

Kimball City Council  
Regular Meeting  
September 1, 2015

A regular meeting of the Mayor and City Council was convened in open and public session at 7:00 p.m. on September 1, 2015 in the City Council Chambers. Mayor Prunty and Council members Schnell, Warner, Shields, and Morrison were present. Also present were City Attorney Hadenfeldt, City Administrator Ortiz, Police Chief Huff, and City Clerk Russell. The public was represented.

Notice of the meeting was given in advance by publication in the Western Nebraska Observer. Notice of the meeting was given to the members and a copy of their acknowledgement of receipt of notice and the agenda is on record at the office of the City Clerk. Availability of the agenda was communicated in advance notice and in the notice to the members. All proceedings hereafter shown were taken while the convened meeting was open to the attendance of the public except as otherwise indicated.

Prunty called the meeting to order at 7:00 p.m. and the Pledge of Allegiance was recited.

Prunty acknowledged the posted Open Meetings Act poster.

At 7:01 p.m. Prunty opened a public hearing to consider an amendment to the City of Kimball Zoning Ordinance pertaining to the permitted accessory storage buildings and building sizes in the District R-2 Single Family Residential District. Ortiz indicated this amendment increases the size of storage sheds and accessory structures on larger lots from 200 s.f. to 500 s.f. provided it doesn't exceed 40 percent of the total lot area. Ortiz indicated there are not many residential lots that can accommodate that size.

There being no further discussion, Prunty closed the public hearing at 7:03 p.m.

Shields moved and Warner seconded to introduce Ordinance 729 and waive the requirement of reading on three different days. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Warner, Shields, Schnell, and Morrison. Nay: None. Absent: None. Motion carried.

Mayor Prunty read Ordinance 729 by title only.

ORDINANCE NO. 729

AN ORDINANCE AMENDING PERMITTED ACCESSORY STORAGE BUILDINGS AND BUILDINGS SIZES IN DISTRICT R-2 SINGLE FAMILY RESIDENTIAL DISTRICT OF THE ZONING ORDINANCES OF THE CITY OF KIMBALL, KIMBALL COUNTY, NEBRASKA, PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE AND PROVIDING FOR PUBLICATION IN PAMPHLET FORM.

Shields moved and Warner seconded to pass and approve Ordinance 729. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Warner, Shields, Schnell, and Morrison. Nay: None. Absent: None. Motion carried.

Prunty opened discussion on his appointments to the Tree Board. Mark Davies and Carol Meyer had indicated they no longer wished to be on the board. There being no further discussion, Schnell moved and Morrison seconded to approve the Mayor's appointments of Betty Schulte and Everett Durham to the Tree Board. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Warner, Shields, Schnell, and Morrison. Nay: None. Absent: None. Motion carried.

Ortiz presented updated figures on the FY2015/2016 budget. On the general side, the legal and professional line item was reduced. Ortiz explained the group insurance line item for the Landfill budget. He also explained the Fire Maintenance insurance and group insurance and that the budget for group insurance includes the life insurance.

Ortiz commented on looking at the overall mill levy and debt service to account for some infrastructure improvements. There are an additional six fire hydrants that need repair and/or replaced. The difference has been allocated and \$15,000 was budgeted in Fire Maintenance for fire hydrant replacement. Ortiz explained this will keep the overall mill levy the same.

Ortiz commented on the water revenue and the deficit in residential and commercial sales since 2012. During the previous years' drought, water conservation was pushed; however, water conservation causes deficits in water sales.

The budget itself is still very grim. If an increase in sales taxes is not seen, Ortiz may have to come back to the council to start looking at other alternatives including furloughs and layoffs.

Prunty expressed his appreciation to Ortiz for the time spent on the budget.

Prunty opened discussion on the unsafe property at 301 S. Webster Street. The initial compliance date was June 26, 2015 and the owner received an extension until the end of August 2015. Prunty has not heard anything from the owner as of yet. Ortiz presented new photos, taken September 1, 2015, which show that nothing has been done to rectify the issues with the unsafe property and there are now some new issues with the building.

Ortiz explained the City Code permits the City to remedy the condition or demolish the unsafe building if the person receiving the notice has not complied or taken an appeal from the determination that a dangerous building exists. The City would have to contract with an engineer to assess the building. City Code also permits the City to place a lien against the property to collect the cost of abating the unsafe property. Ortiz explained another option is to get a court order that the owner of the property must repair or remove the unsafe structure. A court order would probably be the most logical action. Shields inquired if the cost of the engineer would be assessed back to the owner and Hadenfeldt said it could be.

There being no further discussion, Warner moved and Shields seconded to direct Ortiz and City Attorney Hadenfeldt to proceed with City prosecution for the unsafe property at 301 S. Webster Street. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Warner, Shields, Schnell, and Morrison. Nay: None. Absent: None. Motion carried.

Prunty opened discussion on the nuisance and zoning violations at 810 W. 1<sup>st</sup> Street and 1101 and 1109 S. Oak Street. Letters were sent to the property owners and Ortiz, Prunty and Chief Huff visited with the property owner, Michael Schadegg, to see what progress has been made. Schadegg directed them to his salvage dealer license.

The City received a visit from a Department of Motor Vehicles investigator regarding rules and regulations and the investigator indicated Schadegg's license only applies to his principal place of residence as registered with the State. He also indicated that property within a certain amount of feet from a U.S. highway has to meet some standards. Ortiz commented that the properties are nuisances and are not zoned for the uses. He added that any salvage yard/wrecker yard need to be operated within the Agricultural District or Heavy Industrial District as a conditional use. The property at 810 W. 1<sup>st</sup> Street is in a Heavy Commercial District zone and the properties on Oak Street are zoned Light Industrial.

Ann Warner commented that the zoning was not in place at the time these salvage yards were created and commented on grandfathering. Morrison said he was told today that they were cleaning it up and Christy Warner said she was told that as well.

Discussion was held on the recreational vehicles and mobile homes on the property at Oak Street and Ortiz said that it was determined that the recreational vehicles were connected to utilities and being used as living quarters on the Oak Street properties as well as the 1<sup>st</sup> Street property.

Discussion was held on getting sheriffs titles for the vehicles and Huff said that Schadegg has gotten sheriffs titles on three vehicles. In his initial contact with Schadegg it was indicated that there were several impounds from the City; however, they were not actually impounds from the City.

Ortiz said the City Code requires that unlicensed or inoperable vehicles cannot remain on the property longer than 30 days. Warner inquired if there was any response from the bank (as co-owner). Ortiz said he had spoken with them and he was confident in thinking that court action would probably be more effective. Ortiz said court action would be taken up with all the owners.

Ann Warner said that this is a business and there is always a need to bring business to town. She inquired if that business were not here, would it be missed? Schnell said this is not to put him out of business. He just needs to clean up the property and operate in accordance with the code. Ann Warner said as a business owner he cannot afford to pay for the manpower to clean up the property. Schnell said the council is just trying to enforce what is on the books.

Shields inquired if this goes to court and Schadeegg does show good faith, what would the judge do? Hadenfeldt said the judge would grant an extension and if he is showing progress, the sentence would be lighter. Warner inquired if the City is trying to address the nuisance or the zoning or both. Hadenfeldt said the City is starting at the nuisance level. The nuisance action is designed to say they have to clean up some of the stuff. Prunty said that at least this starts somewhere.

Huff pointed out that previously speaking to Schadeegg about this and the options to clean up and that the City would be more than willing to work with him, Schadeegg “hem-hawed” around.

There being no further discussion, Schnell moved and Morrison seconded to direct Ortiz and City Attorney Hadenfeldt to pursue City prosecution for the nuisance and zoning violations at 810 W. 1<sup>st</sup> Street and 1101 and 1109 S. Oak Street. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Shields, Schnell, and Morrison. Nay: Warner. Absent: None. Motion carried.

Prunty opened discussion on Ordinance 730 to amend sections of the Kimball Municipal Code. Ortiz was dealing with some property encroachments on the North side of town and caught an error in the code. The correct section to be cited is 94.05.

Schnell moved and Warner seconded to introduce Ordinance 730 and waive the requirement of reading on three different days. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Warner, Shields, Schnell, and Morrison. Nay: None. Absent: None. Motion carried.

Mayor Prunty read Ordinance 730 by title only.

#### ORDINANCE NO. 730

AN ORDINANCE OF THE CITY OF KIMBALL, NEBRASKA, AMENDING KIMBALL MUNICIPAL CODE, TITLE IX, GENERAL REGULATIONS; PROVIDING FOR THE REPEAL OF ORDINANCES AND SECTIONS IN CONFLICT THEREWITH, AND PROVIDING FOR PUBLICATION IN PAMPHLET FORM.

Schnell moved and Warner seconded to pass and approve Ordinance 730. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Warner, Shields, Schnell, and Morrison. Nay: None. Absent: None. Motion carried.

Prunty opened discussion on Resolution 2015-08 to designate Jim Shoup as the designated Street Superintendent. Ortiz commented Shoup is a Class B superintendent and commented on the incentives cities receive with having a Class A or a Class B superintendent. Class B is \$1,500 a year, while Class A is \$3,000 a year. Ortiz commented on training another crew member to be certified down the road.

There being no further discussion, Shields introduced the following resolution and moved its approval.

RESOLUTION 2015-08

A RESOLUTION DESIGNATING JIM SHOUP, AS THE DESIGNATED STREET SUPERINTENDENT FOR THE CITY OF KIMBALL, NEBRASKA.

WHEREAS, The City of Kimball has a requirement under Nebraska Revised Statutes to appoint a qualified street superintendent; and

WHEREAS, meeting said requirement is necessary under Nebraska Revised Statutes to ensure the City continues to receive incentive payments for street maintenance; and

WHEREAS, Jim Shoup, an employee of the City of Kimball, is a qualified street superintendent and engages in the practice of street superintending for the City of Kimball.

NOW, THEREFORE, BE IT THEREFORE RESOLVED BY THE CITY COUNCIL OF THE CITY OF KIMBALL, NEBRASKA THAT the Mayor is hereby authorized to appoint Jim Shoup, Street Superintendent #S-1562, Class B, as the designated street superintendent for incentive payment purposes with the State of Nebraska, to be effective from September 1, 2015.

PASSED AND APPROVED THIS 1<sup>st</sup> DAY OF SEPTEMBER, 2015.

/s/Keith B. Prunty, Mayor

ATTEST:

/s/Rosemarie D. Russell, City Clerk

Seconded by Morrison. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Warner, Shields, Schnell, and Morrison. Nay: None. Absent: None. Motion carried.

The City Council reviewed the following items under the consent agenda:

1. Minutes from the August 11, 2015 joint city/county meeting and August 18, 2015 regular city council meeting;
2. Claims; and
3. Ratify the Kimball Volunteer Fire Department members.

Morrison moved and Warner seconded to approve the consent agenda items as presented. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Schnell, Warner, Shields, and Morrison. Nay: None. Absent: None. Motion carried.

Ortiz reported on the alley on the North side of town that was blocked off. The property owners have been given notice.

Ortiz reported the chip seal project will be moving forward within the next week or two.

Ortiz reported on Farmer's Day and the block party being relocated. There will be permanent electricity service by the caboose. There will also be outlets at Gotte Park to service the vendors.

Ortiz reported on the concrete work on 1<sup>st</sup> and Jefferson Streets.

Ortiz is working with Z & S Construction and trying to keep up with the cell closure out at the Landfill. They are required to have methane vents now and probably will have to capture the methane sometime down the road.

Ortiz is crafting an agreement with Keep Kimball Beautiful and the Recycle Center and their operations. He commented on the accounting error which is going to be corrected in the next fiscal year and due to shortfalls on the Landfill side, the \$2 payment to Keep Kimball Beautiful has been lowered to \$1. The City budget supersedes the 2012 motion.

Prunty reported Clay McDowall requested an extension on his unsafe property to the end of September 2015.

Prunty has spoken with Mike Benjamin of the UPRR with regard to the pigeon nuisance in the underpass. Ortiz said he has heard back from Quinn Daamgaard with HDR regarding the underpass design. There was an impression that the City would not take formal action on the preferred underpass design. However, that was incorrect and the City does have an option of which design to select.

Prunty and Ortiz have met the new owner of the bowling alley, Greg McDaniel. There will be a public hearing for his liquor license at the next council meeting.

Prunty reported he and Ortiz met with Keep Kimball Beautiful last night and the meeting was cordial and informative.

Prunty said so far this year there have been 24 police officers shot and killed, seven of them since August 1<sup>st</sup>. Three officers have died from being assaulted and 12 by vehicular assault or pursuit. Prunty thanked Chief Huff and his men for risking their lives to keep Kimball citizens safe.

The next City Council meeting will be on September 15, 2015 at 7:00 p.m.

There being no further business to come before the Council, Shields moved and Schnell seconded to adjourn at 8:07 p.m. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Schnell, Warner, Shields, and Morrison. Nay: None. Absent: None. Motion carried.

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Keith Prunty, Mayor

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Rosemarie Russell, City Clerk

City of Kimball-General Claims-September 1, 2015-Combined Utilities-Utilities-3,880.78; Raelynn Hinton-Reimbursement -152.00; Fees-11.25; SourceGas, LLC-Gas Service-2,120.08; Staples-Office Supplies-118.91; Affordable Tree-Tree Grant-212.50; C & M Air Cooled Engine, Inc.-Parts-1,696.13; C. W. Golf Management, LLC-Management Fees-4,735.00; Consolidated Management Company-Meal Plan-289.50; Crop Production Services, Inc.-Supplies-287.00; Dollar General Corporation-Charges-33.20; Enviro Service Inc.-Water Sample-18.00; Frenchman Valley Coop-Fuel-2,944.62; GreatAmerica Financial Services-Lease-124.12; Hometown Hardware-Supplies-374.36; Ideal Linen Supply, Inc.-Mats- 115.07; Kimball Auto Parts-Parts-30.49; Kimball Builder's Emporium-Contract Labor-900.00; Kimball Event Center-Rent- 500.00; Kimball Handyman Project-Handyman Project-1,098.63; Kimball Health Services-Medical-486.60; Kimball Plumbing-Repairs-111.99; Kimball Swimming Pool-Concessions-158.42; L.W. Cartage Co.-Lot Rent-100.00; Mid-American Research Chemical-Freight-46.67; Napa Auto Parts-Supplies-491.67; Nebraska Environmental Products-Parts-504.36; Nebraska Safety & Fire Equipment, Inc.-Inspection-158.00; Panhandle Coop-Propane-1,795.71; Sandberg Implement Inc.-Parts-793.46; Shopko Stores Operating Co.-Supplies-24.59; Stotz Equipment-Parts-912.36; Autumn Uglow-Contract Cleaning-37.50; Vince's Corner-Concessions-161.92; Western Nebraska Observer-Meeting Notices-275.52; Wolf Automotive Center, Inc.-Carwash-90.00.

City of Kimball-Economic Development Claims-September 1, 2015-Chamber of Commerce-Monthly Grant-450.00; Kimball County Treasurer-990/995 Split-1,000.00; Western Nebraska Observer-Meeting Notices-3.08.