Name (Please Print)	Address	Date	Phone	Signature
1. Roxi Roberts	1015 N. Kinney	5-5-15	785-230-2277	Roxi Roberts
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To: City of Abilene  
 Planning Commission  
 419 N Broadway  
 Abilene, KS 67410  
 Attn: David Dillner, City Manager

PETITION IN SUPPORT

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Name (Please Print)	Address	Date	Phone	Signature
1. Larry A. Hoffman	1926 1900 Ave Enterprise	5-6-15	479-0556	Larry A. Hoffman
2. C. Lutz	2977 MAIL RD ABILENE KS	5-6-15	598-2231	C. Lutz
3. J. W. W.	510 W 4th Abilene KS	5-6-15	200-0957	Robert Vilon
4. Barbara Greenwood	840 S 5th Saling	5-6-15	823-9531	Barbara Greenwood
5. Rachel Bean	2151 Hwy E	5-7-15	200-4203	Rachel Bean
6. Loran Luthi	1349 2700 AVE	5-7-15	598-2497	Loran Luthi
7. Melanic Luthi	1349 2700 AVE	5-7-15	598-2497	Melani Luthi
8. Bob Leister	2610 MINNAPAD ABILENE	5-8-15	598-2344	Bob Leister
9. Eric R. Hill	819 N Mulberry Abilene KS	5-8-15	317-5628	Eric R. Hill
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To: City of Abilene  
 Planning Commission  
 419 N Broadway  
 Abilene, KS 67410  
 Attn: David Dillner, City Manager

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Name (Please Print)	Address	Date	Phone	Signature
1. V. P. H. LLC BOYSE	546 E W 4th St Abilene KS	5-11-15	785-475-0801	David Boyse
2. Ted Kobetic	Wakefield	5-11-15	785-447-1556	Ted Kobetic
3. Kyle Kobetic	247 Vimestone Rd Wakefield KS	5-11-15	785-447-0601	Kyle Kobetic
4. Jon Lupton	1463-3325 Ave	5-11-15	785-280-0268	Jon Lupton
5. Amanda Coy	2645 1700 Ave Wakefield	5/11/15	785-477-0426	Amanda Coy
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To: City of Abilene  
 Planning Commission  
 419 N Broadway  
 Abilene, KS 67410  
 Attn: David Dillner, City Manager

PETITION IN SUPPORT

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Name (Please Print)	Address	Date	Phone	Signature
1. GARY Leister	2510 OAT RD	5-8-15	785 410-0955	Gary Leister Sr.
2. Ron Scripser	1463-3325 Ave	5-11-15	461-5504	Ron Scripser
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To: City of Abilene  
Planning Commission  
419 N Broadway  
Abilene, KS 67410  
Attn: David Dillner, City Manager

RECEIVED 5/11/15  
CITY OF ABILENE  
OFFICE OF THE CITY CLERK  
BY: *[Signature]*

PETITION IN SUPPORT

The undersigned support and hereby request approval of the Application for Conditional Use Permit dated April 14, 2015 for the property owned by Flint Hills Grain, LLC, located at 513 W First Street, Abilene KS, for the steel grain bin and related improvements at that location on the terms submitted by the applicant, together with any related permits, approvals or actions.

Name (Please Print)	Address	Date	Phone	Signature
1. <i>Don Nebelsick</i>	<i>308 NW 17<sup>th</sup></i>	<i>5-11-15</i>	<i>263-3068</i>	<i>Don Nebelsick</i>
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[COMPANY / CITIZEN LETTERHEAD]

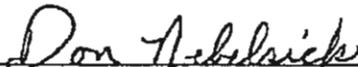
May 5, 2015

City of Abilene  
Planning Commission  
419 N Broadway  
Abilene, KS 67410  
Attn: Mr. David Dillner, City Manager

Dear Mr. Dillner:

This letter is to advise that we support and hereby request approval of the Application for Conditional Use Permit dated April 14, 2015 for the property owned by Flint Hills Grain, LLC, located at 513 W First Street, Abilene KS, for the steel grain bin and related improvements at that location on the terms submitted by the applicant, together with any related permits, approvals or actions.

Very truly yours,

  
\_\_\_\_\_

cc: Flint Hills Grain, LLC

To: City of Abilene  
 Planning Commission  
 419 N Broadway  
 Abilene, KS 67410  
 Attn: David Dillner, City Manager

RECEIVED 5/7/15  
 CITY OF ABILENE  
 OFFICE OF THE CITY CLERK  
 BY: *Cery Sankup*

PETITION IN SUPPORT

The undersigned support and hereby request approval of the Application for Conditional Use Permit dated April 14, 2015 for the property owned by Flint Hills Grain, LLC, located at 513 W First Street, Abilene KS, for the steel grain bin and related improvements at that location on the terms submitted by the applicant, together with any related permits, approvals or actions.

Name (Please Print)	Address	Date	Phone	Signature
<sup>1</sup> Brad Dunlap	425 N. Buckeye	5/7/15	785-263-5031	<i>Brad Dunlap</i>
<sup>2</sup> John Dunlap	425 N Buckeye	5/7/15	785-263-5070	<i>John Dunlap</i>
Ralph W. Reese	1607 BROWN	5/7/15	785-263-2709	<i>Ralph W Reese</i>
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[COMPANY / CITIZEN LETTERHEAD]

May 5, 2015

City of Abilene  
Planning Commission  
419 N Broadway  
Abilene, KS 67410  
Attn: Mr. David Dillner, City Manager

Dear Mr. Dillner:

This letter is to advise that we support and hereby request approval of the Application for Conditional Use Permit dated April 14, 2015 for the property owned by Flint Hills Grain, LLC, located at 513 W First Street, Abilene KS, for the steel grain bin and related improvements at that location on the terms submitted by the applicant, together with any related permits, approvals or actions.

Very truly yours,

A handwritten signature in blue ink, appearing to read "John Stuebel", is written over a horizontal line. The signature is fluid and cursive.

cc: Flint Hills Grain, LLC



May 7, 2015

Abilene Planning Commission  
PO Box 519  
Abilene, KS 67410

CC: Abilene City Commission

Abilene Planning Commission:

The Abilene Area Chamber of Commerce believes in the power of Commerce to enable good things to happen in our Community. When Commerce grows, opportunity grows and our Community has another chance to grow.

Thus we speak on behalf of growth as it pertains to the proposed expansion of Flint Hills Grain, LLC. As we understand, Flint Hills Grain, LLC, has made attempts to move forward with this expansion legally as it pertains to city zoning regulations. They, as we understand, are requesting a conditional use permit to continue work, and we write in support of this request.

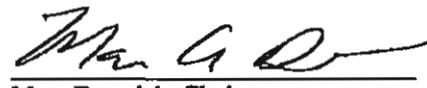
As a Chamber of Commerce, our primary efforts are concentrated on business expansion and growth. Economic development is important to the success of any community, and this expansion would increase economic development, adding dollars to the local economy.

We also note that this business owner is choosing to invest capital dollars in Abilene, raising their property value and we see that as positive.

In summary, the Abilene Area Chamber of Commerce is in favor of additional Legal Commerce in the Abilene Area and would lend our vote of support to this particular effort. We would be happy to speak, and or answer questions in Public forum if you so desire.

Best Regards,

  
Torey Berndt, Executive Director

  
Marc Beswick, Chairman  
Board of Directors

Abilene Area Chamber of Commerce  
201 NW 2nd, Abilene, KS 67410  
Phone: (785) 263-1770 Fax: (785) 263-4125  
[chamber@abileneks.net](mailto:chamber@abileneks.net) [www.abileneks.net](http://www.abileneks.net)



[COMPANY / CITIZEN LETTERHEAD]

## ALIDA PEARL CO-OP ASSOCIATION

POST OFFICE BOX 489 • CHAPMAN, KANSAS 67431-0489  
ALIDA PHONE (785) 922-6505      PEARL PHONE (785) 479-5870 or (785) 263-8488

May 5, 2015

City of Abilene  
Planning Commission  
419 N Broadway  
Abilene, KS 67410  
Attn: Mr. David Dillner, City Manager

Dear Mr. Dillner:

This letter is to advise that we support and hereby request approval of the Application for Conditional Use Permit dated April 14, 2015 for the property owned by Flint Hills Grain, LLC, located at 513 W First Street, Abilene KS, for the steel grain bin and related improvements at that location on the terms submitted by the applicant, together with any related permits, approvals or actions.

Very truly yours,

cc: Flint Hills Grain, LLC

NORTH  
CENTRAL  
KANSAS



COOPERATIVE

Phone 785-366-7213 • P.O. Box 157 • Hope, KS 67451-0157

Branches: Hope • Dillon • Navarre  
Woodbine • White City

May 8, 2015

City of Abilene  
Planning Commission  
419 N. Broadway  
Abilene KS 67410  
Attn: Mr. David Dillner, City Manager

Dear Mr. Dillner:

This letter is to advise that we support and hereby request approval of the Application for Conditional Use Permit dated April 14, 2015 for the property owned by Flint Hills Grain, LLC, located at 513 W. First Street, Abilene KS, for the steel grain bin and related improvements at that location on the terms submitted by the applicant, together with any related permits, approvals or actions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Darel Anderson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Darel Anderson, President  
North Central Kansas Coop



## *Kansas Grain & Feed Association*

816 SW Tyler, Ste. 100  
Topeka, KS 66612  
[www.ksgrainandfeed.org](http://www.ksgrainandfeed.org)

(785) 234-0461  
Fax (785) 234-2930

May 11, 2015

David B. Dillner  
Abilene City Manager  
419 N. Broadway  
Abilene, KS 67410

Re: Letter of Support for Flint Hills Grain Project

Dear Mr. Dillner:

On behalf of the Kansas Grain & Feed Association (KGFA), I am writing in support of Flint Hills Grain's application for a conditional use permit in connection with their expansion project. I understand that this issue will be considered by the Abilene Planning Commission at the Commission's meeting on May 12, 2015.

Founded in 1896, KGFA is a voluntary non-profit trade organization proud to represent Flint Hills Grain and 97% of the federal or state licensed grain storage in the state of Kansas.\*

Not only does Flint Hills provide jobs, it also contributes to the local economy by purchasing goods and services, and paying sales and property taxes. More importantly, Flint Hills is vital to area agricultural producers. The company trades with over 500 farmers, drawing from a 150-mile radius of Abilene.

The facility upgrades that Flint Hills is making will allow the company to more efficiently handle grain, which translates into being able to offer farmers better prices. Competitive prices are not only good for farmers, but also the local communities—including Abilene—where producers buy goods and services.

Thank you for your consideration of my comments.

Sincerely,

Tom R. Tunnell  
President and CEO

*\*KGFA provides governmental representation, educational opportunities and a wide variety of other services to the vast and indispensable grain and feed marketing system. Its 900 members include country elevators, subterminal and terminal elevators, feed manufacturers, flour mills, grain merchandisers and allied industries such as grain exchanges, equipment manufacturers, insurance firms and railroads.*

[COMPANY / CITIZEN LETTERHEAD]

*ES Wilson Transport Inc  
1120 S. Buckeye  
Abilene Ks. 67410*

May 5, 2015

City of Abilene  
Planning Commission  
419 N Broadway  
Abilene, KS 67410  
Attn: Mr. David Dillner, City Manager

Dear Mr. Dillner:

This letter is to advise that we support and hereby request approval of the Application for Conditional Use Permit dated April 14, 2015 for the property owned by Flint Hills Grain, LLC, located at 513 W First Street, Abilene KS, for the steel grain bin and related improvements at that location on the terms submitted by the applicant, together with any related permits, approvals or actions.

Very truly yours,



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cc: Flint Hills Grain, LLC

BERT AND WETTA ABILENE INC.

P.O. BOX 128

ABILENE, KS 67410

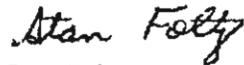
May 5, 2015

City of Abilene  
Planning commission  
419 N. Broadway  
Abilene, Ks 67410  
Attn: Mr. David Dillner, City Manager

Dear Mr. Dillner:

This letter is to advise that we support and hereby request approval of the application for Conditional Use Permit dated April 14, 2015 for the property owned by Flint Hills Grain, LLC. located at 513 W. 1st street, Abilene Ks., for the steel grain bin and related improvements at that location on the terms submitted by the applicant, together with any related permits, approvals or actions.

Very truly yours,



Stan Foltz  
Plant manager

Cc: Flint Hills Grain, LLC

## **Crop Service**

1123 Elen Road  
Abilene KS 67410  
785.479.2204 Fax 785.479.2205

May 6, 2015

City of Abilene  
Planning Commission  
419 N Broadway  
Abilene, KS 67410  
Attn: Mr. David Dillner, City Manager

Dear Mr. Dillner:

This letter is to advise that we support and hereby request approval of the Application for Conditional Use Permit dated April 14, 2015 for the property owned by Flint Hills Grain, LLC, located at 513 W First Street, Abilene KS, for the steel grain bin and related improvements at that location on the terms submitted by the applicant, together with any related permits, approvals or actions.

Very truly yours,

Dale Koop  
President/Owner  
Crop Service Center, Inc  
785.479.3753



cc: Flint Hills Grain, LLC



**Wakefield Farmers  
Cooperative Association**

676 Sunflower Road  
Wakefield, KS 67487  
785-461-5712

May 8, 2015

City of Abilene  
Planning Commission  
419 N Broadway  
Abilene, KS 67410  
Attn: Mr. David Dilliner, City Manager

Dear Mr. Dilliner:

I am sending you this letter as evidence of our Coop's support of the project/improvements that Flint Hills Grain, LLC is doing at 513 W First Street, Abilene KS.

Over the years Agriculture and Abilene has had an important and rich history for the local community of Abilene, our State and the Country. This goes back at least as far as the cattle drives coming up from Texas to providing our county with a very prominent General and President.

I believe that the Improvements that Flint Hills Grain LLC are a positive and will be looked back as a good move for the community and the surrounding areas. I would ask that you approve their request for related permits and actions on the steel grain bin and related improvements at 513 W First Street, Abilene KS.

Respectfully,

A handwritten signature in cursive script that reads "John M. Boley".

John M. Boley  
General Manager  
Wakefield Farmers Cooperative Association

Collman Trucking, Inc  
1300 W 1st  
Abilene, KS 67410

[COMPANY / CITIZEN LETTERHEAD]

May 5, 2015

City of Abilene  
Planning Commission  
419 N Broadway  
Abilene, KS 67410  
Attn: Mr. David Dillner, City Manager

Dear Mr. Dillner:

This letter is to advise that we support and hereby request approval of the Application for Conditional Use Permit dated April 14, 2015 for the property owned by Flint Hills Grain, LLC, located at 513 W First Street, Abilene KS, for the steel grain bin and related improvements at that location on the terms submitted by the applicant, together with any related permits, approvals or actions.

Very truly yours,

  
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cc: Flint Hills Grain, LLC

Dibben Land & Cattle Inc.

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May 5, 2015

City of Abilene  
Planning Commission  
419 N Broadway  
Abilene, KS 67410  
Attn: Mr. David Dillner, City Manager

Dear Mr. Dillner:

This letter is to advise that we support and hereby request approval of the Application for Conditional Use Permit dated April 14, 2015 for the property owned by Flint Hills Grain, LLC, located at 513 W First Street, Abilene KS, for the steel grain bin and related improvements at that location on the terms submitted by the applicant, together with any related permits, approvals or actions.

Very truly yours,



Brandon Dibben Vice Pres

[COMPANY / CITIZEN LETTERHEAD]

HUSCO INC.  
P.O. Box 334  
Abilene, KS. 67410

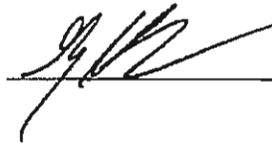
May 5, 2015

City of Abilene  
Planning Commission  
419 N Broadway  
Abilene, KS 67410  
Attn: Mr. David Dillner, City Manager

Dear Mr. Dillner:

This letter is to advise that we support and hereby request approval of the Application for Conditional Use Permit dated April 14, 2015 for the property owned by Flint Hills Grain, LLC, located at 513 W First Street, Abilene KS, for the steel grain bin and related improvements at that location on the terms submitted by the applicant, together with any related permits, approvals or actions.

Very truly yours,



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cc: Flint Hills Grain, LLC



# Joe Snuffy's

209 W. 1st Street - Abilene, KS 67410  
<785> 263-7802



May 6, 2015

City of Abilene  
Planning Commission  
419 N Broadway  
Abilene KS 67410  
Attn: David Miller.

Dear Mr. Miller,

This letter is to advise that we support our neighbors and request approval of the conditional use permit dated Apr 14 2015, for the property owned by First Hills Grain at 513 W 1st.

Thanks!  
Mandy Adams

H & H Plumbing, Heating & Air  
2291 Fair Road  
Abilene, Kansas 67410

[COMPANY / CITIZEN LETTERHEAD]

May 5, 2015

City of Abilene  
Planning Commission  
419 N Broadway  
Abilene, KS 67410  
Attn: Mr. David Dillner, City Manager

Dear Mr. Dillner:

This letter is to advise that we support and hereby request approval of the Application for Conditional Use Permit dated April 14, 2015 for the property owned by Flint Hills Grain, LLC, located at 513 W First Street, Abilene KS, for the steel grain bin and related improvements at that location on the terms submitted by the applicant, together with any related permits, approvals or actions.

Very truly yours,



cc: Flint Hills Grain, LLC



HENRY KENNELS  
SHANNON HENRY  
351 OLD 40  
SOLOMON, KS 67480-8830

[COMPANY / CITIZEN LETTERHEAD]

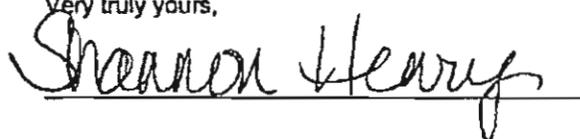
May 5, 2015

City of Abilene  
Planning Commission  
419 N Broadway  
Abilene, KS 67410  
Attn: Mr. David Dillner, City Manager

Dear Mr. Dillner:

This letter is to advise that we support and hereby request approval of the Application for Conditional Use Permit dated April 14, 2015 for the property owned by Flint Hills Grain, LLC, located at 513 W First Street, Abilene KS, for the steel grain bin and related improvements at that location on the terms submitted by the applicant, together with any related permits, approvals or actions.

Very truly yours,

  
\_\_\_\_\_

cc: Flint Hills Grain, LLC

COLLAMAN KENTALS, LLC  
1300 W. 1<sup>ST</sup>  
ABILENE KS 67410

[COMPANY / CITIZEN LETTERHEAD]

May 5, 2015

City of Abilene  
Planning Commission  
419 N Broadway  
Abilene, KS 67410  
Attn: Mr. David Dillner, City Manager

Dear Mr. Dillner:

This letter is to advise that we support and hereby request approval of the Application for Conditional Use Permit dated April 14, 2015 for the property owned by Flint Hills Grain, LLC, located at 513 W First Street, Abilene KS, for the steel grain bin and related improvements at that location on the terms submitted by the applicant, together with any related permits, approvals or actions.

Very truly yours,

  
\_\_\_\_\_

cc: Flint Hills Grain, LLC

[COMPANY / CITIZEN LETTERHEAD]

EVERETT'S INC  
205 S. Van Buren  
Abilene, KS 67410

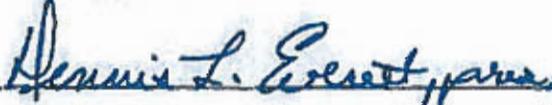
May 5, 2015

City of Abilene  
Planning Commission  
419 N Broadway  
Abilene, KS 67410  
Attn: Mr. David Dillner, City Manager

Dear Mr. Dillner:

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Very truly yours,

  
Dennis L. Everett, owner

cc: Flint Hills Grain, LLC

**[COMPANY / CITIZEN LETTERHEAD]**

Reliable Freight Lines, Inc.  
1303 NW 5th  
Abilene, KS 67410

May 5, 2015

City of Abilene  
Planning Commission  
419 N Broadway  
Abilene, KS 67410  
Attn: Mr. David Dillner, City Manager

Dear Mr. Dillner:

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Very truly yours



---

cc: Flint Hills Grain, LLC

[COMPANY / CITIZEN LETTERHEAD]

MIKE'S LAWN SERVICE  
411 SW 2ND  
ABILENE, KS 67410  
PHONE: 280-3822

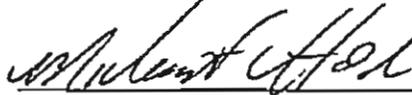
May 5, 2015

City of Abilene  
Planning Commission  
419 N Broadway  
Abilene, KS 67410  
Attn: Mr. David Dillner, City Manager

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Very truly yours,



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**RHV DO IT BEST HARDWARE**

305 N. BUCKEYE  
ABILENE, KS 67410  
785.282.1851

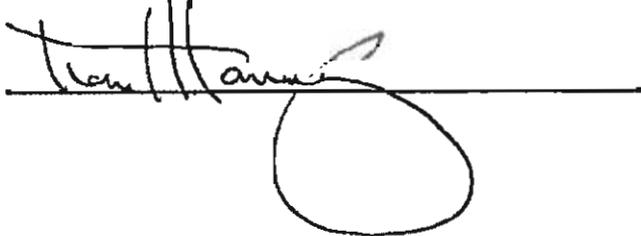
May 5, 2015

City of Abilene  
Planning Commission  
419 N Broadway  
Abilene, KS 67410  
Attr: Mr. David Dillner, City Manager

Dear Mr. Dillner:

This letter is to advise that we support and hereby request approval of the Application for Conditional Use Permit dated April 14, 2015 for the property owned by Flint Hills Grain, LLC, located at 513 W First Street, Abilene KS, for the steel grain bin and related improvements at that location on the terms submitted by the applicant, together with any related permits, approvals or actions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ken H. Hannon", is written over a horizontal line. Below the line, there is a large, circular scribble or flourish.

**ORDINANCE NO. 3275**

**AN ORDINANCE VACATING A PORTION OF A RIGHT-OF-WAY AND STREET  
WITHIN THE CITY LIMITS OF THE CITY OF ABILENE, KANSAS**

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ABILENE, KANSAS:

WHEREAS, the Governing Body of the City of Abilene, Kansas, has the power to vacate streets and rights-of-way if it finds it is necessary or expedient, pursuant to K.S.A. 14-423; and

WHEREAS, the Governing Body finds that it is necessary or expedient to vacate a portion of Elm Street and adjoining right-of-way;

NOW THEREFORE, the Governing Body declares that a portion of Elm Street and adjoining right-of-way shall be vacated as set forth in Section 1, below:

**SECTION 1.** Pursuant to K.S.A. 14-423, the following right-of-way and street located in the City of Abilene, Kansas, which is described below, is hereby vacated:

SEE ATTACHED EXHIBIT "A"

That there be reserved to the city and the owners of lesser property rights for public utilities, rights-of-way, and easements for public facilities in said alley for present uses, if any.

This vacation of right-of-way and street is subject to a Land Use Agreement and Easement by and between the City of Abilene, Kansas, and Flint Hills Grain, LLC, attached hereto as EXHIBIT "B" and incorporated as a part of this Ordinance.

**SECTION 2.** This ordinance shall become effective and in full force 30 days after its publication in the official city newspaper unless an interested party shall file a written protest in the office of the Abilene City Clerk before the expiration of such 30 day period.

**SECTION 3.** That the City Clerk certify a copy of this order to the Dickinson County Register of Deeds and the Dickinson County Clerk for appropriate action pursuant to K.S.A 14-423.

**PASSED AND ADOPTED** this \_\_\_\_ day of June, 2015.

\_\_\_\_\_  
**DENNIS P. WEISHAAR**  
**MAYOR**

**ATTEST:**

\_\_\_\_\_  
**PENNY SOUKUP**  
**CITY CLERK, CMC**

**EXHIBIT A**

**Legal Description**

**S. Elm Street Vacation**

**June 22, 2015**

# DESCRIPTION EXHIBIT

S 89°50'05" W 27.00'

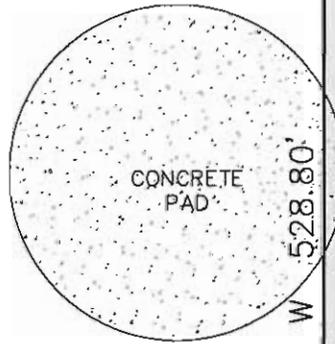
**POINT OF BEGINNING**  
NE COR, BLOCK 6,  
ORIGINAL TOWN OF ABILENE  
FND 1/2" BAR

**SOUTH**  
RIGHT-OF-WAY LINE,  
FIRST STREET



SCALE: 1" = 60'

**DESCRIBED**  
**AREA**  
BLOCK 6



LEGEND	
⊙	FOUND MONUMENT, AS NOTED
— OP —	OVERHEAD ELECTRIC LINE
⊠	POWER POLE
⊕	FIRE HYDRANT
[W]	WATER METER
⊗	WATER VALVE
⊕	SANITARY SEWER MANHOLE

S 00°01'05" W 528.80'

N 00°01'05" E 528.86'

ELM STREET R/W  
(80' PUBLIC R/W)

40' PLATTED  
R/W

WEST RIGHT-OF-WAY LINE,  
ELM STREET

N 89°57'19" E 27.00'

**NE COR.**  
LOT 16, BLOCK 7  
ORIGINAL TOWN OF ABILENE



2319 NORTH JACKSON | P.O. BOX 1304  
JUNCTION CITY, KANSAS 66441  
PH. (785) 762-5040 | FAX (785) 762-7744  
jc@kveng.com | www.kveng.com

**KAW VALLEY ENGINEERING**

1 OF 2  
JUNE 4, 2015  
7187EXBH RW ESMT

# DESCRIPTION EXHIBIT

## PROPERTY DESCRIPTION:

THAT PORTION OF ELM STREET RIGHT-OF-WAY AS PLATTED IN THE PLAT OF THE TOWN OF ABILENE, COUNTY OF DICKINSON, STATE OF KANSAS, BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF BLOCK 6 OF SAID PLAT OF THE TOWN OF ABILENE; THENCE WITH AN ASSUMED BEARING ON THE WEST RIGHT-OF-WAY LINE OF SAID ELM STREET, S 00°01'05" W 528.80 FEET TO THE NORTHEAST CORNER OF LOT 16 BLOCK 7 OF SAID PLAT OF THE TOWN OF ABILENE; THENCE N 89°57'19" E 27.00 FEET; THENCE PARALLEL WITH SAID WEST RIGHT-OF-WAY LINE, N 00°01'05" E 528.86 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF FIRST STREET; THENCE ON SAID SOUTH RIGHT-OF-WAY LINE, S 89°50'05" W 27.00 FEET TO THE POINT OF BEGINNING. CONTAINS 14,278.29 SF, 0.33 ACRES MORE OR LESS.

END OF DESCRIPTION

## BASIS OF BEARINGS:

BEARINGS ARE BASED ON WEST LINE OF SECTION 21-13-2. SOUTH 00°01'52" WEST.

## SURVEYOR'S NOTES:

1. BEARINGS, DISTANCES, MONUMENTS, AND UTILITIES SHOWN ARE PER ALTA/ACSM LAND TITLE SURVEY PERFORMED BY POWELL AND ASSOCIATES, LLC, WITH JOB NO. P10-394, DATED MARCH 1, 2011.



2319 NORTH JACKSON | P.O. BOX 1304  
JUNCTION CITY, KANSAS 66441  
PH. (785) 762-5040 | FAX (785) 762-7744  
jc@kveng.com | www.kveng.com

**KAW VALLEY ENGINEERING**

2 OF 2  
JUNE 4, 2015  
7187EXBH\_RW\_ESMT

**EXHIBIT B**

**Land Use Agreement and Easement**

**S. Elm Street**

**June 22, 2015**

## LAND USE AGREEMENT AND EASEMENT

**THIS LAND USE AGREEMENT AND EASEMENT** is made by and between the City of Abilene, Kansas ("City") and Flint Hills Grain, LLC ("FHG").

**WHEREAS**, in 2015 FHG constructed certain improvements consisting of a grain bin and related grain handling and storage facilities pursuant to a valid building permit issued by the City; and

**WHEREAS**, FHG and the City agree that a portion of the grain bin encroaches 6.7 feet on the City's right-of-way on the west side of South Elm Street located in the City; and

**WHEREAS**, FHG and the City have determined that it is necessary and expedient to the City that such encroachment and front yard set-back encroachment of an additional twenty feet (20') be resolved by vacation of a portion of the adjoining right-of-way of South Elm Street, subject to the parties entering into this Agreement and Easement setting forth the respective rights and obligations of the parties relative to that vacated land.

**NOW, THEREFORE**, the parties hereto agree as follows:

1. The City has or will vacate certain land consisting of a portion of South Elm Street located in the City, and described as follows:

THAT PORTION OF ELM STREET RIGHT-OF-WAY AS PLATTED IN THE PLAT OF THE TOWN OF ABILENE, COUNTY OF DICKINSON, STATE OF KANSAS, BEING DESCRIBED AS FOLLOWS:  
BEGINNING AT THE NORTHEAST CORNER OF BLOCK 6 OF SAID PLAT OF THE TOWN OF ABILENE; THENCE WITH AN ASSUMED BEARING ON THE WEST RIGHT-OF-WAY LINE OF SAID ELM STREET, S 00°01'05" W 528.80 FEET TO THE NORTHEAST CORNER OF LOT 16 BLOCK 7 OF SAID PLAT OF THE TOWN OF ABILENE; THENCE N 89°57'19" E 27.00 FEET; THENCE PARALLEL WITH SAID WEST RIGHT-OF-WAY LINE, N 00°01'05" E 528.86 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF FIRST STREET; THENCE ON SAID SOUTH RIGHT-OF-WAY LINE, S 89°50'05" W 27.00 FEET TO THE POINT OF BEGINNING.  
CONTAINS 14,278.29 SF, 0.33 ACRES MORE OR LESS.

as more particularly described in the plat of survey attached, hereinafter referred to as the "Land".

2. FHG grants to the City a perpetual easement over the east twenty feet (20') of the Land for right-of-way (the "Easement Area"), including the right of the City, its officers, employees, contractors and consultants to use, inspect, repair and maintain any part of the Easement Area; for fire, police, ambulance and other emergency services, as well as the public to traverse the portion of the Easement Area used for public street as the same presently exists or may exist in the future by motorized vehicle or otherwise; and for public utilities, including but not limited to those owned and operated by the City, to use, locate, inspect, repair, remove and replace utility lines, pipes, cable and poles and related equipment for public utility purposes.

3. In the event that FHG or the City desire to repair, maintain, improve or replace any part of the street, curb and/or gutter located on the Easement Area, the parties shall confer regarding such work and the terms and conditions to apply to any such work, including the share of the cost of the same to be paid by each party. FHG shall not perform any repair, maintenance, improvement or replacement of any part of the street, curb and/or gutter on the Easement Area without prior approval by the City. FHG will not install any underground facilities on the Easement Area without prior approval by the City. FHG shall not construct any improvements on the Easement Area without a valid building permit issued by the City, when applicable, and will not otherwise build or place any improvements on the Easement Area, nor otherwise use the Easement Area, in any manner that would materially interfere with the use of the Easement Area for the purposes for which this easement is granted.
4. It is the intent of the parties that concurrent with the approval and execution of this Agreement, the City shall adopt an ordinance pursuant to K.S.A. § 14-423 vacating the Land. This Agreement shall become effective thirty (30) days after publication of that ordinance unless a protest is made pursuant to K.S.A. § 14-423 prior to the expiration of that time; and in that event this Agreement shall become effective following hearing duly held, adoption of a resolution confirming the vacation ordinance and filing of the same with the Dickinson County, Kansas Clerk and Register of Deeds, all in accordance with applicable law.
5. The City agrees to indemnify and hold FHG harmless from and against any and all liability for personal injury or property damage when such injury or damage shall occur from activities on the Easement Area resulting from use by the City, its employees, contractors, consultants, agents, business invitees and licensees, and which is not the result of, or arise out of, or be attributable to use by FHG to the extent that such injury or damage was caused by FHG, its officers, employees, contractors, consultants, business invitees and licensees.
6. FHG agrees to indemnify and hold the City harmless from and against any and all liability for personal injury or property damage when such injury or damage shall occur from activities on the Land resulting from use thereof by FHG, its officers, employees, contractors, consultants, business invitees and licensees, and which is not the result of, or arise out of, or be attributable to use by the City to the extent that such injury or damage was caused by the City, its officers, employees, contractors, consultants, business invitees and licensees.
7. This Agreement shall be binding on the parties, their successors and assigns. It is permanent and perpetual, and may be modified or terminated only on the written agreement executed by the parties and making reference to this Agreement. Either party may cause this Agreement to be recorded in the office of the Register of Deeds of Dickinson County, Kansas so that the easement granted herein shall run with the Land.

**IN WITNESS WHEREOF**, the parties have executed this agreement on the date below.

**[THIS SPACE INTENTIONALLY LEFT BLANK]**

“CITY”

CITY OF ABILINE, KANSAS

Dated: \_\_\_\_\_

By: \_\_\_\_\_

**DENNIS WAISHAAR, Mayor**

ATTEST:

\_\_\_\_\_  
**PENNY SOUKUP, City Clerk**

**ACKNOWLEDGMENT**

STATE OF KANSAS )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2015, before me, the undersigned, a notary public in and for the county and state aforesaid, came **Dennis Waishaar, Mayor, and Penny Soukup, City Clerk, of the City of Abilene, Kansas**, who are personally known to me to be the same persons who executed the within instrument of writing and such persons duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

\_\_\_\_\_  
NOTARY PUBLIC

“FHG”

FLINT HILLS GRAIN, LLC

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF KANSAS )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2015, before me, the undersigned, a notary public in and for the county and state aforesaid, came \_\_\_\_\_, \_\_\_\_\_ of **Flint Hills Grain, LLC**, who is personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

\_\_\_\_\_  
NOTARY PUBLIC

(Published in *The Abilene Reflector-Chronicle* on June 12, 2015)

ORDINANCE NO. 3273

AN ORDINANCE OF THE CITY OF ABILENE, KANSAS, LEVYING SPECIAL ASSESSMENT TAXES ON CERTAIN REAL PROPERTIES IN THE CITY, FOR THE PURPOSE OF PAYING A PORTION OF THE COSTS OF INTERNAL IMPROVEMENTS BENEFITING SUCH REAL PROPERTIES; PROVIDING FOR GIVING NOTICE OF THE SPECIAL ASSESSMENT TAXES BY PUBLICATION AND MAILING; AND PROVIDING FOR THE COLLECTION OF SPECIAL ASSESSMENT TAXES

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ABILENE, KANSAS:

SECTION 1. SECTION 1. Pursuant to K.S.A. 12-6a01 *et seq.*, special assessments are levied and assessed against the lots, pieces and parcels of land liable for such assessments as described below and in the amounts shown below following the description of each lot, piece or parcel of land located in the City of Abilene, Kansas (the "City"), Dickinson County, Kansas. The special assessments are levied to pay the costs of the improvements in the City authorized by the City's Resolution No. 061013-2, adopted June 9, 2013 (published June 18, 2013), as amended by Resolution No. 030915-2 adopted March 9, 2015 (published March 12, 2015) as follows:

<u>Legal Description (Property to be Assessed)</u>	<u>ASSESSMENT AMOUNT</u>
Dawson's Cottage Addition:	
Lot 1, Block 1	\$14,090.37
Lot 2, Block 1	\$13,469.73
Lot 3, Block 1	\$12,423.19
Lot 4, Block 1	\$13,066.48
Lot 5, Block 1	\$13,470.72
Lot 6, Block 1	\$13,046.84
Lot 1 Block 2	\$14,053.93
Lot 2 Block 2	\$13,431.91
Lot 3 Block 2	\$12,396.85
Lot 4 Block 2	\$14,047.69
Lot 5 Block 2	\$13,425.94
Lot 6 Block 2	\$11,978.30
Lot 7 Block 2	\$16,518.73
Lot 8 Block 2	\$14,039.85
Lot 9 Block 2	\$13,416.99
Lot 10 Block 2	\$15,272.46
Lot 11 Block 2	\$15,682.90
Lot 12 Block 2	\$13,823.66
Lot 13 Block 2	\$13,615.32
Lot 14 Block 2	\$16,699.84

Legal Description (Property to be Assessed)

ASSESSMENT AMOUNT

Prairie Hills Addition:

Lot 1

\$10,325.58

Lot 2

\$19,767.39

A tract of land in the South Half of the South Half of the Northwest Quarter of the Southeast Quarter of Section Nine, Township Thirteen South, Range Two East of the 6<sup>th</sup> P.M. described as follows: Beginning at a point 390 feet East of the Northwest corner and on the North line of said (S/2 S/2 NW/4 SE/4) of Section 9; thence East 322.7 feet on said North line; thence South parallel to the North-South centerline of Section 9, a distance of 135.0 feet; thence West 322.7 feet; thence North 135.0 feet to a place of Beginning.

\$66,935.33

SECTION 2. The amounts so levied and assessed as set forth above shall be due and payable from and after the date of adoption of this Ordinance; and the City Clerk shall notify each and all of the owners of the above described properties, insofar as known to the City Clerk and at their last known post office address, of the amounts of their respective special assessments. The notice of assessment shall further state that the owners of the properties will be given a 30-day period until 12:00 Noon on Tuesday, July 7, 2015 (the "prepayment period"), during which the special assessments may be paid in full at the Abilene City Hall, 209 NW 4th, Abilene, Kansas. The lien against any property for which the special assessment is paid during the prepayment period shall be discharged and satisfied. The City Clerk shall also notify such property owners that assessments not paid in the prepayment period will be payable in installments over a period of 10 years, concurrently with the issuance of general obligation bonds of the City, together with interest at a rate not to exceed that permitted by the laws of the state of Kansas. The City Clerk shall certify all unpaid special assessments levied by this Ordinance to the Dickinson County Clerk, in the same manner and at the time as other taxes are so certified, to be levied over a period of 10 years, with interest at a rate not exceeding that permitted by Kansas law. The special assessments shall be placed on the tax rolls and collected as and when ad valorem property taxes are collected. The first such levy shall take be made in November 2015.

SECTION 3. The Mayor and City Clerk are authorized and directed to take all other actions consistent with this Ordinance as are appropriate or desirable to accomplish its intent and purposes, including but not limited to, providing any for the call of and any necessary notice of the City's redemption of all or a portion of its Temporary Notes, Series A, 2013 dated July 24, 2013 issued to temporarily finance the improvements authorized as described in Section 1.

SECTION 4. This Ordinance shall be in force and take effect from and after its passage, approval and publication one time in the City's official newspaper.

*[Remainder of Page Intentionally Left Blank]*

PASSED AND APPROVED by the governing body of the City of Abilene, Kansas, on June 8, 2015.

CITY OF ABILENE, KANSAS

[Seal]

By \_\_\_\_\_  
Dennis Weishaar, Mayor

ATTEST:

By \_\_\_\_\_  
Penny Soukup, City Clerk

**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>Michael J. [unclear]</u> Title: <u>Master</u>	4-18-13

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

Penny Soukup  
Penny Soukup, City Clerk

EXHIBIT A  
CITY OF ABILENE, KANSAS  
FINAL COST STATEMENTS

**IMPROVEMENTS AUTHORIZED BY RESOLUTION  
NO. 061013-2, AS AMENDED BY RESOLUTION NO. 030915-2**

Construction & Engineering	\$341,389.90
Legal, Fiscal & Admin.	32,061.60
Temporary Note Interest	<u>1,548.50</u>
Total Final Cost	\$375,000.00
Less: City at Large Portion	<u>0.00</u>
Amount to be Assessed	\$375,000.00

EXHIBIT B

CITY OF ABILENE, KANSAS

ASSESSMENT ROLLS

<u>Legal Description (Property to be Assessed)</u>	<u>ASSESSMENT AMOUNT</u>
Dawson's Cottage Addition:	
Lot 1, Block 1	\$14,090.37
Lot 2, Block 1	\$13,469.73
Lot 3, Block 1	\$12,423.19
Lot 4, Block 1	\$13,066.48
Lot 5, Block 1	\$13,470.72
Lot 6, Block 1	\$13,046.84
Lot 1 Block 2	\$14,053.93
Lot 2 Block 2	\$13,431.91
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Lot 7 Block 2	\$16,518.73
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Lot 1	\$10,325.58
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	\$66,935.33

A tract of land in the South Half of the South Half of the Northwest Quarter of the Southeast Quarter of Section Nine, Township Thirteen South, Range Two East of the 6<sup>th</sup> P.M. described as follows: Beginning at a point 390 feet East of the Northwest corner and on the North line of said (S/2 S/2 NW/4 SE/4) of Section 9; thence East 322.7 feet on said North line; thence South parallel to the North-South centerline of Section 9, a distance of 135.0 feet; thence West 322.7 feet; thence North 135.0 feet to a place of Beginning.

NORTON • WASSERMAN • JONES • KELLY LLC

FRANK C. NORTON \*  
KENNETH W. WASSERMAN \*\*  
ROBERT S. JONES \*\*\*  
NORMAN R. KELLY  
ROBERT A. MARTIN  
BRENDAN J. BURKE  
CADEN L. BUTLER  
C. CHARLES AULT-DUELL

Attorneys at Law

\*Of Counsel

\*\*Admitted in Kansas and Nebraska

\*\*\*Fellow American Academy of Matrimonial Lawyers

MAILING ADDRESS:  
P.O. Box 2388  
Salina, KS 67402-2388

LAW OFFICES AT:  
213 S. Santa Fe  
Salina, KS 67401

Telephone 785-827-3646  
Fax 785-827-0538

Email: [cad@nwjklaw.com](mailto:cad@nwjklaw.com)

June 1, 2015

David B. Dillner  
419 N. Broadway  
P.O. Box 519  
Abilene, KS 67410

Abilene City Commission  
419 N. Broadway  
P.O. Box 519  
Abilene, KS 67410

Penny Soukup  
419 N. Broadway  
P.O. Box 519  
Abilene, KS 67410

Mark Guilfoyle  
306 NW Second Street  
P.O. Box 548  
Abilene, KS 67410

RE: Protest of Proposed Assessments on Eagles Lodge Properties  
Prairie Hills Addition/Dawson's Cottage Addition to the  
City of Abilene, Kansas

Ladies and Gentleman:

Mr. Huston, the record owner of the properties identified in May 11, 2015 Notice of Hearing and Statement of Costs Proposed to be Assessed issued by Ms. Soukup hereby registers his objections and protests to the proposed assessments in the same Notice pursuant to K.S.A. 12-6a01 et seq. specifically noting, without limitation, 12-6a07(b) (property exempt by any reason of law) and K.S.A. 12-6a19 (property not originally included in improvement district), but reserving any and all additional, appropriate factual and legal objections available to him. Mr. Huston asks that the assessment calculated in the said notice be substantially reduced and levied only as follows:

Prairie Hills Addition Properties:

Lot 1:	\$ 7,181.88
Lot 2:	\$ 17,732.38
Eagles Lodge Lot (meets and bounds description):	\$ 41,957.54

TOTAL ASSESSMENT:

\$ 66,871.79

Mr. Huston requests that the City Clerk register his objections and protests to the assessments proposed by the City by the May 11, 2015, Notice, transmit this letter to the City Commissioners, and register or otherwise note Mr. Huston as a participant and interested land owner on the agenda for the upcoming public hearing scheduled on June 8, 2015 at 4:30 P.M. before the City Commission. Mr. Huston further requests that the City Commission consider and approve his request to reduce the assessments levied against the Eagles Properties discussed herein to the amount he has submitted: **\$66,871.79**. In support of his protest, objections, and requests herein, Mr. Huston submits the following summary and enclosed supporting documentation.

City Manger David Dillner has on at least three (3) occasions given Mr. Huston widely varying quotes and estimates for the assessments to be paid by the Eagles Lodge/Prairie Hills Addition Properties identified above and in the May 15, 2015 Notice (collectively "Eagles Properties" unless individually identified). Those quotes and estimates are listed and described in Mr. Dillner's e-mails which are enclosed with this letter and are summarized as follows:

E-mail of February 9, 2015:	\$91,250.00
E-mail of February 13, 2015:	\$88,014.63
E-mail of February 25, 2015:	\$80,103.00

Despite repeated requests by both Mr. Huston and his attorney, no itemization or justification adequate to explain where these numbers come from has been provided to date.

You are undoubtedly aware that the Eagles Lodge has been an occupied structure in Abilene, Kansas since at least 1975 or 1976 when it was first constructed. Obviously, as an occupied structure, the Eagles Lodge has necessarily maintained water and sanitary sewer service at all times from 1975 to present. These pre-existing water and sewer lines traverse Prairie Hills Lot 1 and serve the Eagles Lodge Lot described above, *despite and in addition to* any water or sewer line constructed as a result of the Dawson's Cottage Addition project. Again, despite repeated requests by Mr. Huston, City Staff have struggled to account for this simple fact in their calculations of the Dawson's Cottage Improvement District Project costs assessed against the Eagles Properties. To date, City Staff have not provided an accurate, consistent, or reliable itemization to support the assessment calculations for the Eagles Properties. The Notice of May 11, 2015, represents the fourth (4) quote or estimate by City Staff in as many months. Although it purports to be an official, statutory notice of the assessed costs, it still lacks any substantiating, itemized list of construction costs or deductions for existing services. It also fails to mirror or approximate any of the City's previous quotes or estimates for the Eagles Properties Special Assessments. Like the previous estimates by Mr. Dillner, this Notice appears to be another wild stab in the dark.

Based on records obtained pursuant to the Freedom of Information Act Request, Mr. Huston undertook the task of determining for himself what a fair assessment against the Eagles Properties would be for the Dawson's Cottage Improvements. The result of those efforts on Mr.

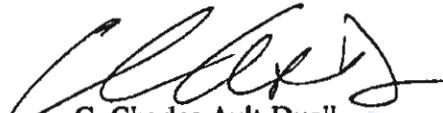
Huston's behalf is the \$66,871.79 amount outlined above, and in the enclosed supporting documents. He respectfully requests that the City Commission utilize his calculations instead of the four (4) various recommendations put forward by City Staff. Mr. Huston's calculations are based on actual statements from the Vogts-Parga construction company for work actually completed on the Dawson's Cottage Addition Project, Dickinson County land and tax records, and the City's own estimates for its legal, administrative, and bond costs. These amounts have been proportioned according to the City's position that the Eagles Property is comprised of approximately 1.4 acres, or 25.1% of the Dawson's Cottage Project area.

Mr. Huston submits that the amounts he has calculated are fair and proportionate for the benefit actually received by the Eagles Properties as a result of the Dawson's Cottage Addition Project Improvements. You will note that Mr. Huston has discounted preexisting water and sewer services, but included in his calculations the instillation costs for water and sewer service to Prairie Hills Lot 2 - the east lot of the Eagles Properties - in an effort to fairly compensate the City for the instillation of those services on a lot where they did not previously exist.

Nevertheless, it remains Mr. Huston's position that water and sewer services installed due to the Dawson's Cottage Improvement Project should not be assessed and levied against the western Prairie Hills Lot 1 or the Eagles Lodge Lot (described by City and County records and in the May 11, 2015, Notice in metes and bounds) as those services necessarily pre-existed the Dawson's Cottage Project since at least 1975.

Please direct any questions about the protest and request to me. Thank you for your consideration.

Respectfully Submitted,



C. Charles Ault-Duell  
Attorney For Greg Huston

CAD/sjs  
Enclosure(s)  
cc: Greg Huston

**NOTICE OF HEARING AND  
STATEMENT OF COST PROPOSED TO BE ASSESSED**

TO: Gregory C. Huston and Terry A. Sweiringen  
1650 Indy Rd  
Abilene, KS 67410

You are notified, as the owner of record of the property in the City of Abilene, Dickinson County, Kansas, which is described below, that there is proposed to be assessed against your property for the total final costs of the construction of water, street and related storm sewer/drainage improvements (the "Improvements") authorized by the City of Abilene, Kansas in Resolution No. 061013-2, adopted June 9, 2013, as amended by Resolution No. 030915-2, adopted March 9, 2015 (the "Advisability Resolution"), the following amounts:

<u>Description of Property</u>	<u>Assessment Amount</u>
Prairie Hills Addition:	
Lot 1	\$10,325.58
Lot 2	\$19,767.39
A tract of land in the South Half of the South Half of the Northwest Quarter of the Southeast Quarter of Section Nine, Township Thirteen South, Range Two East of the 6 <sup>th</sup> P.M. described as follows: Beginning at a point 390 feet East of the Northwest corner and on the North line of said (S/2 S/2 NW/4 SE/4) of Section 9; thence East 322.7 feet on said North line; thence South parallel to the North-South centerline of Section 9, a distance of 135.0 feet; thence West 322.7 feet; thence North 135.0 feet to a place of Beginning.	\$66,935.33

You are further notified that the City Commission of the City of Abilene (the "City") will conduct a public hearing on Monday, June 8, 2015, at 4:00 P.M., at the Public Library, 209 NW 4<sup>th</sup> Street, Abilene, Kansas, for the purpose of receiving any and all oral or written questions, complaints or objections to the proposed assessments for the Improvements. The Certificate of Total Final Costs and Assessment Roll for the Improvements are on file in my office for public inspection.

You are further notified that after hearing and considering all questions, complaints or objections to the proposed assessments, the City Commission will make a final determination of amounts of the individual assessments and the special assessments will be levied by an ordinance of the City. The ordinance will provide that you will have until noon on Tuesday, July 7, 2015 during which the special assessment against your property may be paid before it is placed on the tax rolls for collection in ten (10) approximately equal annual installments, with interest as permitted by Kansas law. If not prepaid, the first tax levy including an installment of special assessments will appear on the November 2015 ad valorem tax statements prepared by the Dickinson County Clerk. Pursuant to K.S.A. 12-6a11, you have 30 days from the publication of the assessment ordinance to bring a suit to set aside said assessments or otherwise question the validity of the proceedings.

Dated May 11, 2015

  
PENNY SOUKUP  
City Clerk  
City of Abilene, Kansas

**Samantha J. Steffen**

---

**From:** Greg <husbow@tctelco.net>  
**Sent:** Thursday, April 02, 2015 1:33 PM  
**To:** Charles Ault-Duell  
**Subject:** Fwd: Eagles Lodge Special Assessments

This was the first quote

Sent from my iPhone

Begin forwarded message:

**From:** Greg Huston <husbow@tctelco.net>  
**Date:** February 9, 2015 at 3:56:16 PM CST  
**To:** [red@midwestgreyhoundssupply.com](mailto:red@midwestgreyhoundssupply.com)  
**Subject:** Fwd: Eagles Lodge Special Assessments

Sent from my iPhone

Begin forwarded message:

**From:** David Dillner <[citymgr@abilenecityhall.com](mailto:citymgr@abilenecityhall.com)>  
**Date:** February 9, 2015, 3:46:56 PM CST  
**To:** Greg Huston <husbow@tctelco.net>  
**Subject:** Eagles Lodge Special Assessments

Greg,

The amount needed to pre-pay the special assessments to be certified against the Eagles Lodge would be \$91,250. Special assessments are estimated at 10,523 per year if the property owner elects to pay special assessments over ten years; the actual cost of special assessments will not be known until after the **project is** financed with bonds. In this scenario, pre-paying would save the property owner approximately \$13,974.

This is based on the Eagles Lodge lot square footage of 60,985, which comprises 25.1% of the square footage in the improvement district. Costs are based on engineering, construction, legal, and capitalized interest.

Please let me know if you have any other questions.

**David Dillner**  
City Manager  
City of Abilene, KS  
PO Box 519

419 N. Broadway Street  
Abilene, KS 67410  
Ph: (785) 263-2550  
Web: [www.abilenecityhall.com](http://www.abilenecityhall.com)  
Email: [citymgr@abilenecityhall.com](mailto:citymgr@abilenecityhall.com)  
Blog: <http://abileneks.blogspot.com>  
Twitter: @DavidDillner

"Pursuant to K.S.A. 45-215 *et seq.*, all records maintained by the City of Abilene, Kansas must be open for inspection by the public. This message and its contents are subject to public disclosure as are any responses to this message. State law provides for some exceptions to the Kansas Open Records Act (KORA), however, the exceptions are limited in scope and are not frequent in normal communications. If you have questions pertaining to the application of KORA to this message or its contents or have additional questions concerning KORA, please contact City Clerk Penny Soukup at (785) 263-2550."

## Samantha J. Steffen

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**From:** Greg <husbow@tctelco.net>  
**Sent:** Thursday, April 02, 2015 1:36 PM  
**To:** Charles Ault-Duell  
**Subject:** Fwd: Eagles Lodge Information  
**Attachments:** Dawson Cottage Line Item History.pdf; ATT00001.htm; Pre-Pay Amounts - Dawson Cottage Addition.pdf; ATT00002.htm

Second quote

Sent from my iPhone

Begin forwarded message:

**From:** David Dillner <citymgr@abilenecityhall.com>  
**Date:** February 13, 2015 at 3:48:23 PM CST  
**To:** Greg Huston <husbow@tctelco.net>  
**Cc:** Mark Guilfoyle <mark\_guilfoyle@yahoo.com>  
**Subject:** Eagles Lodge Information

Greg,

According to my revised calculations, the estimated amount needed to pre-pay the special assessments to be certified against the Eagles Lodge property is \$88,014.63, which includes the property's share of the engineering, construction, legal, administrative fees, and capitalized interest associated with the development at this time.

Please note that this figure should only be used for planning purposes; final pre-pay figures are subject to change and may be subject to the provisions of K.S.A. 12-6a01 et seq. Final pre-pay amounts may be subject to the review and approval of the governing body of the City of Abilene, Kansas.

This estimated figure is based on the Eagle's Lodge property of 60,984 square feet, or 25.1% of the total square footage included with the development. The total square footage for the development is 242,555 square feet, more or less.

According to the Community Development Department, the zoning for the property is "B-3, Highway Business District." Many commercial uses would be allowed on the property, but I would confirm any proposed use with the Community Development Department prior to construction to ensure that the proposed use conforms to the underlying zoning district.

Water connection fees (City Code, Section 7-802) are \$650 for 3/4-inch service, and \$950 for 1-inch service. The cost for a 2-inch service will be based on the actual cost of time, materials and equipment plus 10%. There is no sewer connection fees for connections made within city limits. You will need to pay these fees in order to get service connections to the property.

According to Dickinson County Property Data, the 0.05 acre lot located to the west of the Eagles' lot is owned by Staab Real Estate, LLC with an address of PO Box 1866, Grand Island, NE 68802. I cannot guarantee that this information is correct, but it is what Dickinson County shows on their website.

Please find attached a report showing line item detail for all expenses associated with the development subdivided into the categories of Legal, Engineering, Administrative Fees, Construction, and Bond Interest. The later category refers to the interest paid for the temporary notes issued to finance the project. I have also provided a spreadsheet showing the distribution of costs to each lot within the development and also showing the estimated pre-pay figures.

Please let me know if you have any questions.

David Dillner  
City of Abilene

## Samantha J. Steffen

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**From:** Greg <husbow@tctelco.net>  
**Sent:** Thursday, April 02, 2015 1:37 PM  
**To:** Charles Ault-Duell  
**Subject:** Fwd: Eagles Lodge Information  
**Attachments:** Dawson Cottage Line Item History.pdf; ATT00001.htm; Pre-Pay Amounts - Dawson Cottage Addition.pdf; ATT00002.htm

Third quote

Sent from my iPhone

Begin forwarded message:

**From:** David Dillner <citymgr@abilenecityhall.com>  
**Date:** February 13, 2015 at 3:48:23 PM CST  
**To:** Greg Huston <husbow@tctelco.net>  
**Cc:** Mark Guilfoyle <mark\_guilfoyle@yahoo.com>  
**Subject:** Eagles Lodge Information

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Please let me know if you have any questions.

David Dilner  
City of Abilene

**Samantha J. Steffen**

---

**From:** Greg <husbow@tctelco.net>  
**Sent:** Thursday, April 02, 2015 1:47 PM  
**To:** Charles Ault-Duell  
**Subject:** Fwd: Dawson Cottage Bids  
**Attachments:** Dawson Cottage Bids.pdf; ATT00001.htm

Fourth quote

Sent from my iPhone

Begin forwarded message:

**From:** David Dillner <[citymgr@abilenecityhall.com](mailto:citymgr@abilenecityhall.com)>  
**Date:** February 25, 2015 at 2:06:25 PM CST  
**To:** Greg Huston <[husbow@tctelco.net](mailto:husbow@tctelco.net)>  
**Cc:** Mark Guilfoyle <[mark\\_guilfoyle@yahoo.com](mailto:mark_guilfoyle@yahoo.com)>  
**Subject:** Dawson Cottage Bids

Greg,

Per your request, I have attached a copy of the construction bids for the Dawson Cottage Project for your review. I can confirm that the sanitary sewer taps are not included in the project as only water, street, and storm drainage improvements were authorized by the resolution for the inclusion in the benefit district.

Removing the sanitary sewer taps will adjust the pre-pay amount to \$80,103.

Please let me know if you have any questions.

David Dillner  
City of Abilene

# Abilene Eagles Lodge Dawson's Cottage Add'n Specials Calculation

Project Totals

Sources:

- Yorgis-Parga
- Billing Breakouts

- CITY OF

ABILENE Line Item

Details

- DC Addn Cost Breakdown	SQ. FT.	% SQ. FT. DC Addn	Water Line	San. Sewer	Street	Drainage	Legal	Admin	Interest Temp Bonds	Pre-Pay Amount
	242,555	100.00%	\$51,900.20	\$28,685.85	\$185,494.62	\$45,873.58	\$3,364.86	\$5,310.00	\$5,481.50	\$326,110.61
PH LOT 1 (west)*	7,095.0	2.93%	\$0.00	\$0.00	\$5,425.93	\$1,341.86	\$98.43	\$155.32	\$160.34	\$7,181.88
LODGE LOT*	41,450.0	17.09%	\$0.00	\$0.00	\$31,699.06	\$7,839.31	\$575.02	\$907.42	\$936.73	\$41,957.54
PH LOT 2 (east)*	12,439.0	5.13%	\$0.00	\$1,471.11	\$9,512.78	\$2,352.55	\$172.56	\$272.31	\$281.11	\$14,062.42
Total Lot	60,984.0	25.14%	\$0.00	\$1,471.11	\$46,637.77	\$11,533.71	\$846.01	\$1,335.06	\$1,378.18	

\*Estimated from DK Co. Tax Parcel Records and DK Co. GIS Measuring Tool. (7095+41450+12439) = 60,984 sqft or 1.4 Acres

Water Line and Sanitary Sewer on Lodge Lot and west PH Lot 1 pre-existed DC Addition Project. These items are therefore omitted.

No Sanitary Sewer on PH Lot 2 pre-existed DC Addition Project. This item is therefore included at the computation rate shown.

Preliminary Specials Assessment Total (w/o water on PH Lot 2) \$63,201.83

Add Water Line for "Lot 2" (assuming the "Lot 2" noted on Contractor's Statement is PH Lot 2): 95.2' of line installed @ \$38.55/lin. ft. \$3,669.96

**Eagles Property (Lodge Lot + PH Lots 1 and 2) Dawson's Cottage Addition Specials/Improvements Assessment Due: \$66,871.79**

Compare David Dillner's 2/25/15 E-mail Quote to Greg Huston of \$80,103:

EAGLES LODGE 60,984 25.10% \$13,026.95 \$7,200.15 \$46,559.15 \$11,514.27 \$844.58 \$1,332.81 \$1,375.86 \$81,853.76

**EXHIBIT A**

**Dawson's Cottage Addition Final Plat**

**City of Abilene, Kansas**

**Copy**

**April 22, 2013**





6. Per City policy, the City will require the Developer to include with the Benefit District Petition financial commitments equal to either: a) funding, in the form of cash, cashier's check, or escrow account, equal to 20% of the estimated principal cost of the project, or b) a financial guarantee, in the form of an irrevocable letter of credit, or corporate completion bond, equal to 35% of the estimated principal cost of the project.

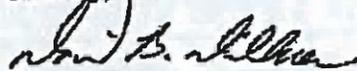
The required cash funds or financial guarantee shall be provided prior to the City awarding any construction contract. Cash funding will be used to reduce the amount of project costs covered by special assessment bond financing. The financial guarantee will be applied annually to satisfy the principal and interest costs of any outstanding bonds should any special assessments not be paid when due.

The financial guarantee will be released upon the request of the Developer, when certificates of occupancy for a principal building are issued for at least 35% of the properties within the development. At the time the bonds are issued, any funds in excess of the petitioner's contribution shall be refunded by the City or the financial guarantee shall be reduced by an equivalent amount. The Developer agrees that there shall be no time limits on any financial guarantee provided to the City to meet these requirements.

7. The Developer understands that pursuant to K.S.A. 12-6a14(d), the City may issue temporary financing for the public improvements and that following construction of the improvements the costs associated with the project will be financed with General Obligation Bonds of the City. Such bonds will have a ten-year maturity and shall be repaid from the proceeds of special assessments assessed against properties included in the Benefit District.
8. The City agrees to maintain the drainage structure provided the Developer's engineer designs the structure using best management practices that provides a low maintenance cost, retain the appropriate amount of stormwater for the development and provide an aesthetically pleasing solution. The City can provide guidance that may be of assistance in designing this structure. For the City's acceptance of the structure, the Developer agrees to pay a negotiable fee based on an analysis of the ten-year maintenance costs associated with such drainage structure.
9. A Development Agreement containing these provisions will be reviewed and considered by the City Commission prior to approval of the public improvements being let to bid.

Please contact me at (785) 283-2550 if you have any questions.

Sincerely,



David B. Dillner  
City Manager

CC: Pete Earles, Earles Engineering  
Tim Hamilton, Community Development Director  
Lon Schrader, Public Works Director



**Earles Engineering & Inspection, Inc.**

Civil & Structural Engineers - Construction Inspectors  
Salina, Kansas 67401

EEL Project No. 12-74  
3/1/13

**COST ESTIMATE**

**Prairie Hills Additon**

Item No.	Item	Quantity	Unit	ENGINEER'S ESTIMATE	
				Unit Cost	Extension
1	Excavation	1,139	Cu. Yd.	\$9.00	\$ 10,431.00
2	Compaction of Earthwork	892	Cu. Yd.	\$7.00	\$ 6,244.00
3	6" Concrete Pavement	3,352	Sq. Yd.	\$38.00	\$ 127,376.00
4	4" AB-3	458	Cu. Yd.	\$10.00	\$ 4,580.00
5	Entrance Pavement (6")	16	Sq. Yd.	\$65.00	\$ 1,040.00
6	Curb and Gutter	2,057	L.F.	\$22.00	\$ 45,254.00
7	Entrance Curb	24	L.F.	\$22.00	\$ 528.00
8	Storm Sewer Curb Inlet	2	Each	\$4,000.00	\$ 8,000.00
9	Storm Sewer Pipe (18" RCP)	50	L.F.	\$41.00	\$ 2,050.00
10	End Section (18" RCP)	1	Each	\$800.00	\$ 800.00
11	D50-6" Rock	9	Sq. Yd.	\$48.00	\$ 432.00
12	Pond Overflow Flume (Concrete)	1	L.S.	\$5,500.00	\$ 5,500.00
13	Adjust Existing S.S. Manhole to Grade	2	Each	\$1,000.00	\$ 2,000.00
14	Remove Existing Asphalt Pavement	110	Sq. Yd.	\$15.00	\$ 1,650.00
15	Remove & Replace Existing HMA	28	Sq. Yd.	\$55.00	\$ 1,540.00
16	Remove Existing Curb and Gutter	82	L.F.	\$12.00	\$ 984.00
17	4" Sanitary Sewer Service Connection	588	L.F.	\$16.00	\$ 9,408.00
18	6" Water Line	1,272	L.F.	\$25.00	\$ 31,800.00
19	6" Tapping Valve w/ Stop	1	Each	\$2,500.00	\$ 2,500.00
20	Fire Hydrant Assembly	2	Each	\$3,500.00	\$ 7,000.00
21	Remove & Replace Fire Hydrant Assembly	1	Each	\$1,500.00	\$ 1,500.00
22	Fittings	2	Each	\$1,000.00	\$ 2,000.00
23	Special Trench Construction	1	L.F.	\$9,400.00	\$ 9,400.00
24	1" Water Line	19	L.F.	\$13.00	\$ 247.00
25	1" Service Taps	19	Each	\$7.00	\$ 133.00
26	Erosion Control	1	L.S.	\$5,000.00	\$ 5,000.00
27	Contractor Construction Staking	1	L.S.	\$8,000.00	\$ 8,000.00
				<b>TOTAL BASE BID</b>	<b>\$311,408.00</b>
<b>ALTERNATE NO. 1</b>					
1	Delete 6" Concrete Pavement	3,352	Sq. Yds.	(\$38.00)	\$ (127,376.00)
2	Delete 4" AB-3	369	Cu. Yds.	(\$10.00)	\$ (3,690.00)
3	Add 6" Bituminous Pavement	3,352	Sq. Yds.	\$40.00	\$ 134,080.00
4	Add 6" AB-3	559	Sq. Yds.	\$12.00	\$ 6,708.00
				<b>TOTAL ALTERNATE NO. 1</b>	<b>\$9,722.00</b>
				<b>TOTAL BASE BID+ALT. No. 1 BID</b>	<b>\$321,131.00</b>

**CHANGE IN PLANS AND CONSTRUCTION**

Request Number 1

Contract For:  
Dawson Cottage Addition  
 Contractor:  
Veit's-Papa Construction, LLC  
 Original Contract Price  
\$272,986.00

City/County  
Abilene, Kansas  
 Project Number:  
2012-74

**RECORDED CHANGES IN PRESENT CONTRACT**

Contract For	Previous Quantity	Previous Amount	Unit	Item Description	Additional Excavation (for Pond)	Adjusted Quantity	Contract Unit Price	Revised or New Unit Price	Adjusted Amount
	1,159	\$7,765.30	(Cu.-Yds.)			1,369	\$6.70		\$9,172.30
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									
12									
13									
14									
15									
16									
<b>TOTAL</b>		<b>\$7,765.30</b>						<b>TOTAL</b>	<b>\$9,172.30</b>

NET INCREASE

TOTAL

\$1,407.00

This is to affirm that we have inspected this change in plans and construction and hereby agree to the quantities, unit prices, and amount shown above.

Recommended for Approval

*[Signature]*  
 Engineer

Contractor

Signed By:

Project: Dawson Cottage Addition City of Abilene  
 PAY VOUCHER NO: FINAL

PROJECT: Dawson Cottage Hills Addition  
 PAY VOUCHER NO: FINAL  
 OWNER: City of Abilene  
 CONTRACTOR: Vogt's Parga, L.L.C  
 ESTIMATED PERIOD: FROM N/A  
 DAYS LAPSED THIS PAY PERIOD: N/A

DATE SUBMITTED: 10/31/13  
 NOTICE TO PROCEED:  
 CONTRACT TIME: 120  
 TO: N/A  
 TOTAL DAYS ELAPSED TO DATE: N/A  
 EEI PROJECT NO: 2012-08

BID ITEM QUANTITIES:

NO.	ROADWAY QUANTITIES	QUANTITY	UNIT	UNIT PRICE	COMPLETED	EXTENSION
1	Excavation (CO #2)	1,919	Cu Yd.	\$6.70	1,919	\$ 13,055.30
2	Construction of Earthwork (CO #2)	1,250	Cu Yd.	\$1.00	1,250	\$ 1,250.00
3	6" Concrete Pavement	1,386	Sq. Yd.	\$32.50	3,356	\$ 110,045.00
4	4" AB-3	457	Cu Yd.	\$49.50	457	\$ 22,621.50
5	Entrance Pavement (6")	16	Sq Yd.	\$35.00	16	\$ 560.00
6	Curb and Gutter	2,057	LF.	\$12.85	2,057	\$ 26,432.45
7	Entrance Curb	24	LF.	\$14.50	24	\$ 348.00
8	Storm Sewer Curb Inlet	3	Each	\$4,700.00	3	\$ 9,400.00
9	Storm Sinker Pipe (18" RCP)	63	T.F.	\$48.50	63	\$ 3,055.50
10	End Section (18" RCP)	1	Each	\$800.00	1	\$ 800.00
11	1250 6" Rock (CO #1)	74	Sq. Yd	\$85.00	74	\$ 6,290.00
12	Pond Overflow Flap (Concrete)	1	L.S.	\$9,500.00	1	\$ 9,500.00
13	Adjust Existing S.S. Inlet to Grade	3	Each	\$300.00	3	\$ 1,000.00
14	Remove & Replace Existing FEMA	33		\$35.00	33	\$ 1,155.00
15	Remove Existing Storm Inlet	9		\$12.50	119	\$ 1,487.50
16	Remove Existing Curb and Gutter	82		\$7.00	82	\$ 574.00
17	4" Secondary Storm Sewer Connection (CO #1)	1		\$1,655.00	174	\$ 1,655.00
18	6" Water Line	901		\$2.20	901	\$ 19,820.00
19	6" Teeing Valve w/ S.S. Inlet	1		\$3,250.00	1	\$ 3,250.00
20	Fire Hydrant Assembly	2		\$5,000.00	2	\$ 10,000.00
21	Remove & Re-Set P.U. Assembly	1		\$2,950.00	1	\$ 2,950.00
22	Fittings	292		\$5.67	292	\$ 1,606.00
23	Special Trench Construction (CO #3)	1,350	LF.	\$10.95	1,350	\$ 14,677.50
24	erosion Control	1	L.S.	\$3,200.00	1	\$ 3,200.00
25	Contractor Construction Staking	1	L.S.	\$10,900.00	1	\$ 10,900.00
	Tree Removal - CO #3					\$ 675.00

A. COMPLETED AMOUNT	\$ 392,470.75
B. MATERIALS ON HAND	\$
C. CHANGE ORDERS (included above)	\$
<b>TOTAL AMOUNT EARNED</b>	<b>\$ 392,470.75</b>
Less Retainage (10%)	\$
Less Previous Payments	\$ 277,847.31
<b>AMOUNT DUE CONTRACTOR</b>	<b>\$ 114,623.44</b>

APPROVALS:  
 EARLES ENGINEERING INC.  
 SIGNED: *Bradley McHenry*  
 DATE: 10-31-13

Vogt's Parga Const. LLC  
 SIGNED: *Ally G. Vogt*  
 DATE: 10/30/2013

CITY OF ABILENE  
 SIGNED:  
 DATE:

Project: Dawson Cottage Addition City of Abilene

EEl NO. 12-74

WATER LINE	QUANTITY	UNIT	UNIT PRICE	COMPLETED	EXTENSION
6" Water Line	991	L.F.	\$20.00	991	\$ 19,820.00
6" Tapping Valve w/ Sleeve & Riser	1	Each	\$3,250.00	1	\$ 3,250.00
Fire Hydrant Assembly	2	Each	\$5,000.00	2	\$ 10,000.00
Remove & Re-Set F.H. Assembly	1	Each	\$2,950.00	1	\$ 2,950.00
Fittings	292	Lhr.	\$5.50	292	\$ 1,606.00
Remove & Replace Existing HMA	33	Sq. Yd.	\$35.00	33	\$ 1,155.00
Special Trench Compaction	776	L.F.	\$10.25	776	\$ 7,954.00
Contractor Construction Staking	1	L.S.	\$10,900.00	0.17	\$ 1,853.00
<b>CONSTRUCTION COST WATER</b>					<b>\$ 48,588.00</b>
<b>ENGINEERING WATER LINE</b>					<b>\$ 3,312.20</b>
<b>CONSTRUCTION ENGINEERING</b>					<b>\$ -</b>

SANITARY SEWER	QUANTITY	UNIT	UNIT PRICE	COMPLETED	EXTENSION
Adjust Existing S.S. Manhole to Grade	2	Each	\$500.00	2	\$ 1,000.00
4" Sanitary Sewer Service Connection	574	L.F.	\$32.50	574	\$ 18,655.00
Special Trench Compaction	574	L.F.	\$10.25	574	\$ 5,883.50
Contractor Construction Staking	1	L.S.	\$10,900.00	0.11	\$ 1,199.00
<b>CONSTRUCTION COST SS</b>					<b>\$ 26,737.50</b>
<b>ENGINEERING SEWER LINE</b>					<b>\$ 1,948.35</b>
<b>CONSTRUCTION ENGINEERING</b>					<b>\$ -</b>

ROADWAY	QUANTITY	UNIT	UNIT PRICE	COMPLETED	EXTENSION
6" Concrete Pavement	3,386	Sq. Yd.	\$32.50	3,386	\$ 110,045.00
4" AB-3	457	Cu. Yd.	\$49.50	457	\$ 22,621.50
Entrance Pavement (6")	16	Sq. Yd.	\$35.00	16	\$ 560.00
Curb and Gutter	2,057	L.F.	\$12.85	2,057	\$ 26,432.45
Entrance Curb	24	L.F.	\$14.50	24	\$ 348.00
Remove Existing Curb and Gutter	82	L.F.	\$9.00	82	\$ 738.00
Remove Existing Asphalt Pavement	19	Sq. Yd.	\$25.00	19	\$ 475.00
Excavation	7	Cu. Yd.	\$6.70	7	\$ 46.90
Compaction of Earthwork	9	Cu. Yd.	\$1.00	9	\$ 9.00
Erosion Control	1	L.S.	\$3,200.00	0.5	\$ 1,600.00
Contractor Construction Staking	1	L.S.	\$10,900.00	0.17	\$ 1,853.00
<b>CONSTRUCTION COST ROADWAY</b>					<b>\$ 173,999.35</b>
<b>ENGINEERING ROADWAY</b>					<b>\$ 11,495.27</b>
<b>CONSTRUCTION ENGINEERING</b>					<b>\$ -</b>

DRAINAGE	QUANTITY	UNIT	UNIT PRICE	COMPLETED	EXTENSION
Storm Sewer Curb Inlet	2	Each	\$4,700.00	2	\$ 9,400.00
Storm Sewer Pipe (18" RCP)	63	L.F.	\$48.50	63	\$ 3,055.50
End Section (18" RCP)	1	Each	\$800.00	1	\$ 800.00
D50-6" Rock	74	Sq. Yd.	\$85.00	74	\$ 6,290.00
Pond Overflow Flume (Concrete)	1	L.S.	\$9,500.00	1	\$ 9,500.00
Excavation	1,382	Cu. Yd.	\$6.70	1,382	\$ 9,259.40
Compaction of Earthwork	931	Cu. Yd.	\$1.00	931	\$ 931.00
Erosion Control	1	L.S.	\$3,200.00	0.5	\$ 1,600.00
Trex Removal	1	L.S.	\$675.00	1.0	\$ 675.00
Contractor Construction Staking	1	L.S.	\$10,900.00	0.15	\$ 1,635.00
<b>CONSTRUCTION COST DRAINAGE</b>					<b>\$ 43,145.90</b>
<b>ENGINEERING DRAINAGE</b>					<b>\$ 2,727.68</b>
<b>CONSTRUCTION ENGINEERING</b>					<b>\$ -</b>

TOTAL PROJECT CONSTRUCTION COST \$ 292,470.75

TOTAL PROJECT COST \$ 311,954.25

Project: Dawson Cottage Addition City of Abilene

EEl NO. 12-74

WATER LINE	QUANTITY	UNIT	UNIT PRICE	COMPLETED	EXTENSION
6" Water Line	991	L.F.	\$30.00	991	\$ 19,830.00
6" Tapping Valve w/ Sleeve & Riser	1	Each	\$1,250.00	1	\$ 3,250.00
Fire Hydrant Assembly	2	Each	\$1,000.00	2	\$ 10,000.00
Remove & Re-Set F.H. Assembly	1	Each	\$2,950.00	1	\$ 2,950.00
Fittings	292	Lbs.	\$5.50	292	\$ 1,606.00
Remove & Replace Existing HMA	33	Sq. Yd.	\$35.00	33	\$ 1,155.00
Special Trench Compaction	776	L.F.	\$10.25	776	\$ 7,954.00
Contractor Construction Staking	1	L.S.	\$10,900.00	0.17	\$ 1,853.00
<b>CONSTRUCTION COST WATER</b>					<b>\$ 48,588.00</b>
<b>ENGINEERING WATER LINE</b>					<b>\$ 3,312.20</b>
<b>CONSTRUCTION ENGINEERING</b>					<b>\$ -</b>

SANITARY SEWER	QUANTITY	UNIT	UNIT PRICE	COMPLETED	EXTENSION
Adjust Existing S.S. Manhole to Grade	2	Each	\$500.00	2	\$ 1,000.00
4" Sanitary Sewer Service Connection	574	L.F.	\$32.50	574	\$ 18,655.00
Special Trench Compaction	574	L.F.	\$10.25	574	\$ 5,883.50
Contractor Construction Staking	1	L.S.	\$10,900.00	0.11	\$ 1,199.00
<b>CONSTRUCTION COST SS</b>					<b>\$ 26,737.50</b>
<b>ENGINEERING SEWER LINE</b>					<b>\$ 1,948.35</b>
<b>CONSTRUCTION ENGINEERING</b>					<b>\$ -</b>

ROADWAY	QUANTITY	UNIT	UNIT PRICE	COMPLETED	EXTENSION
6" Concrete Pavement	3,386	Sq. Yd.	\$32.50	3,386	\$ 110,045.00
4" AB-3	457	Cu. Yd.	\$49.50	457	\$ 22,621.50
Entrance Pavement (6")				16	\$ 560.00
Curb and Gutter		L.F.	\$12.85	57	\$ 6,432.45
Entrance Curb	4	L.F.	\$14.50	4	\$ 348.00
Remove Existing Curb and Gutter	2	L.F.	\$7.00		\$ 74.00
Remove Existing Asphalt Pavement		Sq. Yd.	\$17.60	1	\$ 1,487.50
Excavation	567	Cu. Yd.	\$6.70	567	\$ 3,798.90
Compaction of Earthwork	319	Cu. Yd.	\$1.00		\$ 319.00
Erosion Control	1	L.S.	\$1,200.00	0.5	\$ 1,600.00
Contractor Construction Staking	1	L.S.	\$10,900.00	0.57	\$ 6,213.00
<b>CONSTRUCTION COST ROADWAY</b>					<b>\$ 173,999.35</b>
<b>ENGINEERING ROADWAY</b>					<b>\$ 11,495.27</b>
<b>CONSTRUCTION ENGINEERING</b>					<b>\$ -</b>

DRAINAGE	QUANTITY	UNIT	UNIT PRICE	COMPLETED	EXTENSION
Storm Sewer Curb Inlet	2	Each	\$4,700.00	2	\$ 9,400.00
Storm Sewer Pipe (18" RCP)	63	L.F.	\$48.50	63	\$ 3,055.50
End Section (18" RCP)	1	Each	\$800.00	1	\$ 800.00
D50-6" Rock	74	Sq. Yd.	\$85.00	74	\$ 6,290.00
Pond Overflow Flume (Concrete)	1	L.S.	\$9,500.00	1	\$ 9,500.00
Excavation	1,382	Cu. Yd.	\$6.70	1,382	\$ 9,259.40
Compaction of Earthwork	931	Cu. Yd.	\$1.00	931	\$ 931.00
Erosion Control	1	L.S.	\$1,200.00	0.5	\$ 1,600.00
Tree Removal	1	L.S.	\$675.00	1.0	\$ 675.00
Contractor Construction Staking	1	L.S.	\$10,900.00	0.15	\$ 1,635.00
<b>CONSTRUCTION COST DRAINAGE</b>					<b>\$ 43,145.90</b>
<b>ENGINEERING DRAINAGE</b>					<b>\$ 2,727.68</b>
<b>CONSTRUCTION ENGINEERING</b>					<b>\$ -</b>

TOTAL PROJECT CONSTRUCTION COST \$ 292,470.75

TOTAL PROJECT COST \$ 311,954.25

Water line: Total = 51,900.20  
Project Length = 1346' + Served Lot Lengths Total = 1,346' +/-  
 $51,900.20 / 1346' = \$38.65$  per Lin. Ft. Cost  
Length Lot 2 = 95.2' +/-  
 $95.2' * \$38.65 = \$3,669.96$  +/-

Sewer line: Total = 51,900.00  
Project Length = 1346' Served Lot Lengths Total = 1,346' +/-  
 $28,685.85 / 1346 = \$21.31$  per Lin. Ft. Cost  
Dawson Cottage Addition Only: Eagles Lodge Existing San. Sewer

Total Project Length 951' +/-

Copy

**Dawson Cottage Addition Cost Breakdown (estimated)**  
February 13, 2015

	Sq Ft	Engineering	Legal	Administration	Construction	Interest	Est. Pre-Pay Amount
<b>BLOCK 1</b>							
Lot 1	9,203.80	\$ 1,648.25	\$ 127.68	\$ 201.49	\$ 11,097.88	\$ 208.00	\$ 13,283.30
Lot 2	8,798.40	\$ 1,575.65	\$ 122.06	\$ 192.61	\$ 10,609.05	\$ 198.84	\$ 12,698.21
Lot 3	8,114.80	\$ 1,453.23	\$ 112.57	\$ 177.65	\$ 9,784.77	\$ 183.39	\$ 11,711.61
Lot 4	8,535.00	\$ 1,528.48	\$ 118.40	\$ 186.85	\$ 10,291.45	\$ 192.88	\$ 12,318.06
Lot 5	8,799.05	\$ 1,575.77	\$ 122.07	\$ 192.63	\$ 10,609.84	\$ 198.85	\$ 12,699.15
Lot 6	8,522.17	\$ 1,526.18	\$ 118.22	\$ 186.57	\$ 10,275.98	\$ 192.59	\$ 12,299.55
<b>Total</b>	<b>51,973.22</b>	<b>\$ 9,507.57</b>	<b>\$ 721.00</b>	<b>\$ 1,137.80</b>	<b>\$ 62,668.98</b>	<b>\$ 1,174.54</b>	<b>\$ 75,009.90</b>
<b>BLOCK 2</b>							
Lot 1	9,180.00	\$ 1,643.99	\$ 127.35	\$ 200.97	\$ 11,069.19	\$ 207.46	\$ 13,248.96
Lot 2	8,773.70	\$ 1,571.23	\$ 121.71	\$ 192.07	\$ 10,579.27	\$ 198.28	\$ 12,662.57
Lot 3	8,097.60	\$ 1,450.15	\$ 112.33	\$ 177.27	\$ 9,764.03	\$ 183.00	\$ 11,686.79
Lot 4	9,175.92	\$ 1,643.26	\$ 127.29	\$ 200.88	\$ 11,064.27	\$ 207.37	\$ 13,243.07
Lot 5	8,769.80	\$ 1,570.53	\$ 121.66	\$ 191.99	\$ 10,574.57	\$ 198.19	\$ 12,656.94
Lot 6	7,824.20	\$ 1,401.19	\$ 108.54	\$ 171.29	\$ 9,434.37	\$ 176.82	\$ 11,292.21
Lot 7	10,790.00	\$ 1,932.32	\$ 149.69	\$ 236.21	\$ 13,010.51	\$ 243.84	\$ 15,572.57
Lot 8	9,170.80	\$ 1,642.34	\$ 127.22	\$ 200.77	\$ 11,058.09	\$ 207.25	\$ 13,235.68
Lot 9	8,763.95	\$ 1,569.48	\$ 121.58	\$ 191.86	\$ 10,567.52	\$ 198.06	\$ 12,648.49
Lot 10	9,975.94	\$ 1,786.53	\$ 138.39	\$ 218.39	\$ 12,028.93	\$ 225.45	\$ 14,397.69
Lot 11	10,244.04	\$ 1,834.54	\$ 142.11	\$ 224.26	\$ 12,352.20	\$ 231.51	\$ 14,784.62
Lot 12	9,029.59	\$ 1,617.06	\$ 125.26	\$ 197.68	\$ 10,887.82	\$ 204.06	\$ 13,031.88
Lot 13	8,893.50	\$ 1,592.68	\$ 123.38	\$ 194.70	\$ 10,723.73	\$ 200.98	\$ 12,835.47
Lot 14	10,908.30	\$ 1,953.50	\$ 151.33	\$ 238.80	\$ 13,153.16	\$ 246.52	\$ 15,743.31
<b>Total</b>	<b>129,597.34</b>	<b>\$ 23,208.81</b>	<b>\$ 1,797.85</b>	<b>\$ 2,837.14</b>	<b>\$ 156,267.65</b>	<b>\$ 2,928.78</b>	<b>\$ 187,040.23</b>
<b>EAGLES</b>	<b>60,984.00</b>	<b>\$ 10,921.26</b>	<b>\$ 846.01</b>	<b>\$ 1,335.06</b>	<b>\$ 73,534.12</b>	<b>\$ 1,378.18</b>	<b>\$ 88,014.63</b>
<b>TOTAL</b>	<b>242,554.56</b>	<b>\$ 43,437.65</b>	<b>\$ 3,364.86</b>	<b>\$ 5,310.00</b>	<b>\$ 292,470.75</b>	<b>\$ 5,481.50</b>	<b>\$ 350,064.76</b>

NOTES: This document should only be used for planning purposes; final pre-pay figures are subject to change and may be subject to the provisions of K.S.A. 12-6a01 et seq. Final pre-pay amounts may be subject to the review and approval of the governing body of the City of Abilene, Kansas.

Date	Debits	Credits	Memo	Voucher No	Vendor	Check No	Src	Prior Yr
Beg Bal	0.00		<u>046</u> <u>DAWSON COTTAGE ADDITION</u>					
08/26/13	3,364.86		520110 LEGAL	20131247	TRIPLETT, WOOLF & GARRETSON		V	
	3,364.86		Account Total Activity					
		3,364.86	Account Ending Balance					
Beg Bal	0.00		520140 ENGINEERING					
07/22/13	875.50		ENGINEER REVIEW DAWSON COTTAGE ADDITION	20131028	SCHWAB-EATON, PA		V	
12/09/13	26,635.75		ENGINEERING ON DAWSON COTTAGE ADDITION	20131725	DAWSON, SCOTT		V	
12/31/13	15,926.10		ENCUMBER - INSPECTION SERVICES DAWSON COTTAGE ADDITION	20131872	KAW VALLEY ENGINEERING		V	
	43,437.65		Account Total Activity					
		43,437.65	Account Ending Balance					
Beg Bal	0.00		530375 ADMINISTRATIVE FEES					
07/23/13	630.00		TEMPORARY NOTE SERIERS A, 2013 - REGISTRATION FEE	20131067	KS TREASURER		V	
08/12/13	4,500.00		SERVICE FEE DAWSON TEMP NOTES	20131097	PIPER JAFFARY & CO.		V	
08/12/13	180.00		DAWSON COTTAGE ADDITION - TEMP NOTE REVIEW	20131114	OFFICE OF ATTORNEY GENERAL		V	
	5,310.00		Account Total Activity					
		5,310.00	Account Ending Balance					
Beg Bal	0.00		590651 CONSTRUCTION					
10/15/13	277,847.21		CONSTRUCTION DAWSON COTTAGE ADDITION	20131474	VOGTS-PARGA CONST. LLC		V	
12/31/13	14,623.54		ENCUMBER - CONSTRUCTION ON DAWSON COTTAGE ADDITION	20131877	VOGTS-PARGA CONST. LLC		V	
	292,470.75		Account Total Activity					
		292,470.75	Account Ending Balance					
	344,583.26		Fund Total Activity					
		344,583.26	Total Activity All Accounts Reported					

CITY OF ABILENE

Line Item Detail History

For January 2014 Thru December 2014

Date	Debits	Credits	Memo	Voucher No	Vendor	Check No	Src	PriorYr
01/27/14	0.00		<u>046</u> DAWSON COTTAGE ADDITION					
01/27/14	2,061.50		540200 BOND INTEREST	20140064	KS TREASURER		Y	
07/28/14	1,710.00		INTEREST ON TEMP NOTES - DAWSON COTTAGE ADDITION	20141064	KS TREASURER		Y	
			NOTE					
	3,771.50	0.00	Account Total Activity					
	3,771.50		Account Ending Balance					
	3,771.50	0.00	Fund Total Activity					
	3,771.50	0.00	Total Activity All Accounts Reported					

CITY OF ABILENE

Line Item Detail History

For January 2015 Thru December 2015

Date	Debits	Credits	Memo	Voucher No	Vendor	Check No	Sre	PriorYr
Beg Bal	0.00							
02/09/15	1,710.00		046 DAWSON COTTAGE ADDITION	20150145	KS TREASURER		V	
		1,710.00	540200 BOND INTEREST					
		1,710.00	INTEREST ON TEMP NOTES - DAWSON COTTAGE ADDITION					
		1,710.00	Account Total Activity					
		1,710.00	Account Ending Balance					
		1,710.00	Fund Total Activity					
		1,710.00	Total Activity All Accounts Reported					

# Dickinson County Property Data

Commercial Detail Information

Friday May 29 2015 10:40:42 AM

Subject Property

[Print](#)

Parcel ID : 0211120904001009000

[Click here to locate on Map](#)

Owner Name : HUSTON, GREGORY C

No property photo available

Location : 1701 N BUCKEYE AVE, Abilene, KS 67410

PRAIRIE HILLS ADDITION, S09, T13, R02, LOTS 1 & 2, INC BEG 390' E &

Legal Desc : 195' N SW COR NW4 SE4, TH N 135', E 322.7', S 135', W 322.7' TO POB,  
LESS R/W.

The legal description displayed above is not adequate for use in legal documents

Building Section Details

[Click here to go back to the building list for this parcel](#)

Section No : 1	Level From : 01	Level To : 01
Size : 6,000	Perim : 320	Occupancy : Fraternal Building
Wall Height : 16	Yr Built : 1975	More Info Available : <a href="#">Click here</a>

Other Improvements

Type :	Quantity :	Area :	Year Built :	Quality :	Condition :
Paving, Concrete with Base	1	1,073	1996	AV	AV
Storage Bldg, Steel	1	384	1960	AV	FR
Pole Light, Mercury 24 ft.	1	3	1985	AV	AV
Fence, Wood Solid Boards	1	750	2011	AV	AV

RESOLUTION NO. 062215-\_\_

A RESOLUTION OF THE CITY OF ABILENE, KANSAS, AUTHORIZING SALE OF THE CITY'S GENERAL OBLIGATION [REFUNDING AND] IMPROVEMENT BONDS, SERIES \_\_, 2015, IN AN APPROXIMATE PRINCIPAL AMOUNT OF \$ \_\_, \_\_, 000.00.

WHEREAS, the governing body of the City of Abilene, Kansas (the "City") has authorized certain improvements in the City and has further authorized issuance of its general obligation bonds to pay (i) the costs of the improvements, (ii) costs of refunding certain outstanding bonds of the City and (iii) costs of issuing the bonds; and

WHEREAS, it is necessary to authorize and provide for the public sale of general obligation bonds of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF ABILENE, KANSAS:

SECTION 1. Authorization of the Bonds and Public Sale. The City's General Obligation Refunding and Improvement Bonds, Series \_\_, 2015, in an approximate principal amount of \$ \_\_, \_\_, 000 (the "Bonds"), are authorized to be offered at a public sale on Monday, July 27, 2015 at 2:00 P.M., Central Time, or on another date approved by the Mayor that is also the date of a city commission meeting. The City Clerk is authorized and directed to receive bids for the Bonds on behalf of the City and to deliver the bids received to the governing body at its meeting to be held at 4:00 P.M. on the sale date, where the governing body will consider and take action on the bids received.

SECTION 2. Authorization of Summary Notice of Bond Sale and Publication. Triplett, Woolf & Garretson, LLC, Wichita, Kansas, the City's Bond Counsel ("Bond Counsel") is authorized to prepare a Summary Notice of Bond Sale (if required by law) on behalf of the City and Bond Counsel and the City Clerk are authorized to arrange for publication of the Summary Notice of Bond Sale as required by law, at least six (6) days before the date of the public sale, in a newspaper of general circulation in Dickinson County, Kansas and in *The Kansas Register*, the official newspaper of the State of Kansas.

SECTION 3. Authorization of Official Notice of Bond Sale, Official Bid Form and Preliminary Official Statement. Bond Counsel is authorized and directed to prepare an Official Notice of Bond Sale and Official Bid Form for the sale of the Bonds in cooperation with the City Clerk and Piper Jaffray & Co., Leawood, Kansas, the City's Financial Advisor ("Financial Advisor"). The Financial Advisor is authorized and directed to prepare the Preliminary Official Statement for the Bonds, if a Preliminary Official Statement is required, in cooperation with Bond Counsel and the City Clerk, and the Mayor and the City Clerk are authorized to execute the Preliminary Official Statement. The Preliminary Official Statement (if prepared), Official

Notice of Bond Sale and Bid Form are authorized to be distributed (in their entirety) to prospective purchasers of the Bonds before the sale date.

SECTION 4. SEC Rule Compliance; Continuing Disclosure. To permit the purchaser of the Bonds to comply with the requirements of Rule 15c2-12(b)(1) of the Securities and Exchange Commission (the "SEC Rule") the Mayor, City Clerk or the City Manager are authorized, if requested to do so, to certify to the purchaser of the Bonds that the City deems the information in the Preliminary Official Statement "final" as of its date except for the omission of information as permitted by the SEC Rule and to take such other actions as such City officers find necessary to permit the purchaser of the Bonds to comply with the SEC Rule. The City further agrees that, on or before the date the Bonds are delivered, it will enter into a written undertaking to provide continuing disclosure about the City while the Bonds remain outstanding, if required by the applicable sections of the SEC Rule.

SECTION 5. Authorization of Additional Actions as Required. The Mayor, City Clerk and City Manager are hereby authorized and directed to take all such other actions consistent with this Resolution as may be appropriate or desirable to accomplish the purposes contemplated by this Resolution, including but not limited to, providing any necessary notice of the City's intent to redeem any outstanding bonds or other obligations of the City to be refunded from proceeds of the Bonds, as required by the documents authorizing such existing obligations.

SECTION 6. Effective Date. This Resolution shall be in force and take effect from and after its adoption and approval.

*[Remainder of Page Intentionally Left Blank]*

ADOPTED AND APPROVED by the governing body of the City of Abilene, Kansas on June 22, 2015.

CITY OF ABILENE, KANSAS

[seal]

\_\_\_\_\_  
Dennis Weishaar, Mayor

ATTEST:

\_\_\_\_\_  
Penny L. Soukup, City Clerk

DRAFT

EXCERPT OF MINUTES

The governing body of the City of Abilene, Kansas, met in regular session at the usual meeting place in the City on June 22, 2015, at 4:00 P.M., Central Time. Mayor Dennis Weishaar, presided, and members of the governing body were present as follows:

The following members of the governing body were absent:

Among other business, a Resolution was presented to the governing body entitled:

A RESOLUTION OF THE CITY OF ABILENE, KANSAS, AUTHORIZING SALE OF THE CITY'S GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS, SERIES \_\_, 2015, IN AN APPROXIMATE PRINCIPAL AMOUNT OF \$ \_\_, \_\_, 000.00.

The Resolution was considered and discussed; and on motion of \_\_\_\_\_, seconded by \_\_\_\_\_, the Resolution was adopted by a majority vote of the members present and was assigned No. 062215-\_\_.

\*\*\*\*\*  
DRAFT

CITY CLERK'S  
CERTIFICATION OF EXCERPT OF MINUTES

I hereby certify that the foregoing is a true and correct Excerpt of Minutes of the June 22, 2015 meeting of the governing body of the City of Abilene, Kansas.

[seal]

\_\_\_\_\_  
Penny L. Soukup, City Clerk

DRAFT

**Abilene City Commission Minutes**  
**Abilene Public Library**  
**June 8, 2015 @ 4:00 p.m.**  
**Abilene, Kansas**

**1. Call to Order**

**2. Roll Call** – City Commission Present: Mayor Weishaar, Commissioners Ray, Payne, Marshall and Shafer.

Staff Present: City Manager Dillner, Human Resources Director/City Clerk Soukup, Finance Director Rothchild, Convention & Visitors Bureau Director Purkis, Parks & Recreation Director Foltz, Community Development Administrative Assistant Hiatt and Fire Chief Sims.

Others Present: Gary Hanson-Flint Hills Grain/Gavilon, Rick Benware-Flint Hills Grain/Gavilon, Beth Weibert-Flint Hills Grain/Gavilon, LaVeda Montgomery- Dickinson County Health Department, Charles Ault-Duell-Norton Wasserman Jones & Kelly, LLC, Eddie Balluch, Vicki Gieber-Quality of Life Coalition, Bruce Dale-Quality of Life Coalition, Michelle Stephens, Quality of Life Coalition, Hank Royer, Mary Carson-Triplett Woolf & Garretson, LLC, Dustin Avey-Piper Jaffray and Tiffany Ramey-Senior Citizen Center.

**3. Pledge of Allegiance** - Mayor Weishaar led the Pledge of Allegiance.

**Consent Agenda**

4. Agenda Approval for the June 8, 2015 City Commission Meeting

5. Meeting Minutes: May 11, 2015, Regular Meeting

Motion by Commissioner Marshall, seconded by Commissioner Ray to approve the Consent Agenda with the addition of item No. 17, sewer re-alignment bids. Motion carried unanimously 5-0.

**Public Comments and Communications**

**6. Public Comments.** Persons who wish to address the City Commission regarding items not on the agenda and that are under the jurisdiction of 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 (3) minutes. Any presentation is for informational purposes only. No action will be taken.

Mayor Weishaar asked for any comments or communications from the public that are not on the agenda.

Eddie Balluch, 419 NE 14<sup>th</sup> St., Lot 9, spoke regarding transparency in government.

Transparency in Government has been the buzz phrase for quite some time now. Cities, Counties and even State Governments continue to try to find ways to inform the general public how their tax dollars are being collected and spent. Even within our state statutes there are certain requirements which must be met in an effort to be a transparent government. An example of this is Kansas Statute 12-1608 which states: Cities of the First or Second Class shall publish the Quarterly Treasurer's Report within 30 days after the quarter ending in March, June, September and December. Last year (at least through July), I felt, Abilene was maintaining a fairly high level of transparency with regard to financial reporting. The City Commission was informed monthly on the financial performance of the city through reports provided to them within their meeting packets, and by being in the packets; it made these reports available to the general public for review.

Those reports included: The Monthly Receipts and Expenditures Report of each Fund comparing it to last year's data, as well as predictions on End of Year balances based upon the data. Also, the Monthly Sales Tax report to show how sales tax collections were progressing compared to last year and against budget. The third report was the Quarterly Treasurer's Report. It was published in the City's official newspaper as required by State Statute 12-1608. And a fourth report that was given to the Commission was a Key Revenues Report to show how all revenues (not just the Sales Tax Revenue) was fairing against the budget. Again, I felt transparency was there not only for the City Commission, but also for the general public. Since July of last year, I feel that transparency has become much more opaque. Today I still am able to review the monthly Sales Tax Report. The monthly Revenues and Expense Reports to the City Commission have gone by the wayside (at least from what I can tell) as well as the Key Revenue Report. In October last year I thought things were going to improve as a new procedure was established that the Quarterly Treasurer's Report was going to be briefed and accepted by the City Commission prior to publishing it in the newspaper. That procedure didn't last long as the City Commission never accepted the end of the year Treasurer's Report even though it was briefed in the Study Session on February 17th (which is past the 30 day requirement of the state statute). That end of the year report showed 3 Funds with negative balances, which, I believe to be a violation of Kansas Cash Basis Law. I know they were unaudited figures but they should have been closer to reality than they were. What was your confidence level in the figures that were provided, because I know what lack of confidence gets you? What I saw in the Quarterly Treasurer's Report were figures completely askew because I don't believe the budgeted Transfers between Funds had been performed, and I believe a budget amendment was required to approve transfers from the General Fund to the Debt Service Fund, and Special Highway Fund to rectify the negative balances they were showing. But no budget amendment was performed as of end of the year Commission meeting was held, where this type of action is normally taken. So far I have not been able to find the first quarter of 2015 report even being given to the Commissioners, and here it is June (3 months after the end of the quarter). Not only is transparency to the public a problem, but keeping the City Commission properly informed of the financial affairs of the City, in my opinion is lacking. I know one solution is being worked on to correct the situation, which I will touch upon later, plus your new finance director is just getting his feet on the ground. Since I have not seen many financial reports, I have been paying particular attention to the bills being paid each month, as shown in the Commission packets, to try to keep abreast on how things are progressing for the City. Four specific transactions have troubled me since November 2014. The most recent transaction was last month where the May 5, 2015 Summary Voucher Listing showed a payment of \$2,100 to Socialmentum, LLC for another year's subscription of MindMixer Online Community Engagement. This is the Engage Abilene feature on the website (only found on the City Manager's Blog page) where citizens can be polled on various issues and topics facing the city. It was first used in February 2013 with the topic of Improving Municipal Services, which received no interactions from the public. Eight more topics were posted in 2013 ranging from Economic Development to Recycling. There were a total of 51 responses received from the public about those various eight topics.

Mayor Weishaar asked Mr. Balluch to wrap up his comments as he was past his three minutes.

Mr. Balluch concluded by saying: Transparency in Government is what I keep hearing about, but I am seeing it practiced less and less within the City of Abilene. I ask the City Commission to once again request regular financial reports from staff, so that you will be more prepared to render informed decisions on the affairs of the City. By reviewing regular reports and having those reports in your packets, transparency will once again be restored for the general public.

7. **Declaration.** At this time City Commissioners may declare any conflict or communication they have had that might influence their ability to impartially consider today's issues.

There were no declarations.

### **Proclamations and Recognition**

#### **8. World Elder Abuse Awareness Day Proclamation**

Commissioner Shafer read a proclamation for June 15, 2015 as World Elder Abuse Awareness Day and presented it to the representatives present.

Vicki Gieber, Quality of Life Coalition explained some warning signs and behaviors that could indicate an elderly person is being abused.

### **Public Hearings**

#### **9. A Public Hearing to receive and hear complaints and objections to the proposed Special Assessments for the construction of the Improvements in the City, as authorized by Resolution No. 061013-2 and 030915-2 of the City of Abilene, Kansas.**

City Manager Dillner explained the special assessments proposed are for public improvements for Dawson's Cottage Addition and Prairie Hills Addition in the City of Abilene.

Dustin Avey, Piper Jaffray and Mary Carson, Triplett Woolf & Garretson explained the financial commitment regarding the proposed special assessments.

Mary Carson explained it is a statutory requirement to hold a public hearing.

Mayor Weishaar opened the public hearing at 4:19 p.m.

Charles Ault-Duell, attorney for Greg Huston and Terry Swearingen owners of the Eagles Lodge which is part Dawson Cottage Addition and Prairie Hills Addition, spoke regarding his clients concerns about the special assessments that are proposed for their property.

Mary Carson recommended that the Commission adjourn the public hearing and table the issue until the next meeting so that they can re-evaluate the figures and present them at the next City Commission meeting.

Mayor Weishaar closed the public hearing at 4:24 p.m.

### **Old Business**

10. There was no old business.

### **New Business**

**11. Consideration of an Ordinance approving a Conditional Use Permit for 109 S. Elm, at the request of Flint Hills Grain, LLC for the construction of a grain storage bin duplex in an "I-1, Light Industrial District" in the City of Abilene, Kansas.**

City Manager Dillner explained the Conditional Use Permit requested by Flint Hills Grain, LLC. The location of the grain storage bin duplex is in the public right-of-way.

Commissioner Shafer said that with all that's went on with this he is not comfortable voting on this issue without the City Attorney present.

Motion by Commissioner Shafer, seconded by Commissioner Marshall to table agenda items No. 11 and No. 12 regarding the Conditional Use Permit request for Flint Hills Grain until the next City Commission meeting. Motion passed 4-1, Mayor Weishaar voting no.

**12. Consideration of an Ordinance approving a Land Use Agreement and Easement with Flint Hills Grain, LLC and vacating certain land consisting of a portion of S. Elm Street within the City of Abilene, Kansas.**

This item was tabled in the previous motion.

**13. Consideration of an Ordinance of the City of Abilene, Kansas, levying Special Assessment Taxes on certain real properties in the City, for the purposes of paying the cost of certain internal improvements benefitting such real properties; providing notice and collection of such Special Assessment Taxes.**

This item was recommended during the public hearing to be tabled until the next City Commission meeting.

Motion by Commissioner Shafer, seconded by Commissioner Marshall to table this item until the next City Commission meeting. Motion carried 5-0.

**14. Consideration of a Resolution approving an appropriation of \$5,000 from the Special Alcohol and Drug Fund to the Cedar House Foundation.**

City Manager Dillner explained that this Resolution would allow the City to allocate \$5,000 to the Cedar House Foundation from the 2015 budget. It would also request the City Manager to include an appropriation of \$5,000 from the Special Alcohol and Drug Fund in the proposed 2016 Budget for review and consideration. It also authorizes the City Manager to develop a process to allow other agencies to submit proposals for use of the Special Alcohol and Drug Funds administered by the City of Abilene, Kansas which would be implemented for the preparation of the 2017 Budget.

Motion by Commissioner Ray, seconded by Commissioner Payne to approve Resolution No. 060815-1 **A RESOLUTION APPROVING AN APPROPRIATION OF \$5,000 FROM THE SPECIAL ALCOHOL AND DRUG FUND TO THE CEDAR HOUSE FOUNDATION.** Motion carried unanimously 5-0.

**15. Consideration of an Ordinance amending Section 5-202 of the City Code of the City of Abilene, Kansas concerning the consumption of alcohol on City property.**

City Manager Dillner presented information regarding a request from the Central Kansas Free Fair Association to allow a beer garden on the grandstand grounds during fair week. He explained the requirements set forth in the Memorandum of Understanding between the City of Abilene and the Central Kansas Free Fair Association.

Chad Markley and Tim Strunk with the Central Kansas Free Fair Association spoke regarding the request. There have been no issues during events in the past when they have held the beer garden and additional security has been hired for the events.

Motion by Commissioner Payne, seconded by Commissioner Marshall to adopt Ordinance No. **3274 AN ORDINANCE AMENDING SECTION 5-202 OF THE CITY CODE OF THE CITY OF ABILENE, KANSAS, PERTAINING TO THE CONSUMPTION OF ALCOHOL ON CITY-OWNED PROPERTY.** Motion carried unanimously 5-0.

**16. Consideration of a Resolution approving a Memorandum of Understanding between the Central Kansas Free Fair Association and the City of Abilene, Kansas, concerning the sale of cereal malt beverages on City-owned property.**

Motion by Commissioner Payne, seconded by Commissioner Marshall to approve **Resolution No. 060815-2 APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CENTRAL KANSAS FREE FAIR ASSOCIATION AND THE CITY OF ABILENE, KANSAS, CONCERNING THE SALE OF CEREAL MALT BEVERAGES ON CITY-OWNED PROPERTY.** Motion carried unanimously 5-0.

**17. Consideration of bids received for sewer re-alignment work in the City of Abilene, Kansas.**

Public Works Director Schrader explained the bids received for the sewer re-alignment work. He recommended awarding the bid to Layne In liner, LLC at \$31.00 per foot for a total cost of \$49,671.30.

Motion by Commissioner Ray, seconded by Commissioner Payne to approve the bid for sewer re-alignment to Layne In liner for a total cost of \$49,671.30. Motion carried unanimously 5-0.

**18. City Manager Dillner requested an executive session to discuss non-elected personnel.**

Motion by Commissioner Marshall, seconded by Commissioner Payne to move into executive session at 4:47 p.m. for a period of fifteen minutes. Motion carried unanimously 5-0.

Motion by Commissioner Ray, seconded by Commissioner Marshall to return from executive session at 5:02 p.m. Motion carried unanimously 5-0.

No action was taken.

## **Reports**

### **19. City Manager Reports**

City Manager Dillner said seventeen people attended the town hall meeting regarding the Highlands. The general consensus of the group was to get the property in the land bank and do nothing with it for the next sixteen years. More information will be given at a future study session.

The property tax lid is included in the legislation. One of the chambers did approve a bill that did include a property tax lid and if it is continued and adopted by the other chamber it will become law. This could make it interesting for local governments to adjust budget issues. If this is approved it would be effective July 1<sup>st</sup>.

Last Friday a citizen panel and the City Manager interviewed five people for the Community Development Director position. We will be offering the position to one candidate that we feel will be very beneficial to the community.

Tim Shafer will be out of town next Tuesday.

City Manager Dillner will be out of the office this Thursday and Friday.

## **20. Expenditure Report**

### **Adjournment**

## **21. Consideration of a motion to adjourn the June 8, 2015 City Commission meeting.**

Motion by Commissioner Payne, seconded by Commissioner Marshall to adjourn at 5:07 p.m. Motion carried unanimously 5-0.

(Seal)

\_\_\_\_\_  
Dennis P. Weishaar, Mayor

ATTEST:

\_\_\_\_\_  
Penny L. Soukup, CMC  
City Clerk

**MEMORIAL HEALTH SYSTEM  
BALANCE SHEET**

ASSETS	<u>3/31/2015</u>	<u>12/31/2014</u>
<b>CURRENT ASSETS</b>		
Cash and Invested Cash	\$ 392,815	\$ 966,760
Patient Accounts Receivable, Net	4,054,067	3,968,995
Accounts Receivable - Other	254,227	458,204
Interest Receivable	16,113	22,205
Advances due from 3rd party payors	711,896	540,000
Assets whose use is limited - indenture agreement	318,771	439,845
Inventories	270,502	279,209
Ad Valorem Taxes Receivable	162,378	258,064
Prepaid Expenses and Deposits	479,455	342,460
Total Current Assets	<u>\$ 6,660,224</u>	<u>\$ 7,275,742</u>
<b>ASSETS WHOSE USE IS LIMITED</b>		
By Board of Directors	15,826	15,826
By Contributors	3,728	3,728
By indenture agreement	2,450,057	2,181,894
Less amount required for current liabilities	(318,771)	(439,845)
Non Current Assets Whose Use is Limited	<u>\$ 2,150,840</u>	<u>\$ 1,761,603</u>
<b>OTHER INVESTMENTS</b>	<u>\$ 6,880,704</u>	<u>\$ 6,688,173</u>
<b>PROPERTY AND EQUIPMENT-AT COST</b>		
Land & Land Improvements	\$ 2,074,161	\$ 2,074,161
Buildings & Fixed Equipment	24,091,197	24,288,130
Movable Equipment	9,739,947	9,707,481
Construction in Progress	6,288,856	5,815,937
Total Property and Equipment-At Cost	<u>\$ 42,194,161</u>	<u>\$ 41,885,709</u>
Less Accumulated Depreciation	13,913,224	13,445,343
Net Book Value - Property & Equipment	<u>\$ 28,280,937</u>	<u>\$ 28,440,366</u>
<b>OTHER ASSETS</b>	<u>\$ 18,235</u>	<u>\$ 18,235</u>
<b>TOTAL ASSETS</b>	<u>\$ 43,990,940</u>	<u>\$ 44,184,119</u>
<b>LIABILITIES AND FUND BALANCE</b>		
<b>CURRENT LIABILITIES</b>		
Accounts Payable	\$ 910,473	\$ 951,009
Construction Payable	318,771	485,023
Salaries & Wages Payable	419,332	655,684
Payroll Taxes & Payroll W/H Payable	25,912	117,138
Accrued Vacation Payable	554,799	511,074
Est. Settlements Due 3rd Party Payors	143,060	190,000
Accrued Interest Payable	310,888	77,722
Current Installments-Long Term Debt	730,000	730,000
Current Portion-Deferred Revenue	159,054	52,563
Total Current Liabilities	<u>\$ 3,572,289</u>	<u>\$ 3,770,213</u>
<b>LONG TERM DEBT</b>	<u>\$ 21,600,000</u>	<u>\$ 21,600,000</u>
<b>AGENCY FUNDS</b>	<u>\$ 18,235</u>	<u>\$ 18,235</u>
<b>TOTAL LIABILITIES</b>	<u>\$ 25,190,524</u>	<u>\$ 25,388,448</u>
Deferred ad valorem tax revenue	<u>\$ 162,378</u>	<u>\$ 258,064</u>
<b>FUND BALANCE</b>		
Balance at Beginning of Year	\$ 18,537,607	\$ 18,366,125
Increase in Net Assets	100,431	171,482
Total Fund Balance	<u>18,638,038</u>	<u>18,537,607</u>
<b>TOTAL LIABILITIES AND FUND BALANCE</b>	<u>\$ 43,990,940</u>	<u>\$ 44,184,119</u>

Memorial Health System  
Income Statement

For the Period January 1 to March 31, 2015

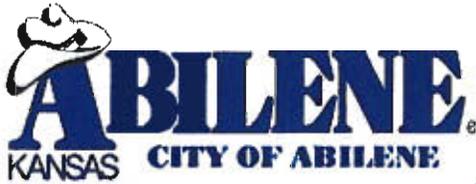
	Year to Date Actual
Operating Revenue	
Net Patient Service Revenue	\$ 7,152,164
Other Operating Revenue	686,992
Total Operating Revenue	\$ 7,839,156
Operating Expenses	
Salaries	\$ 3,441,440
Employee Benefits	839,167
Supplies & Other	2,659,650
Depreciation	690,311
Total Operating Expenses	\$ 7,630,568
Net Income (Loss) From Operations	\$ 208,588
Non-Operating Revenues (Expenses)	
Tax Levy	\$ 72,000
Food Subsidy	2,662
Investment Income	20,537
Interest Expense	(233,166)
Contributions	25,939
Grants & Other Income	4,069
Gain/Loss on Asset Disposal	(198)
Non-Operating Rev (Exp) Net	\$ (108,157)
Change in Net Assets	\$ 100,431

<i>Hospital District No. 1 of Dickinson County, Kansas dba Memorial Health System</i>	
YTD ending 03/31/2015	
	<u>3/31/2015</u>
Acute care Med/Surg licensed beds	25
Behavioral Health licensed beds	10
Long Term Care Facility licensed beds	81
Discharges	
Acute care - Medical/Surgical	143
Acute care - Behavioral Health	34
Swingbed	84
Average length of stay	
Acute care - Medical/Surgical	3.22
Acute care - Behavioral Health	12.82
Swingbed	7.71
Patient days	
Acute care - Medical/Surgical	449
Acute care - Behavioral Health	395
Swingbed	648
Long Term Care Facility	6,704
ER visits	1,386
Outpatient visits	4,628
Hospital Services Offered	
Occupational Therapy	804
Physical Therapy	3,355
Radiology	2,757
Respiratory Therapy	2,639
Surgery	122
Home Health & Hospice Visits	6,011
Laboratory	21,827
Pharmacy	108,067

Memorial Health System, Inc. Utilization Statistics - Quarterly

June 10, 2015

	1Q, 2013	1Q, 2014	1Q, 2015
<b>Discharges</b>			
Acute Care - Medical/Surgical	124	138	143
Acute Care - Behavioral Health	40	33	34
Swingbed	71	66	84
<b>Average Length of Stay</b>			
Acute Care - Medical/Surgical	3.99	3.31	3.22
Acute Care - Behavioral Health	12.38	12.82	12.82
Swingbed	8.96	9.11	7.71
<b>Patient Days</b>			
Acute Care - Medical/Surgical	485	465	449
Acute Care - Behavioral Health	491	432	395
Swingbed	636	601	648
Long Term Care Facility	6,806	6,769	6,704
ER Visits	1,178	1,261	1,386
Outpatient Visits	4,071	4,374	4,628
<b>Hospital Services Offered</b>			
Occupational Therapy	541	695	804
Physical Therapy	2,464	2,437	3,355
Radiology	2,486	2,441	2,757
Respiratory Therapy	2,533	2,301	2,639
Surgery	114	117	122
Home Health and Hospice Visit	4,751	5,464	6,011
Laboratory	18,802	22,159	21,827
Pharmacy	116,741	148,784	108,067



Voice: 785.263.2550  
Fax: 785.263.2552  
[www.abilene-cityhall.com](http://www.abilene-cityhall.com)

Dwight D. Eisenhower Municipal Building  
419 N. Broadway, PO Box 519  
Abilene, Kansas 67410

June 11, 2015

As our current software will not be supported at the end of this year, we have received bids for municipal software. Staff has narrowed recommendations to two companies:

Company	Annual Support	Startup/ Conversion	Software Cost
Manatron (current)	12,137	-	-
CIC	14,780	54,790	45,880
Banyon	5,010	4,600	29,310

Based on efficiency of the software, flow and cost, staff recommends Banyon Data. General Fund Reserves would be designated for the expenditure.



**TO:** City Commission  
**FROM:** David Dillner, City Manager  
**SUBJ:** Highlands Development Town Hall  
**DATE:** June 10, 2015

On June 4, 2015, the City Manager conducted a Town Hall meeting to discuss a proposal to address the Highlands development prepared by the City Manager and included with the memorandum. Seventeen residents and business people of Abilene attended the meeting. The main ideas generated from the Town Hall meeting may be summarized as follows:

- The restrictive covenants need to be reviewed and potentially modified if something is done with the Highlands. This, however, should be done in a manner that protects the interests of the property owners that own the duplex unit.
- Replatting will not be a good option because the infrastructure, particularly the private connections would be in the wrong location for combined or replatted lots.
- The City may wish to consider the use of state inmates to assist with the maintenance of the property to reduce or minimize the cost to the City.
- Farming or grazing of the property would provide an ongoing revenue source that could be used to offset some of the debt service. The undeveloped tracts of land located to the north of the developed lots could be sold and used to offset debt service.
- The City could purchase the duplex that is constructed in the development, and then do whatever it deemed necessary.
- There seemed to be little to no interest in pursuing a collaborative marketing strategy to generate general interest in Abilene that may translate into development of lots.
- Developers/builders were not interested in the land swap arrangement, whereby lots owned by developers/builders would be swapped with lots in the Highlands that were in the Land Bank. Builders would then develop the Highland lots while their other lots were not assessed property taxes or special assessments.
- Ultimately, the group thought the best course of action would be to have the land donated to the Land Bank and then the City do nothing proactive to market or convey the lots. Lots should be sold to an interested party at market rates.
- The City could create a Neighborhood Revitalization District, but such an incentive should also be extended to other subdivisions.

Additionally, written comments were received from a few residents prior to the meeting. These have been included with this memorandum for the Commission's review.

**DRAFT**

**TO:** City Commission  
**CC:** Mark Guilfoyle, City Attorney  
**FROM:** David Dillner, City Manager  
**SUBJ:** Highlands Development Proposal  
**DATE:** April 30, 2015

The following proposal has been developed by the City Manager as a framework to guide public discussion on a viable solution to address the challenges associated with the Highlands development. The purpose of this draft framework is to provide a starting point for public dialogue on a politically acceptable solution to allow the community to begin to address the Highlands situation. Presently, taxpayers are paying about \$300,000 per year, or the equivalent of about 5.7 mills, to pay the debt service on the development. The G.O. bonds issued for the development will be paid in full in 2030.

The proposal is proactive; instead of waiting until the property is available through the tax foreclosure process, the City would take actions now to increase the probability of progressive development within the subdivision. Any development that occurs within the Highlands is another lot that is paying property taxes and special assessments, thus reducing the overall liability for the City.

**By no means is the framework final; the public is encouraged to review the proposal and provide any comments that may assist in making the proposal more politically acceptable.** Instructions for providing comments may be found at the end of this memorandum.

1. The City negotiates the donation of real property generally known as the Highlands development to the Land Bank. The property owner is amenable to donating the property to the City's Land Bank, although he has requested the City provide an appraisal of the value of the property. If the City Commission wishes to proceed, the City Manager would solicit proposals from appraisers to determine the cost of preparing this information to be used in negotiations.
2. Upon completion of a negotiated transfer of the Highlands to the Land Bank, the Land Bank would sell the undeveloped acreage and deposit the proceeds into an escrow account to pay annual debt service for General Obligation debt issued by the City on behalf of the the development. Funds may also be used to pay for the replatting of the developed tracts to a configuration more aligned with the local market or as needed for a developer to repurpose the lots.
3. The City Commission would consider whether to pay a portion of the debt service liabilities on lots in the Highlands as an at-large contribution. Subsidization would reduce the private liability for special assessments for lots in the Highlands to more closely align with the amount of special assessments levied against lots in other new subdivisions in Abilene. In the event the City elects to subsidize special assessments in the Highlands, the City Manager recommends not subsidizing special assessments below the average amount of special assessments in other subdivisions in Abilene with outstanding special assessments.

4. The Land Bank would develop goals for the type of development to pursue for the Highlands. Such development options may include residential development opportunities that would provide housing options that are not presently offered in the Abilene market or that do not directly compete with the single-family residential market. Selecting a type of housing stock other than single-family housing may reduce direct competition between the Land Bank and local builders who mostly construct single-family housing.
5. The Land Bank would convey a lot or lots to interested builders, who would then be responsible for paying the future property taxes and special assessments levied against the property until it is sold to another party. The conveyance of lots may be subject to covenants or deed restrictions that would facilitate the goal of reducing competition with local builders. One scenario for possible build-out may include:
  - a. **Phase I** - The Land Bank would make five lots available for development at no cost to prospective builders on a first come, first served basis.
  - b. **Phase II** - Following the issuance of certificates of occupancy on the Phase I lots, the Land Bank would make another ten to fifteen lots available for development by auction.
  - c. **Phase III** - Following the issuance of certificates of occupancy on the Phase II lots, the Land Bank would make other lots available, in geographic order, for development at market rates.
6. The City Attorney would prepare a special deed instrument that would allow existing property owners of property in a subdivision with special assessments in Abilene to swap a lot or lots within such subdivision with a commensurate number of lots in the Highlands. The lots will be conveyed to the Land Bank with a deed restriction ensuring that such lots will be reconveyed to the participant, at the participant's request and at no cost, following the issuance of a certificate of occupancy for a house constructed on the exchanged lots in the Highlands. Abilene developers/builders may elect to participate in the exchange program at any time, subject to the terms and conditions associated with the particular phase of implementation.

During such time as the exchanged lots are held by the Land Bank, the privately assigned property owner will not be subject to property taxes or special assessments on the exchanged lots. The participant, however, will be liable for property taxes and special assessments on the lots conveyed from the Highlands until such time as the property is sold to a third-party.

7. The proposal has thus far dealt with the supply side of the economics equation. One approach to address the demand question economics associated with the general housing market in Abilene would be to implement a collaborative approach to marketing that focuses on the community rather than individual lots or houses. The approach would seek to draw in ideas and resources from various stakeholders with the intent of developing a marketing venture to sell Abilene as a livable community to selected target areas. The approach will draw on the experience of real estate agents, bankers, builders, business leaders, and others who have insight into the community and general marketing practices. Participants will assist in developing the marketing campaign, to include the selection of target areas, as well as produce a marketing plan for distribution of the community's message.

8. The City will actively engage the real estate community to promote its newly adopted Residential Incentive and other applicable incentives that seek to encourage new home purchases throughout Abilene.

As previously mentioned in this memorandum, the public is invited to review the proposal and provide comments that may assist in making the proposal more politically acceptable and successful. The deadline to submit comments is **5:00 pm on June 5, 2015**. Comments may be submitted as follows:

By Mail:

City of Abilene  
Attn: David Dillner, Highlands Comments  
PO Box 519  
Abilene, KS 67410

By Email:

[citymgr@abilenecityhall.com](mailto:citymgr@abilenecityhall.com)

Please include "Highlands Comments" in subject.

By Walk-In:

Comments may also be brought to City Hall,  
located at 419 N. Broadway, Abilene, KS

In addition, the City will host a Town Hall Meeting on June 4, 2015 to provide the public with an opportunity to voice their ideas to manage the Highlands development or to generally promote Abilene as a destination for future residents. The Town Hall Meeting will begin at 6:30 pm and will be held in the Commission Chambers of the Abilene Public Library.

Any input received from the public on this topic will be provided to the City Commission for their review and consideration.



Highlands Town Hall Meeting June 4, 2015

PLEASE PRINT YOUR NAME

1. Mike & Terry Wilson
2. Rick Williamson
3. Daley Wilson
4. Spence & Georgia Murray
5. JAY ANDERSON
6. JACK & JEAN MOLLER
7. Steve Woodell
8. Elgin Hanzes
9. Eddie Belluch
10. Scott & Maureen Dausen
11. Tony Huy
12. Duane Schrag
13. Robin Black
14. Steve Ebering
15. Ron Wal
16. BOB Brazil
17. Dennis Veere

April 1, 2015

Mr. David Dillner  
Abilene City Manager  
City Hall  
Abilene, Ks 67410

Dear Mr. Dillner,

In our conversation last week you indicated the City formed a Land Bank for the purpose of owning the Highland Development lots and disposing of them in some manner. I have considered the disposal options you mentioned and have concluded there is no scenario in which the City/Land Bank does not become a direct and unfair competitor with the private developers in town.

The private developers, who are paying specials and maintaining their properties, will be competing against the City, whose primary mission is to minimize its losses, which means they could and would give the lots away just so they didn't have to pay the remaining specials.

In the past 8 years we, the Eastridge Development, have paid some \$150,000 in taxes and specials while accepting the inherent risk of a down market and understanding the competitive dynamics in our community. However, if and when the City/Land Bank becomes a residential lot owner and broker, for whatever reason, that is a game changer.

The Highlands development was blessed and approved by the Planning Commission and the City Commission. It was a misguided decision and it has now come home to roost. The question is whether the City will admit its mistake and pay the tab or whether it will compound the problem by getting into the residential lot business and, in so doing, destroy a historic symbiotic relationship with private developers.

This issue is of paramount importance to us and hopefully it will be decided sooner than later. In the mean time, we will be holding the special assessment portion of our tax bill in abeyance until we know what path the City/Land Bank takes in regard to the Highland Lots.

Respectfully Submitted,



Rick Williamson  
Twenty First, Inc.



David Dillner <citymgr@abilenecityhall.com>

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## Highland Comments

1 message

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**Debra Smart** <debra@smart-ins.com>

Mon, Jun 1, 2015 at 5:04 PM

To: "citymgr@abilenecityhall.com" <citymgr@abilenecityhall.com>, "chamberabileneks@gmail.com" <chamberabileneks@gmail.com>

I will be unable to attend the June 4<sup>th</sup> meeting, so I am glad to share my 2 cents worth:

I think that area in question would be PERFECT for an expo center much like Salina's Bicentennial Center. The flooring could change from dirt, to basketball & volleyball courts, etc. The events that could be hosted there could include year around Bull Sales, Horse Shows, Livestock Shows, Rodeo events, MAYB basketball, State Basketball, State Volleyball, Tournaments, Concerts, and the list goes on and on. On the sides of this expo center could be conference-size rooms to rent for wedding receptions, reunions, conferences, parties, Pheasants Forever, etc., etc.

An added income and employment opportunity could be the concessions and/or catering for the events. Additional work force would also be needed for janitorial, maintenance, and administration.

If you need someone to start on this project, sign me up!

Debra Smart



David Dillner <citymgr@abilenecityhall.com>

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## Highlands Comments

1 message

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**Brenda Finn Bowers** <brendafinnbowers1@gmail.com>

Sat, May 23, 2015 at 11:04 AM

To: David Dillner <citymgr@abilenecityhall.com>

As we have discussed

(ad nauseum) I am in full support. I would encourage the city to give the lots to perspective owners, and just let them start paying specials. If memory serves, the lots were priced at 35,000 - 45, 000, there this would be very attractive. Great deal, good work David!



David Dillner <citymgr@abilenecityhall.com>

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## Highlands Comments

2 messages

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**chuck weaver** <chamarco@aol.com>  
To: citymgr@abilenecityhall.com

Wed, Jun 3, 2015 at 12:16 PM

Greetings,

Following are some thoughts/ideas for the Highlands success. The goal should be not to make money or cover expenses with the sale of the lots but to encourage building to generate tax dollars. It won't take many homes to reduce or eliminate the \$300K a year bond reduction payment. Do the math.

- Offer lots at reduced rates with no stipulations
- Offer lots to local builders/future homeowners at highly reduced prices (fire sale) with the stipulation they must start construction within 30 days of lot ownership
- Builders must pass on the lot savings to the buyers
- Don't invoice the builder for the lot until the house is sold - Put a construction lien on the property
- Eliminate specials
- No HOA's. Let the city Parks and Rec maintain the commons areas
- Eliminate the original Neighborhood plan
- Let builders/buyers build to suit within city building codes

Thank you for the opportunity to comment.

Chuck Weaver

[chamarco@aol.com](mailto:chamarco@aol.com)

785-219-1572

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**David Dillner** <citymgr@abilenecityhall.com>  
To: chuck weaver <chamarco@aol.com>

Wed, Jun 3, 2015 at 5:49 PM

Chuck,

Thank you for your comments concerning the Highlands development. You have some very good ideas that I will forward to the City Commission for review and consideration.