

ABILENE CITY COMMISSION - SPECIAL MEETING AGENDA
DWIGHT D. EISENHOWER MEMORIAL BUILDING - 419 N. BROADWAY AVENUE
February 21, 2017 - 4:00 pm

1. Call to Order
2. Roll Call: ___ Marshall ___ Shafer ___ Bowers ___ Weishaar ___ Dale

New Business

3. Consideration of a motion to recess into executive session for twenty minutes for the purposes of discussing non-elected personnel to include the City Manager.
4. Consideration of a motion to return from executive session with no action being taken.

Adjournment

5. Consideration of a motion to adjourn the February 21, 2017 City Commission special meeting.

###

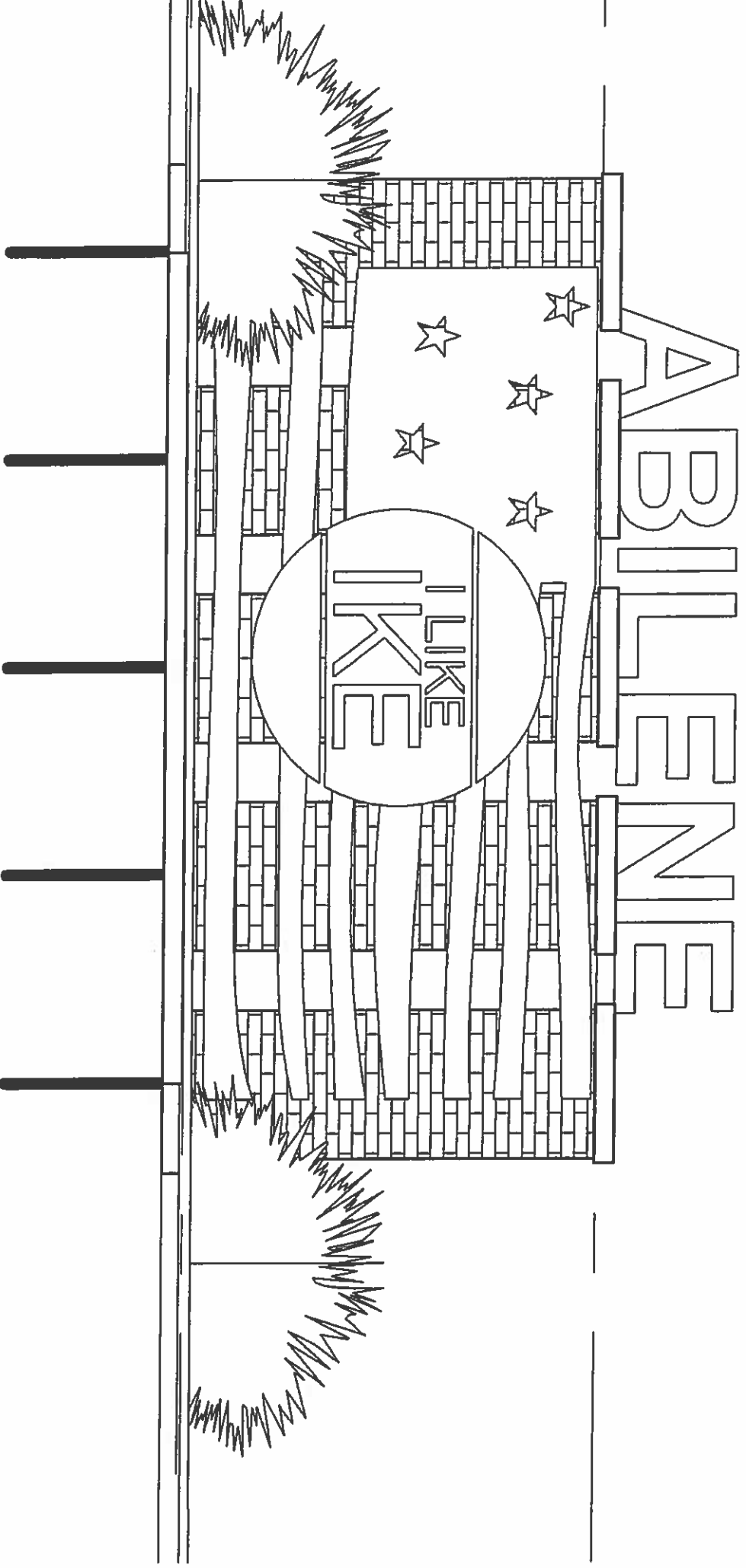
ABILENE CITY COMMISSION - STUDY SESSION AGENDA
Following Special Meeting

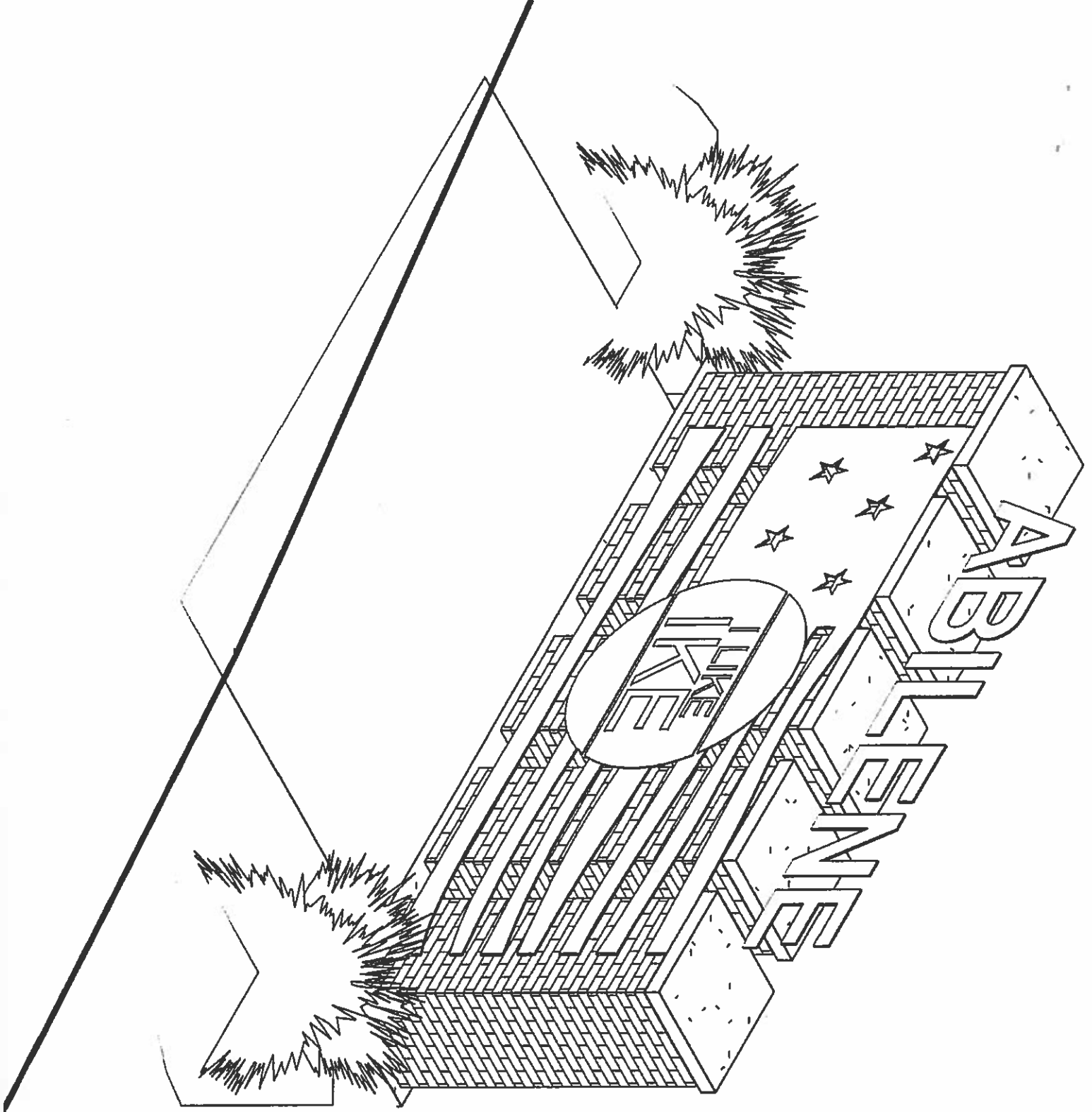
1. **PUBLIC COMMENTS**. Persons who wish to address the City Commission may do so when called upon by the Mayor. Comments on personnel matters and matters pending before court are not permitted. Speakers are limited to three minutes. Any presentation is for informational purposes only. No action will be taken.
2. **ITEMS FOR PRESENTATION AND DISCUSSION**
 - a. Buckeye Avenue Entrance Sign Proposal
 - b. Justice Center Finance Concept
3. **ITEMS PROPOSED FOR THE CONSENT AGENDA**
 - a. Meeting Minutes: February 13, 2017 regular meeting
 - b. Award of bid of \$117,555.00 from Layne Inliner for the 2017 Cure-in-Place Pipe Contract for the City of Abilene, Kansas
 - c. Authorization to pay \$276,223.26 as principal and interest for Water Pollution Control Revolving Loan Project No. C20 1657-01.
4. **ITEMS TO BE PLACED ON THE REGULAR AGENDA**
 - a. Consideration of a Resolution approving a Professional Services Agreement with Allen and Carter, LLC for prosecution services for the Municipal Court.
 - b. Consideration of an Ordinance amending Section 1-104 of the City Code of the City of Abilene, Kansas, concerning the Mayor.
5. **REPORTS**
 - a. City Manager's Report

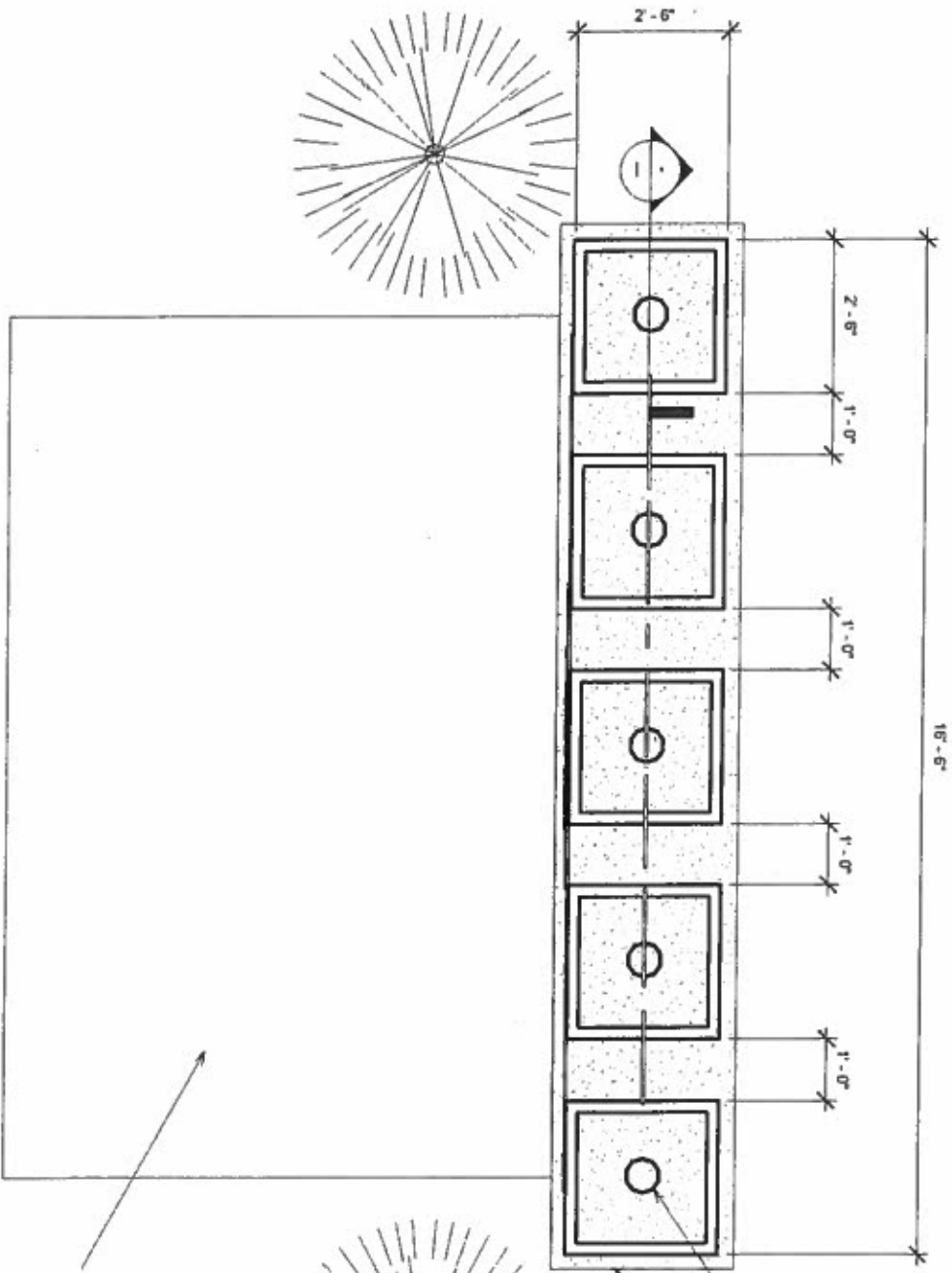
Meetings of Note on next page...

6. **MEETINGS OF NOTE** (*Meetings at Abilene Public Library unless otherwise provided*)

- City Commission Meeting, Feb 27 at 4 pm
- Convention & Visitor's Bureau Board, Feb 28 at 2 pm (Civic Center)
- Library Board, March 6 at 4 pm
- Airport Advisory Committee, March 6 at 5:30 pm
- City Commission Study Session, March 7 at 4 pm (City Hall)
- Sister City, March 8 at 7 pm (Civic Center)
- City Commission Meeting, March 13 at 4 pm
- Planning Commission, March 14 at 4:30 pm
- Economic Development, March 15 at 4 pm







BRICK PAVERS

CONCRETE SLAB

PIPE COLUMN



MEMORANDUM

TO: City Commission
FROM: David Dillner, City Manager
SUBJ: Justice Center Financing Concept
DATE: February 17, 2017

ISSUE:

The City Commission is asked to discuss a financing concept for the City's portion of the Justice Center proposed by Dickinson County.

BACKGROUND:

With the adoption of Resolution No. 111616-1, the City Commission stated its intention to participate in a proposed Justice Center with Dickinson County. The County is proceeding with a Public Building Commission Bond issuance of about \$18 million to finance improvements to the existing courthouse as well as construction of a new jail and courts.

The City's portion of the project would include improved space for the Abilene Police Department. The City would also have access to courtrooms for Municipal Court. Preliminary numbers for this cost is about \$840,000, which includes \$685,000 for architectural services and construction of about 5,300 square feet and \$155,000 for furnishings. The Abilene Police Department would also like to consider adding an additional \$105,000 in technology upgrades. The total estimated cost at this time is about \$945,000 and does not include shared spaces, soft costs and professional fees.

The City's Financial Advisor has prepared a few cash flow analyses to determine how much could be generated from various levels of sales tax. The idea would be to replace the current 0.35% sales tax levied for the library/pool with a sales tax that could support a ten-year lease payment as well as a few other priorities so public facilities for the City could be addressed for the foreseeable future. Sales tax rates are estimated to generate the following over ten years:

- 0.15% sales tax is estimated to generate about \$1.95 million;
- 0.20% estimated to generate \$2.6 million; and
- 0.25% estimated to generate \$3.25 million.

In addition to sales tax, the City has \$450,000 set aside in the Capital Improvement Fund for public facilities. Improvements to City Hall may also be eligible for state historic tax credits due to its location in the downtown historic district.

Therefore, there are several options for funding facility projects on a pay-as-you-go basis if desired by the City Commission. More information is needed to get a specific plan, but we will talk about a finance concept to get the project a little further down the road.



**Abilene City Commission Minutes
Abilene Public Library
February 13, 2017 @ 4:00 p.m.
Abilene, Kansas**

1. Call to Order

2. Roll Call – City Commission Present: Mayor Marshall, Commissioners Dale, Bowers, Weishaar and Shafer.

Staff Present: City Manager Dillner, Human Resources Director/City Clerk Soukup, City Attorney Martin, Finance Director Rothchild, Public Works Director Schrader, Parks & Recreation Director Foltz, Police Chief Mohn, and Fire Chief Sims.

Others Present: Mike Heronemus.

3. Pledge of Allegiance - Mayor Marshall led the Pledge of Allegiance.

Consent Agenda

4. Agenda Approval for the February 13, 2017 City Commission Meeting

5. Meeting Minutes: January 23, 2017, Regular Meeting and February 3, 2017 Special Meeting

6. Approval of a Letter of Support concerning the tax exempt status of municipal bonds to be submitted to the U.S. Congressional delegation

7. A Resolution establishing an ad hoc committee to make certain recommendations concerning proposed amendments to the Flood Insurance Rate Map to be prepared by the City of Abilene, Kansas.

8. A Resolution concerning the Employee Benefits Plan for the City of Abilene, Kansas.

Motion by Commissioner Dale, seconded by Commissioner Bowers to approve the Consent Agenda as presented. Motion carried unanimously 5-0.

Public Comments and Communications

9. 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 Marshall asked for any comments or communications from the public that are not on the agenda.

There were no public comments or communications.

10. 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

11. There were no proclamations or recognitions.

Public Hearings

12. A Public Hearing to hear and answer objections by taxpayers concerning a proposal to vacate the public right-of-way with the 200 block of S. Elm Street.

City Manager Dillner presented information regarding the vacation of the public right-of-way with the 200 block of S. Elm Street. The vacation of this right-of-way would reduce the City's maintenance liabilities for S. Elm Street. Flint Hills Grain, LLC uses the public right-of-way to operate a fall protection system for the grain elevator and they would be responsible for the maintenance.

Mayor Marshall opened the public hearing at 4:03 p.m.

Public Works Director Schrader asked about the utility easement.

City Attorney advised the utility easement is addressed in the ordinance.

Mayor Marshall closed the public hearing at 4:05 p.m.

Old Business

13. Consideration of an Ordinance exempting certain real property located at 401 Cottage Avenue from ad valorem taxation for economic development purposes.

City Manager Dillner presented information regarding the tax abatement for TSB Enterprises, LLC d/b/a Thunderstruck Bumpers, Inc. Staff recommends approval of a constitutional tax abatement to the company for a ten year period using the following schedule of abatement: Year 1: 98% abatement; Year 2: 88% abatement; Year 3: 78% abatement; Year 4: 68% abatement; Year 5: 58% abatement; Year 6: 48% abatement; Year 7: 38% abatement; Year 8 28% abatement; Year 9: 18% abatement and year 10: 8% abatement. The 2% removed from the abatement represents the portion of the real property that is not eligible for abatement due to ineligible uses. Thunderstruck Bumpers, Inc. is projected to create seventy-seven jobs during the abatement period with an estimated increase in local personal income of \$5.8 million. The estimated increase in local retail sales during the abatement period from employees is \$2 million.

Motion by Commissioner Bowers, seconded by Commissioner Dale to adopt Ordinance No. 3314 **AN ORDINANCE EXEMPTING CERTAIN REAL PROPERTY LOCATED AT 401 COTTAGE AVENUE FROM AD VALOREM TAXATION FOR ECONOMIC DEVELOPMENT PURPOSES.** Motion carried unanimously 5-0.

14. Consideration of a Resolution rescinding Resolution No. 041116-1 concerning Economic Development Agreement with Thunderstruck Bumpers, Inc.

City Manager Dillner presented information regarding Resolution No. 021317-3 which rescinds Resolution No. 041116-1 regarding an economic development incentive with Thunderstruck Bumpers, Inc.

Motion by Commissioner Shafer, seconded by Commissioner Bowers to approve Resolution No. 021317-3 A **RESOLUTION RESCINDING RESOLUTION NO. 041116-1 CONCERNING AN ECONOMIC DEVELOPMENT AGREEMENT WITH THUNDERSTRUCK BUMPERS, INC.** Motion carried unanimously 5-0.

New Business

City Attorney Martin presented information regarding the utility easement for the 200 block of S. Elm Street. The ordinance states that it shall be reserved to the City and the owners of lesser property rights for public utilities, right-of-way and easements for public service facilities in said street for present uses. A statement can be added to include all present and future public utilities.

15. Consideration of a motion approving an Order of Vacation concerning the 200 block of S. Elm Street within the City of Abilene, Kansas.

Motion by Commissioner Shafer, seconded by Commissioner Bowers to approve an Order of Vacation concerning the 200 block of S. Elm Street with the City of Abilene having the rights to all present and future public utilities located in the public easement. Motion carried unanimously 5-0.

16. Consideration of an Ordinance adopting the codification of ordinances of the City of Abilene, Kansas, providing for the repeal of certain other ordinances not included therein, excepting certain ordinances from repeal and saving certain accrued rights and liabilities.

City Manager Dillner presented information regarding the codification of ordinances of the City of Abilene, Kansas, prepared by Citycode Financial, LLC, Wichita, Kansas.

Motion by Commissioner Bowers, seconded by Commissioner Shafer to adopt Ordinance No. 3319 **AN ORDINANCE ADOPTING THE CODIFICATION OF ORDINANCES OF THE CITY OF ABILENE, KANSAS, PROVIDING FOR THE REPEAL OF CERTAIN OTHER ORDINANCES NOT INCLUDED THEREIN, EXCEPTING CERTAIN ORDINANCES FROM REPEAL AND SAVING CERTAIN ACCRUED RIGHTS AND LIABILITIES.** Motion carried unanimously 5-0.

17. Consideration of an Ordinance amending Section 6-512 and 6-513 of the City Code of the City of Abilene, Kansas, concerning the removal of encroachments located within the public right-of-way.

City Attorney Martin presented information regarding overhang encroachment removal and ground supported encroachment removal and the exceptions and the permitting required for encroachments in the public right of ways.

Motion by Commissioner Shafer, seconded by Commissioner Dale to adopt Ordinance No. 3320 **AN ORDINANCE AMENDING SECTIONS 6-512 AND 6-513 OF THE CITY CODE OF THE CITY OF ABILENE, KANSAS CONCERNING ENCROACHMENTS IN THE PUBLIC RIGHT-OF-WAY, AND REPEALING EXISTING SECTIONS 6-512 AND 6-513.** Motion carried unanimously 5-0.

Reports

18. City Manager's Report

City Manager Dillner said the steps to fill the position of City Prosecutor are almost complete.

Adjournment

19. Consideration of a motion to adjourn the February 13, 2017 City Commission meeting.

Motion by Commissioner Bowers, seconded by Commissioner Dale to adjourn at 4:27 p.m. Motion carried unanimously 5-0.

(Seal)

Dee Marshall, Mayor

ATTEST:

Penny L. Soukup, CMC
City Clerk

PROFESSIONAL SERVICES AGREEMENT

This PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered on this ___ day of February, 2017, between Allen & Carter, LLC ("Prosecutor") and the City of Abilene, Kansas, a Kansas municipal corporation, ("City") with respect to the facts and objectives set forth below.

RECITALS

- A. The City requires a City Prosecutor to provide legal services related to the prosecution of violations of the City Code of the City of Abilene.
- B. Allen & Carter, LLC desires to serve as City Prosecutor ("Prosecutor") and to provide services related to the prosecution of violations of City Code and other applicable local ordinances and regulations and as otherwise provided in this Agreement.

NOW, THEREFORE, in accordance of the mutual promises and the agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree to the following terms and conditions:

1. City Prosecutor. Allen & Carter, LLC is hereby appointed to serve as City Prosecutor of the City of Abilene, Kansas. The Prosecutor will ensure that an attorney licensed to practice in the State of Kansas is available to prosecute Municipal Court every Monday beginning at 1:00 pm, except on Mondays designated as holidays by the City or when court is otherwise cancelled by the Municipal Judge. The Prosecutor will also prosecute cases appealed to the District Court.
2. Independent Contractor. The Prosecutor shall be considered an independent contractor, and as such the City shall not be responsible for paying any withholding taxes, workman's compensation insurance, health insurance, or any other insurance or benefits for the Prosecutor. No person employed by the Prosecutor shall be deemed an employee of City.
3. Term. The term of this Agreement shall begin on the effective date of the Agreement and shall continue unless otherwise terminated by either party as provided herein. The parties agree to review the Agreement annually during preparation of the annual budget to determine if the contractual amount for services should be adjusted.
4. Contract Amount. The City agrees to pay the Prosecutor the sum of \$35,000 to be paid in equal increments for prosecution services for the Municipal Court as defined in this Agreement. The City shall provide payment to the Prosecutor for services rendered by the 15th of the month following the provision of said services.
5. Office and Supplies. The Prosecutor shall provide office, office equipment and supplies as well as office staff to perform the duties specified in this Agreement.
6. Municipal Court Operations. The Prosecutor shall work with the Municipal Judge to establish court hours and days mutually convenient to both parties. The Prosecutor agrees to establish office hours in Abilene to provide time to meet with defendants and attorneys. The Prosecutor shall be responsible for completing journal entries, waivers of counsel, witness subpoenas and

complaints for Failure to Appear or Comply. The Court Clerk, who is an employee of the City, shall be responsible for preparation of Bench Warrants, for providing Prosecutor with complete court reports following a “not guilty” plea at first appearance, for obtaining certified drivers records and for service of complaints and/or subpoenas.

7. Conflict of Interest. In the event that a conflict of interest is identified that would prevent the Prosecutor from fulfilling prosecution duties, the Prosecutor will notify the City Attorney to arrange temporary assignment of responsibility to the City Attorney. The Prosecutor shall notify the City Manager when such reassignment is facilitated.
8. Public Funds. The Prosecutor may not obligate City for any monies or purchases, provided that City may agree to reimburse the Prosecutor for forms and software to produce court forms with prior approval by the City Manager.
9. Court Procedures and Policies. The Prosecutor agrees to provide the City Manager with a copy of written policies and procedures related to the prosecution of City violations within ninety days of the effective date of this Agreement. The Prosecutor agrees to supply the City Manager with any amendments to said policies and procedures prior to the implementation of said proposed changes. The City Manager shall have the authority to review and approve all policies and procedures prior to implementation, and reserves the right to consult with the City Attorney, Municipal Judge, Municipal Court Clerk, and Police Chief on any proposed changes to the policies and procedures prior to implementation by the Prosecutor.
10. Performance and Reports. The City Prosecutor agrees to provide quarterly reports to the City Manager showing aggregate data concerning such metrics as convictions, plea bargains, continuances, etc., in order for the City Manager to understand how the Prosecutor is performing. The City Manager agrees to conduct an annual evaluation of the Prosecutor, to be completed by December 1st.
11. Entire Agreement. This Agreement constitutes the entire Agreement between the Parties and supersedes all previous communications, negotiations, arrangements and agreements, whether oral or written, between the Parties with respect to the subject matter of this Agreement. This Agreement shall be governed by the laws of the State of Kansas. It shall not be modified without the written consent of both of the parties to this agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized officers or representatives in multiple counterpart copies, each of which shall be deemed an original but constitute one and the same instrument, effective as of the date first set forth above.

ADOPTED by the the City Commission of the City of Abilene, Kansas, on the 17th day of February, 2017.

CITY OF ABILENE, KANSAS

By: _____
Dee Marshall, Mayor

ATTEST:

Penny Soukup, CMC
City Clerk

ALLEN & CARTER, LLC

By: _____
Wade Carter



MEMORANDUM

TO: City Commission
FROM: David Dillner, City Manager
SUBJ: Changes to Mayoral Selection
DATE: February 17, 2017

ISSUE:

The City Commission is asked to consider changes to Section 1-104 of the City Code concerning when the Mayor is selected by the City Commission.

BACKGROUND:

With the passage of Ordinance No. 3290, the City Commission moved local general elections to November 2017 to coincide with changes to local election laws that occurred with the passage of HB 2104 by the Kansas Legislature in 2015.

The City Commission has historically selected the mayor and vice-mayor at the first meeting following receipt of the certified election results from the County Clerk, which coincides with the newly elected governing body members being seated.

The ordinance, however, did not change when the mayor and vice-mayor will be selected and presently states that these positions on the governing body will be filled annually. The proposed ordinance clarifies the matter by codifying the selection of the mayor and vice-mayor to coincide with when the newly elected governing body members are seated at the second Monday in January.

If the proposed ordinance is approved, Mayor Marshall will remain mayor until January 15, 2018, at which time the next mayor of Abilene will be selected by the governing body.

RECOMMENDATION

The City Manager recommends approval of the proposed ordinance to align the selection of the mayor with the seating of the newly elected governing body members following a general election. This will provide clarity and ensure consistent transition of the mayoral and vice-mayoral positions.

ATTACHMENTS

- Proposed Ordinance

ORDINANCE NO. ____

AN ORDINANCE AMENDING SECTION 1-104 OF THE CITY CODE OF THE CITY OF ABILENE, KANSAS, CONCERNING THE MAYOR

WHEREAS, the City desires to amend applicable sections of its City Code as provided herein.

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

SECTION ONE. That Section 1-104 of the City Code of the City of Abilene, Kansas, be amended as follows:

1-104 **MAYOR.** The Governing Body shall select a Mayor each year on the second Monday in January. ~~annually~~, The mayor ~~who~~ shall preside at all meetings of the City Commission and shall serve as an official head of the city on formal occasions during the term of office. The Governing Body shall also select a Vice-Mayor on the second Monday in January ~~annually~~, who shall preside and serve in the absence of the Mayor.

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

PASSED AND APPROVED by the governing body of the City of Abilene, Kansas, this 27th day of February, 2017.

CITY OF ABILENE, KANSAS

By: _____
Dee Marshall, Mayor

ATTEST:

Penny Soukup, City Clerk

APPROVED AS TO FORM:

Aaron O. Martin, City Attorney