

Kimball City Council
Regular Meeting
February 2, 2016

A regular meeting of the Mayor and City Council was convened in open and public session at 7:00 p.m. on February 2, 2016 in the City Council Chambers. Mayor Prunty and Council members Warner, Schnell, Shields, and Morrison were present. Also present were City Administrator Ortiz, Police Chief Huff, Library Director Sears, 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.

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.

Prunty opened discussion on the Keno Grant application from Kimball Lions Club. Sonny Porter was present on behalf of the Kimball Lions Club and presented a brief history of the Lions Club. Last year, they requested some financial help to get them through another year. They would like to once again ask for help and he commented on the programs and projects. One of the projects, Christmas giving for Kimball County Manor residents, was taken up by the Lions Club because it was not going to be held this year. Porter commented on the collection of used eyeglasses. The present Lions Club members are working to revive the club and reinstate some of the past projects, such as the Diabetes program, Glaucoma and Hearing Clinics, Child I.D. project, and support of the area Boy Scouts, Girl Scouts, F.F.A and 4-H.

Porter spoke with regard to the Treasurer's report and indicated they would like to become strong enough to give more back to the community than they are taking out. He would like the City Council's help to do this and appreciates the consideration. Their bowling tournament is their largest fundraiser. Porter said they did have other fundraisers and they are working on those currently.

There being no further discussion, Warner moved and Shields seconded to approve the Keno grant application from Kimball Lions Club for \$2,000. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Warner, Schnell, Shields, and Morrison. Nay: None. Absent: None. Motion carried.

Council members thanked Porter for all he does.

Prunty opened discussion on waiving Event Center fees for a Murder Mystery Dinner fundraiser hosted by the Kimball Public Library and the Friends of the Kimball Library. Library Director Sears indicated the murder mystery dinner fundraiser is set for February 27, 2016 at 6:00 p.m. at the Event Center. They are expecting about 80 people and the money raised will go to the Friends of the Library to be used for special Library programs. They are requesting to waive or discount the room fee for the Meadowlark Room.

Ann Warner, 720 S. Jefferson Street, said she is all for waiving the fees but wondered if the council is setting a precedent and commented on the Farmers Day Committee and inquired if the fees will be waived for all them. She said it is something to consider and think about. Schnell said it is for a City entity and commented on the other organizations using Keno money.

There being no further discussion, Schnell moved and Morrison seconded to waive the Kimball Event Center room fee for the dinner theater fundraiser on February 27, 2016. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Warner, Schnell, Shields, and Morrison. Nay: None. Absent: None. Motion carried.

Prunty opened discussion on partnering with Kimball County and Kimball Health Services to establish a wellness center at the Kimball Event Center. Ortiz said there was initial discussion on trying to create a wellness center in the community. There was some discussion on the location and the Event Center location came up. Ortiz commented on the renovation and how the City is going to move forward. He stressed that the wellness center concept is still very premature and only in the discussion phase. Ortiz asked if the City Council wanted to move this forward and explore it. If the council does wish to explore this, he will send a request to the Nebraska Department of Economic Development for a one year extension on the grant funds.

Prunty indicated the Kimball County Commissioners discussed this at their meeting today and are in agreement to pursue this. Warner inquired if the entire remodel will still be done and Ortiz said this hasn't been discussed yet. The City would still likely be asked to expend the funds and determine what funds the County and the hospital can contribute to the remodel. Warner inquired if the hospital is expecting to lease the entire building and Ortiz indicated this needs to be worked out. Schnell inquired about this being some type of incubator or does there need to be some expenditure into an engineering firm. Ortiz said the first thing to figure out is if the current architectural firm is the one best suited to fill the needs. There will possibly be some additional expenditures involving engineering.

Ken Hunter, CEO of Kimball Health Services, indicated his initial reaction was that there was more than enough square footage to have a wellness center and an Event Center. He added that Kimball certainly needs an Event Center. Hunter feels that there would be enough square footage for the front part to be used as an Event Center as it is now and they would need more room than what is currently the work out area. He said that

the room right next to the Fitness Center would be more than enough room for a wellness center.

Schnell said the big ticket items are the bathrooms locations and the fire suppression system. Hunter said if they had a years' time, at least they could get in and find out what it is going to require. There would most certainly be some reconfiguring. Hunter said it would be a good thing to work together to get something that is affordable and would help the community going forward.

Warner said she appreciates the effort to try to utilize the building. Morrison said it seems like with the current renovation plans the City is going to spend a lot of money and not get a lot more than was already in place.

There being no further discussion, Warner moved and Shields seconded to pursue partnering with Kimball County and Kimball Health Services to establish a wellness center at the Kimball Event Center. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Warner, Schnell, Shields, and Morrison. Nay: None. Absent: None. Motion carried.

Hadenfeldt joined the meeting via telephone.

Prunty opened discussion on the agreement with Keep Kimball Beautiful and use of the Recycle Center facility. Prunty explained a timeline to the best of his knowledge with regard to conversations on the agreement with Keep Kimball Beautiful board members and employees. After listing the timeline, Prunty said he has not heard back from the Keep Kimball Beautiful board as promised, but instead received an email from the City Attorney today that KKB has retained an attorney in regards to the agreement.

Prunty said that this has dragged out long enough and it needs to come to its conclusion. He asked the City Council to reconsider the agreement with Keep Kimball Beautiful that was approved on November 3, 2015 and approve the agreement presented at this meeting with the proposed changes with the stipulation that the agreement be signed and executed by the next council meeting. If it is not, then action will be taken to evict Keep Kimball Beautiful from the Recycle Center facility.

Ortiz explained the amendments to the agreement. In paragraph 2, under financial support, it was spelled out that for the City's fiscal year 2015-2016 commencing on October 1, 2015, the City agrees to provide \$24,600 in addition to \$3,490 owed for the month of September 2015. In paragraph 3, the change goes back to the very first draft in the summer that in lieu of an independent audit, KKB shall provide all financial and performance records relating to Keep Kimball Beautiful for inspection, review or audit by the City and shall include but not limited to adopted budgets, revenue and expenditure reports, transactions listings and receipts, bank statements, and any other relevant documents upon request at any time. Ortiz said the audit language has been removed. Added to paragraph 3 was that KKB agrees to provide copies to the City of any grant

contract and grant award notifications within 10 business days of grant contract submittal and receipt of award notification.

In paragraph 5, section d was moved to paragraph 10. In paragraph 9, the key issue was language and in talking with the City's insurance agent and City Attorney, the hold harmless sentence was removed and providing the City with a waiver of subrogation endorsement was added. In paragraph 10, the language from paragraph 5 was added that KKB will indemnify, protect, defend, and hold harmless the City from all claims, judgments, causes of action, damages, penalties, fines, taxes, and expenses arising as a result of or in connection with KKB's operations, employees, agents, volunteers, or representatives and/or breach of any prohibition or provision of this agreement.

Ortiz said those are the changes that have been made in accordance with the Mayor's discussion with the Keep Kimball Beautiful board members and employees.

Shields clarified that these were the changes that were discussed with the KKB Board and the Mayor said they were. Shields said that when this process was first started, he was part of the original committee. At the last meeting where Binod was not present, everyone in the room affirmed that the deal was hammered out. He commented on the last meeting where the City Council indicated that funding was going to be withheld. Shields said that now it has come around where the Mayor is negotiating, where Shields thought the committee had done this. Prunty commented on the common practice on the insurance section and indicated he had talked to the City Attorney. Shields commented on the conversations with individuals who are not on the board or are no longer on the board. Prunty indicated the agreement has everything in it that was agreed on when he met with KKB board members on Thursday, January 28, 2016.

Eileen Rowley, KKB President, indicated the KKB Board had not received a copy of the amended agreement and Warner inquired if the agreement is something they are agreeing to and also inquired if the changes presented at the meeting were the changes that were negotiated. Rowley said that there were some amounts that were questioned. Ortiz commented there was a new line item added to the City's budget which was a combination of the \$29,000 that was owed to KKB in addition to the \$26,000 that is estimated. Rowley said they do not know about their insurance yet, so the answer is no, they are not agreeing to the amended agreement.

City Attorney Hadenfeldt (via telephone) indicated that he is in agreement with the amended agreement and if this is something that will resolve this, he recommended City Council approve it and pass it on to the KKB Board for approval.

Josh Enevoldsen, Kimball Insurance, said he has looked over the insurance section. He commented on the hold harmless section that was removed and said it is not an endorsement that can be offered. He said what is now in the agreement is common.

Warner said she would really like to see the agreement fulfilled. She wants to see the Recycle Center continue to operate. There has to be an end point at some point. This

has dragged on quite a long time so she hopes that the negotiations that happened are the final ones. Warner said she would like to see it done one way or another.

Jim Schulte, 400 High School Street, believes what this comes down to is that there is one person that doesn't like the City Administrator and she is balking at everything. Schnell said everyone needs to remember that the property is the property of the City of Kimball. After the initial inspection was made, the City became fully aware that there was no agreement in place. Schnell said he doesn't think there is anyone who would rent a facility out without an agreement and the reason to have everything on paper is to be covered. If the City Attorney thinks it is a good agreement, it is a good agreement.

There being no further discussion, Schnell moved and Morrison seconded to approve agreement as an amendment to the original agreement of November 3, 2015, to be available for signature by the Mayor and KKB president at the next City Council meeting. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Warner, Schnell, and Morrison. Nay: Shields. Absent: None. Motion carried.

Morrison said it is time to get this resolved.

Prunty opened discussion on the Memorandum of Understanding with the Nebraska Department of Revenue and authorizing the City Administrator as the certified individual. Ortiz indicated there is a State statute that allows cities to designate a person to have access to privileged information on sales tax. It is helpful from a financial perspective and it is helpful to know how it is broken down. Ortiz said it is a useful financial planning tool.

Morrison believes this is something that the City needs for planning, especially now since the sales tax figures are declining.

There being no further discussion, Shields moved and Warner seconded to authorize the City Administrator as the certified individual who is authorized to inspect sales and use tax return information. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Warner, Schnell, Shields, and Morrison. Nay: None. Absent: None. Motion carried.

Ortiz provided information on Legislative Bill 958, which would further restrict lid and levy limits on municipalities and other political subdivisions. The League of Nebraska Municipalities held a conference call and Prunty, Ortiz and Hadenfeldt took part in the conference call. Ortiz explained the bill is a way to limit and place further restrictions on municipalities and their budgeting. He spoke about the exceptions that will entail sinking funds, closure/post closure funds for the Landfill and capital expenses. This bill will have a detrimental effect on municipalities. Ortiz said the City of Kimball budget contains exceptions totaling \$700,000. If these were not factored into the City's lid levy, this will have a huge effect on the City's final operating budget. Under this bill, bonds

would have to be approved by a vote of the people, not just the super-majority of the council.

Prunty opened discussion on Ordinance 733 to amend the Kimball Municipal Code pertaining to council meetings. Prunty spoke with a number of citizens with regard to holding just one council meeting a month. Morrison commented on the number of people that usually attend a council meeting and the meetings normally lasting just 15 minutes. He feels the City Council can conduct their business in a couple of hours once a month.

Schnell indicated this discussion came up a number of years ago and it was not the right time to do this. However, many items such as SDL's and nuisance problems are handled administratively now and he feels there isn't anything that couldn't be handled at a once a month meeting.

Ann Warner, 720 S. Jefferson Street, inquired if the City has ever missed a deadline on a project. She also said that residents are the City's customers and meetings should be for the convenience of the public not City officials and City Council. Ortiz responded that he couldn't recall deadlines that were missed. Staff usually plans out well ahead of time to get to the City Council when things need to be done.

There being no further discussion, Shields moved and Morrison seconded to introduce Ordinance 733 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 733 by title only.

ORDINANCE NO. 733

AN ORDINANCE AMENDING TITLE III: ADMINISTRATION, CHAPTER 33, SECTION 33.04 OF THE MUNICIPAL CODE OF THE CITY OF KIMBALL, NEBRASKA, AMENDING THE TIME AND FREQUENCY OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF KIMBALL, NEBRASKA, PROVIDING FOR THE REPEAL OF ORDINANCES AND SECTIONS IN CONFLICT THEREWITH, AND PROVIDING FOR PUBLICATION IN PAMPHLET FORM.

Shields moved and Morrison seconded to pass and approve Ordinance 733. 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.

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

1. Minutes from the January 19, 2016 regular city council meeting; and
2. Claims.

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

Ortiz reported on the City crews working on snow removal. Most of the snow has been windrowed in the center of the streets and the goal is to clean up the windrows tomorrow.

Ortiz reported Electro-Test is at the Power Plant and is going through all the relays and breakers testing them out. There are no reliable blue prints, so they will have to work through the process.

Ortiz reported the Landfill baler is still being worked on and they hope to have it done within the next week or two. Repairs will be in the \$25,000 range.

Ortiz reported he had intended to meet with NMPP representatives regarding the Power Plant RICE compliance and the wind farm, however due to the weather that has been rescheduled. NMPP will be conducting a strategic planning session on March 3, 2016.

Prunty reported he had been working with KKB with regard to the agreement.

Prunty thanked all in attendance for showing up.

The next City Council meeting will be on February 16, 2016 at 7:00 p.m.

There being no further business to come before the Council, Shields moved and Warner seconded to adjourn at 8:09 p.m. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Warner, Schnell, Shields, and Morrison. Nay: None. Absent: None. Motion carried.

Keith Prunty, Mayor

Rosemarie Russell, City Clerk

City of Kimball-City Council Meeting-General Claims-February 2, 2016-ASCAP-Rate Schedule-336.00; Action Communications-Install Radio-239.50; CenturyLink-Telephone-94.79; Combined Utilities-Utilities-650.01; IIMC-Membership-120.00; Kimball Health Services-Screen/Collect-44.10; Page My Cell-Fee-600.00; SourceGas, LLC-Gas Service-2,511.53; The Right Impression-Signs-60.00; The United States Life Insurance Company-Long Term Disability-553.72; The United States Life Insurance Company-Long Term Disability-491.17; Vince's Corner-Fuel-69.48; Windstream -Long Distance-6.18; Friends of the Goodhand Theater-Grant-KAF-2,500.00; C. W. Golf Management, LLC-Management Fees-4,735.00; Charter Communications-Internet-154.92; Combined Utilities-Utilities-6,733.97; Dollar General Corporation-Supplies-7.50; Fastenal Company-Parts-198.04; Frenchman Valley Coop-Fuel-1,429.58; GreatAmerica Financial Services-Lease-124.12; Ideal Linen Supply, Inc.-Supplies-106.75; John E. Reid and Associates Inc.-Conference -550.00; Kimball Event Center-Rent-500.00;

Kimball Handyman Project-Handyman Project-709.59; Kimball Health Services-Screening-44.10; Kimball Insurance-Insurance Adjustments-17.00; Kimball Service Center-Repairs-125.23; L.L. Johnson Distributing Co.-Parts-1,988.12; L.W. Cartage Co.-Lot Rent-100.00; MPLA -Membership-40.00; Miller Office Supply-Supplies-11.99; NGCSA-Dues-125.00; Nebraska Law Enforcement Training Center-Testing-20.00; Nebraska Safety & Fire Equipment, Inc.-Fire Extinguisher-30.00; Panhandle Coop-Propane-493.31; Prairie Animal Hospital-Boarding Fees-17.00; R & R Products, Inc-Parts-3,103.85; Staples-Supplies-53.95; Stotz Equipment-New Mower- 26,973.66; Autumn Uglow-Contract Cleaning-75.00; Western Nebraska Observer-Meeting Notices-199.08.

City of Kimball-Economic Development Claims-February 2, 2016-Kimball Event Center-Meals-130.00; Chamber of Commerce-Monthly Grant-450.00; Kimball County Treasurer-990/995 Split-1,000.00; Robert Abramson, CPA-Forms-36.00; Western Nebraska Observer-Meeting Notices-8.65.