

Kimball City Council
Regular Meeting
February 16, 2016

A regular meeting of the Mayor and City Council was convened in open and public session at 7:00 p.m. on February 16, 2016 in the City Council Chambers. Mayor Prunty and Council members Schnell, Shields, Warner, and Morrison were present. Also present were City Attorney Hadenfeldt, City Administrator Ortiz, Police Chief Huff, Street Superintendent Shoup, City Treasurer Sisk 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.

Sixth graders Riley Hinton and Tiana Stierwalt lead the Pledge of Allegiance.

Prunty called the meeting to order at 7:00 p.m. and acknowledged the posted Open Meetings Act poster.

At 7:01 p.m. Prunty opened a public hearing on the One and Six Year Plan. Ortiz reviewed the One and Six Year Plan. Most of the plan remains the same as last year, except the proposed turning lanes at Castronics and Shopko have been deleted. Over the next few years, there will be more armor coating on roads and there has been discussion on repaving some of the roads. Ortiz discussed curbs and the underpass at Highway 71 and 1st Street.

Street Superintendent Shoup talked about engineer's estimates and indicated that in the future County Road 32 would need to be incorporated into the plans. The current One and Six Year Plan is pretty basic and there are no major projects. Discussion was held on specific criteria that the State requires that cannot be incorporated into the maintenance plan. Discussion was also held on the 27 lane miles within the City and the condition of those streets. Ortiz has spoken with M.C. Schaff with regard to a survey on the conditions and they will be submitting a proposal.

Ortiz said the City has received requests to pave some streets and he commented on Paving Districts being required to fund those.

Shoup plans to stick to \$85,000 on the chip-seal project which will be concentrated in the areas of 2nd Street, the downtown area and Washington and Nadine Streets.

There being no further comments, Prunty declared the public hearing closed at 7:08 p.m.

Schnell moved and Shields seconded to approve the following resolution.

RESOLUTION 2016-02

WHEREAS, the City of Kimball, Nebraska, has conducted a public hearing in accordance with the requirements of the Board of Public Roads Classifications and Standards,

NOW, therefore, be it resolved by the Mayor and City Council that the one and six-year street plans are unanimously accepted as presented at the public hearing.

Dated this 16th day of February, 2016.

/s/Keith B. Prunty, Mayor

ATTEST: /s/Rosemarie D. Russell, City Clerk

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

At 7:09 p.m. Prunty opened a public hearing on the applications for rezoning a tract of land situated in the South Half of Section 32, Township 15 North, Range 55 West of the 6th P.M., Kimball County, Nebraska, consisting of 125.966 acres more or less, from Single Family Residential District (R-2) and Multi-Family Residential District (R-3) to Rural Residential District (RR); and rezoning 3.976 acres situated in the West Half of the Southeast Quarter of the Northeast Quarter South of the Irrigation Ditch, in Section 32, Township 15 North, Range 55 West of the 6th P.M., Kimball County, Nebraska, from Single Family Residential District (R-2) to Rural Residential District (RR).

Ortiz explained the two areas for rezoning. The City initially received a request from a property owner who was seeking to rezone a parcel to Rural Residential District (RR) to make it more marketable. To be rezoned, the parcel needed to be contiguous to the RR zoning; therefore, another property owner has requested his parcel to be rezoned as RR. The rezoning requests were heard by the Planning Commission. Ortiz indicated the Planning Commission received some public comments as well as a written comment. The Planning Commission discussed this at length including the amount of animals that would be permitted, or animal units allowed per acre. Ortiz added that there are no limits as to what type of animals could be on this property. There was some discussion at the Planning Commission meeting on nuisances and it would fall back on the City's nuisance ordinances. The Planning Commission recommended approval of the rezoning requests.

Brad Brower, 1128 E. 8th Street, commented on the allowed animals. He indicated that if someone bought both of the parcels, they would be allowed to have animals right up next to the homes, so there would be no buffer. Brower also inquired what is considered a nuisance, i.e., sound or smell and what course of action there is with the RR zoning. Huff commented on State Statutes on disturbing the peace. Ortiz commented on the definition of nuisance, which includes smells, litter, dead carcasses,

and trash. Morrison said that currently the section of land to the east has horses and cows and there is a pasture on the other side of the school that has had horses and cows in the past. Further discussion was held on grazing for cows and how much land would be needed.

Annette Brower, 1128 E. 8th Street, said their fence lines backs up to that property and she does understand wanting to have some type of resale value. However, she was concerned about the potential for nuisance. Her fear is that there will be many animals put in that area and it will become a “smell” nuisance. She reiterated that she is not necessarily against the rezoning but concerned about the nuisance.

Mr. Brower indicated that what Farrar (one of the applicants) owns is potentially not a lot of acreage but if someone buys both properties, there may be an issue.

Harold Farrar, 1124 E. 8th Street, said he spoke to Mr. Vrtatko (the other applicant) under the direction of the City. He explained he had a potential buyer that was interested in his home, however, on the additional property behind his home animals are no longer allowed as the non-conforming use has expired. Farrar said the only way he could rezone that property was if the adjacent property was rezoned as well in order for the zoning district to be contiguous. Farrar said Mr. Vrtatko did not know his property was zoned as residential. Vrtatko told him that he would develop it into 10 acre lots which would allow 10 animal units each lot. With the four acres Farrar owns, he would be able to run less than four cows and he commented on the grass in that area not being enough to sustain the animals. Farrar feels this does benefit his property as far as someone wanting to have horses or cows.

Farrar commented that a number of his neighbors had inquired about purchasing the property for the purpose of running a horse or two. Warner inquired about the new Comprehensive Plan that the Planning Commission is working on. Ortiz said the preliminary feedback from the Comprehensive Plan did indicate that area as single-family residential. However, there is nothing to say that this can't be Rural Residential.

Ortiz said that both Farrar's and Vrtatko's properties had farm animals at one point. The Zoning Ordinance allows a non-conforming use, however, if the use of the property is discontinued for a period of two years, the use is then terminated.

There being no further comments, Prunty declared the public hearing closed at 7:27 p.m.

Schnell thinks the nuisance ordinance will help if there are any nuisance issues. Schnell moved and Morrison seconded to introduce Ordinance 734 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: Shields, Schnell, and Morrison. Nay: Warner. Absent: None. Motion carried.

Mayor Prunty read Ordinance 734 by title only.

ORDINANCE NO. 734

AN ORDINANCE AMENDING THE ZONING CERTAIN PARCELS FROM RESIDENTIAL TO RURAL RESIDENTIAL PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE AND PUBLICATION IN PAMPHLET FORM.

Schnell moved and Morrison seconded to pass and approve Ordinance 734. 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 the Keno Grant Application from the Post Prom Committee. Toni Stahla was presented to speak about the Post Prom activities. The Post Prom is sponsored by the junior class parents and they are requesting \$3,000 to help provide a safe and fun environment following the prom. Funds will be used for food, games and prizes for those attending. The event will be held at the High School.

There being no further discussion, Warner moved and Shields seconded to approve the Keno Grant Application from the Post Prom Committee for \$3,000. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Schnell, Shields, Warner and Morrison. Nay: None. Absent: None. Motion carried.

Prunty commented on the agenda item to discuss and consider action on evicting Keep Kimball Beautiful from the Recycle Center facility at 410 W. 3rd Street. This item was contingent on not receiving a signed agreement. The agreement has been signed by both Keep Kimball Beautiful and the City of Kimball. Prunty has asked Ortiz to set up a time to fulfill the agreement.

Shields moved and Warner seconded to table the discussion of snow removal due to the requestor's illness. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Schnell, Shields, Warner and Morrison. Nay: None. Absent: None. Motion carried.

Prunty opened discussion on Resolution 2016-03 to adopt Kimball Retirement Plan 401(a) as a complete restatement of the prior plan and appoint the City Administrator as Trustee and Resolution 2016-04 to amend and restate Kimball Retirement Plan 457(b). Ortiz indicated the City offers two retirement plans. One is a matching portion plan 401(a) and the other is a defined contribution plan 457(b). The existing plans date back a number of years and the original provider is no longer in business. There is some important information that needed to be included and Mass Mutual has generated these documents and brought the plans into compliance.

There being no further discussion, Schnell moved and Morrison seconded to approve the following resolution:

RESOLUTION 2016-03

WHEREAS, the City of Kimball has maintained the City of Kimball Retirement Plan,

401(a), since January 1, 2005 for the benefit of eligible employees; and

WHEREAS, the City of Kimball has decided to restate the Plan to comply with the requirements of the Pension Protection Act of 2006 (PPA), the Heroes Earnings Assistance and Relief Act of 2008 (HEART Act), the Worker, Retiree, and Employer Recovery Act of 2008 (WRERA) and other applicable guidance; and

WHEREAS, the City of Kimball wishes to appoint the City Administrator as Trustee(s) of the Plan; and

NOW, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF KIMBALL, NEBRASKA that effective January 1, 2016 the City shall, and it hereby does adopt the City of Kimball Retirement Plan as a complete restatement of the prior plan.

RESOLVED FURTHER that the Mayor and other appropriate elected officials and officers of the City of Kimball shall be authorized to execute the restated Plan document and perform any other actions necessary to implement the adoption of the Plan restatement. The City of Kimball may designate any other authorized person to perform the actions necessary to adopt the Plan restatement. A copy of the Plan shall be retained in City Hall.

RESOLVED FURTHER that the City of Kimball will act as administrator of the Plan and will be responsible for performing all actions necessary to carry out the administration of the Plan and may designate any other person or persons to perform the actions necessary to administer the plan.

RESOLVED FURTHER that Plan participants shall be provided with a summary of the Plan provisions within a reasonable period of time following the adoption of the Plan.

Passed and approved this 16th day of February, 2016.

/s/Keith B. Prunty, Mayor

ATTEST:

/s/Rosemarie D. Russell, City Clerk

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

Schnell moved and Warner seconded to approve the following resolution:

RESOLUTION 2016-04

BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF KIMBALL, NEBRASKA:

ADOPTION OF AMENDMENT AND RESTATEMENT OF THE CITY OF KIMBALL,
NEBRASKA EMPLOYEE RETIREMENT PLAN

NOW, BE IT RESOLVED, that effective February 1, 2016 the City shall, and it hereby does adopt an amendment and restatement of the City of Kimball Deferred Compensation Plan, 457(b), in the form of the Plan document attached hereto and by this reference fully incorporated herein. The purpose of said amendment and restatement of the Plan is to:

- 1) comply with all provisions of the Pension Protection Act of 2006 (PPA), the Heroes Earnings Assistance Act of 2008 (HEART, including HEART Notice 2010-15), and the Worker, Retiree, and Employer Recovery Act of 2008 (WRERA), and all other tax laws enacted since the Plan was last amended, as such laws apply to government plans;
- 2) appoint the City Administrator as Trustee(s) of the Plan; and
- 3) make such other changes as determined to be necessary and appropriate by the City.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Mayor and other appropriate elected officials and officers of the City of Kimball shall be, and they hereby are, authorized to do all things necessary to carry out and accomplish the foregoing Resolution, including the execution of the amended and restated Plan document and any other documents or amendments which may be necessary or appropriate for this amendment and the administration of the aforesaid Plan, including such actions as may be necessary or appropriate to achieve and maintain qualification of the Plan.

Passed and approved this 16th day of February, 2016.

/s/Keith B. Prunty, Mayor

ATTEST:

/s/Rosemarie D. Russell, City Clerk

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

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

1. Minutes from the February 2, 2016 regular city council meeting;
2. Claims; and
3. Financial Statements

Morrison moved and Shields 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, Shields, Warner and Morrison. Nay: None. Absent: None. Motion carried.

Ortiz reported on LB958 and the number of entities that spoke in opposition of it. Ortiz reported on a potential water leak at 9th and Myrtle. The Board of Public Works meeting

has been rescheduled for February 25th. The agenda for that meeting will include a proposal for water sampling and a change order for the closure of the Landfill cell.

Prunty reported he has been visiting with business owners and explained the declining sales tax revenues. Prunty reported Liz Eatmon has indicated that as of February 23rd, their business will have been a locally owned family business for 60 years.

The next City Council meeting will be held on March 15, 2016 at 6:00 p.m.

There being no further business to come before the Council, Shields moved and Warner seconded to adjourn at 7:26 p.m. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Schnell, Shields, Warner and Morrison. Nay: None. Absent: None. Motion carried.

Keith Prunty, Mayor

Rosemarie Russell, City Clerk

City of Kimball-City Council Meeting-General Claims-February 16, 2016-The United States Life Insurance Company-Long Term Disability-491.17; Andrew Bremer-Expense Report-52.00; Amazon-Charges-27.99; Audio Editions-CD's-304.68; Baker & Taylor Books-Book Purchase-421.95; Sheryl Biesecker-Contract Cleaning-412.50; Bluffs Sanitary Supply, Inc.-Supplies-62.17; Center Point Large Print-Book Purchase-86.28; Centurion Technologies-Smartshield Renewal-112.73; CenturyLink-Telephone-523.24; CenturyLink-Telephone-94.66; CenturyLink-Telephone-80.79; Charter Communications-Internet-235.89; Charter Communications-Internet-48.98; Combined Utilities-Utilities-517.53; Combined Utilities-City Utilities-3,743.18; Connecting Point-Copy Usage-30.73; Cornhusker State Industries-Bookcase-78.00; Culligan-Salt-9.95; Curless Construction Service-Repairs-52.00; Demco-Supplies-251.22; Dollar General Corporation-Supplies-29.85; Frenchman Valley Coop-Fuel-3,332.37; Gale/Cengage Learning-Book Purchase-46.48; High West Energy-Utilities-1,117.00; High West Wiring-Install Power/Internet-1,088.76; Hometown Hardware-Supplies-654.85; Ideal Linen Supply, Inc.-Supplies-155.40; Ingram Library Services-Book Purchase-184.98; Intralinks, Inc.-Microsoft Office-149.04; Kimball Auto Parts-Parts-506.13; Kimball County Register of Deeds-Recording Fees-10.00; Kimball Service Center-Repairs-230.54; LorRon Department Store-Foul Weather Gear-175.99; MicroMarketing, LLC-DVD's-127.76; Napa Auto Parts-Parts-320.37; Nebraska Library Commission-Registration-15.00; Nebraska Liquor Control Commission-Renewal-45.00; Nebraska Salt & Grain Co.-Ice Control Salt-1,808.33; Pack Rat Enterprises-Garbage Disposal-100.00; Panhandle Coop Association-Supplies-96.12; Praise Windows Inc.-Window Washing-50.00; Prestige Flag-Supplies-344.90; Prestige MFG.-Angle Iron-73.74; Presto-X-Monthly Contract-83.87; Safetyline Consultants, Inc.-Safety Training-750.00; Stacie Schadegg-Reimbursement-22.98; Simmons Olsen Law Firm, P.C.-Professional Services-1,448.00; Simmons Olsen Law Firm, P.C.-Professional Services-218.50; Stotz Equipment-Parts-2,170.59; Russ Thompson-Contract Cleaning-80.00; Autumn Uglow-Contract Cleaning-75.00; Upstart-Book Purchase-137.42; Viaero-Cell Phone-44.24; Viaero-Cell Phone-205.31; Vince's Corner-Fuel-32.22; Visa-Firstier Bank-Charges-1,484.82; WPCI-Review Data-58.50.

City of Kimball-Economic Development Claims-February 16, 2016-CenturyLink-Telephone-61.55; Charter Communications-Internet-42.32; Hometown Hardware-Shelves-99.75; John Morrison-Expense Report-48.60; Simmons Olsen Law Firm, P.C.-Professional Services-30.00.