

Kimball City Council
Regular Meeting
August 6, 2013

A regular meeting of the Mayor and City Council was convened in open and public session at 7:00 p.m. on August 6, 2013 at the City Council Chambers. Mayor Schnell and Council members Warner, Shields, and Christensen were present. Council member Morrison was absent. Also present were City Administrator Ortiz, City Attorney Hadenfeldt, Police Chief Huff, City Clerk Russell and City Treasurer Strauch. 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.

Schnell called the meeting to order at 7:10 p.m. and the Pledge of Allegiance was recited.

Schnell acknowledged the posted Open Meetings Act poster.

At 7:12 p.m., Schnell opened a public hearing on an application for rezoning Block 7, Sublots 1 & 2 of Lots 1, 2, 3, Antelopeville Addition to the City of Kimball, Kimball County, Nebraska, also known as 408 E. 1st Street, Kimball, Nebraska, from Light Commercial District (C-2) to Heavy Commercial District (C-5).

This is a request for the property located at the corner of 1st and Elm Streets. The purchaser of the property wants to use it as storage and storage does not conform to the current zoning. The Planning Commission met on July 15, 2013 and recommended approval of the rezoning. As required by law, property owners within 300 feet of this area were notified of the public hearings and there was no opposition voiced. Ortiz added that the City will also be looking into rezoning the area to the west of this property for consistency.

There being no further discussion, Schnell declared the public hearing closed at 7:14 p.m. Christensen moved and Shields seconded to introduce Ordinance 697 and waive the requirement of reading on three different days be suspended. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Warner, Shields, and Christensen. Nay: None. Absent: Morrison. Motion carried.

Christensen moved and Shields seconded to pass and approve Ordinance 697. Mayor Schnell read Ordinance 697 by title only.

ORDINANCE NO. 697

AN ORDINANCE AMENDING THE ZONING FOR PROPERTY SITUATED ON BLOCK 7, SUBLOTS 1 AND 2 OF LOTS 1, 2, AND 3 ANTELOPEVILLE ADDITION TO THE CITY OF KIMBALL, KIMBALL COUNTY, NEBRASKA, FROM LIGHT COMMERCIAL DISTRICT (C-2) TO HEAVY COMMERCIAL DISTRICT (C-5); PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE AND PUBLICATION IN PAMPHLET FORM.

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

Schnell opened discussion on the suspension of the cemetery rules. The Cemetery Board had a special meeting on July 30, 2013 and at their meeting, the vote was unanimous to suspend the present cemetery rules to allow decorations. That action has to be ratified by the City Council.

Ortiz said patrons will be allowed to decorate as they see fit. Christensen said the community has spoken pretty loudly on this. Pat Sibal, Cemetery Board Chair, said the Cemetery Board tried to appease as many as they could. At the Cemetery Board meeting on August 12th, they will try to change some of the rules and give the City Council the recommendations. Warner expressed concern about the emotional impact on the citizens if they are allowed to take everything out this week and then things are changed. Sibal indicated that citizens understood it at the meeting.

Schnell said the rules will say how they decorate. Hadenfeldt commented that he thinks what Warner is saying is we know there are going to be rules changed, and why is there going to be a suspension at this time? Ron Scott, Cemetery Board member, said it is important that the rules be suspended at this time until the Cemetery Board can come up with something that will appease the descendants and heirs of all the people that are buried in the cemetery.

Jessica Laughlin indicated she believes the biggest concern the people had was that the public be informed what the rules are. The City needs to be vigilant that the public does is informed. Sharlet Morgan inquired if the discussion was about the entire cemetery. Sibal said that Christus Gardens was a private cemetery at one time and the rules were not changed when the City took over it. He feels that a lot of the dissention is in the manner in which this was done. Ortiz reminded individuals that the Cemetery Board meetings are at noon, and that the Cemetery Board meeting on August 12th will be held at noon. Sibal thanked the council and Schnell said the Cemetery Board and the City Council will work to get a policy that everyone can work with.

There being no further discussion, Shields moved and Christensen seconded to suspend the current cemetery rules allowing the decorations on gravesites. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Warner, Shields, and Christensen. Nay: None. Absent: Morrison. Motion carried.

Schnell opened discussion on the contract with Wendy Baker for the Handyman Program. Baker has been in this position for less than two months and has three new clients and hopes to continue to grow. Hadenfeldt indicated that a couple provisions were amended from the previous contract.

There being no further discussion, Warner moved and Shields seconded to accept the contract with Wendy Baker for the Handyman Program. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Warner, Shields, and Christensen. Nay: None. Absent: Morrison. Motion carried.

Schnell opened discussion on the chip seal project bids. Adam Vath, from M.C. Schaff, said typically a main and alternate bid are requested. Only one bid was received from Topkote, Inc. for \$97,410 and no alternate bid. Because the bid was over the budgeted amount, Vath spoke with Roads Superintendent Ryschon and because it is a unit price bid, the quantity could be adjusted so the bid would fall within the budget. The total yardage was reduced by 6,730 s.y. to remain within the budget. The streets removed were South Washington Street from 2nd to 3rd Streets and all of East 4th Street, approximately four blocks. The total chip seal project will cover about 15 blocks. Vath said that bids did increase from last year by about 20 cents a square yard.

Vath recommended that the council accept the revised bid from TopKote in the amount of \$78,229.50. There being no further discussion, Warner moved and Shields seconded to accept the seal coating bid from TopKote, Inc. in the amount of \$78,229.50. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Warner, Shields, and Christensen. Nay: None. Absent: Morrison. Motion carried.

Brooke Jones and Vicki Selves reported on the swimming pool activity for the 2013 season. As of August 4th, 5,003 swimmers used the pool. The pool was only closed five times (full days) due to weather or water clarity. There were 11 very dedicated lifeguards this season and Jones said they are a great group kids.

There were 28 swimmers for the first session of swimming lessons and 34 for the second session. Private lessons were also offered and Selves commented on adult lessons. She recommended putting the information out next year that adults can receive private lessons as well.

The fourth of July pool games were a great hit. 171 kids showed up. They had games all day and door prizes. The pool received \$900 worth of donations to use for the pool games and prizes.

The drop drill, paid for by the Keno grant, went tremendously well. The guards did very well with it. The lifeguards are more prepared than in the past. Selves said the drop drill will be done more frequently next year.

Both Jones and Selves thanked Police Chief Huff for stopping by the pool and checking on it. It meant a lot to see him there and doing rounds. Selves said it makes for a

better environment. Huff said he got to see some of the drop drills. Not only are they teaching kids that when they hear an air horn they are supposed to get out of the pool, it is also checking the equipment. They are very proactive with the lifeguards.

Jones said Selves has been a tremendous help and she has really stepped up to the plate. Selves said she is glad to have had the opportunity to work at the pool. Jones will not be returning next summer and she looks to Selves to take over the role and continue on.

The last day for the pool to be open is August 16th. Jones thanked the council and the community for all the support and said she knows the community enjoys the pool. She thanked everyone for a great summer for the kids.

Schnell opened discussion on a keno grant application from Keep Kimball Beautiful. Susie Abramson said they would like to get a new truck. Binod has found a grant and it requires a cash match. Binod said the Nebraska Recycling Association has a \$20,000 grant which requires a cash match of \$5,000. She asked what would be the bare minimum required and was informed if they came up with a cash match of \$1,500, they would grant them \$12,000. Christensen said she can't think of anything in the community that is more important. This is an important worth-while thing and she can't think of any reason that the money shouldn't be granted. This benefits the entire community. Christensen commented on better educating the community on how and what can be recycled and Binod said she just received a \$76,000 grant that focuses on education. Christensen suggested also working with the businesses on what is appropriate to recycle.

There being no further discussion, Christensen moved and Warner seconded to award keno funds of \$1,500 to Keep Kimball Beautiful. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Warner, Shields, and Christensen. Nay: None. Absent: Morrison. Motion carried.

Binod informed the council that AmeriCorp assisted in cleaning up the alleyways and they collected nine trailer loads of debris. Comments were made on hazardous waste and paint and Binod said their goal is to encourage people to do something.

Schnell opened discussion on the sign permit/sign construction permit for Kimball County Visitor's Committee. Warner inquired if the sign meets the requirements and Ortiz said it does. The sign will be located on the entry gates.

There being no further discussion, Warner moved and Christensen seconded to approve the sign permit/sign construction permit from Kimball County Visitor's Committee. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Warner, Shields, and Christensen. Nay: None. Absent: Morrison. Motion carried.

Schnell opened discussion on amending the sign permit/sign construction permit application form. Russell indicated the Zoning Ordinance does not require council

approval on the sign permit and requested that the permit form be amended to remove the approval by the City Council but require approval by the Zoning Administrator / City Administrator. Schnell said the only issue would be if the sign is not in compliance. Christensen thinks it is a good idea. Warner said if the applicant meets the guidelines stipulated in the sign regulations, the City can handle the approval. If the sign is non-compliant, the permit should come before the City Council.

There being no further discussion, Warner moved and Shields seconded to approve amending the sign permit/sign construction permit application form. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Warner, Shields, and Christensen. Nay: None. Absent: Morrison. Motion carried.

Schnell opened discussion on Resolution 2013-09 to apply to obtain a Special Event Permit through the Nebraska Department of Roads for the Farmers Day celebration. Warner inquired if this is the last time the City had to do this and Schnell said he would assume so; however, Hadenfeldt said he would not say so.

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

RESOLUTION 2013-09

A RESOLUTION OF THE CITY OF KIMBALL, NEBRASKA, PREPARING FOR ITS ANNUAL FARMER'S DAY CELEBRATION AND APPLYING TO OBTAIN A SPECIAL EVENT PERMIT THROUGH THE NEBRASKA DEPARTMENT OF ROADS.

WHEREAS, the City of Kimball, Nebraska, and its residents have annually celebrated a Farmer's Day in the fall of each year, to be held this year on September 28, 2013; and

WHEREAS, as part of the Farmer's Day celebration, the City of Kimball, Nebraska, plans to use two blocks of Highway 71, which is part of the state highway system, other than a freeway, including full and partial lane closures as part of the special event; and

WHEREAS, the Nebraska Department of Roads has changed its special event permit process as a result of the passage of Neb. Rev. Stat. §39-1359, which became effective on May 24, 2011; and

WHEREAS, the City of Kimball, Nebraska, as part of a Farmer's Day, acknowledges and understands that use of the state highway system for a special event requires a legal duty to protect the highway property from any damage that may occur arising out of the special event, and the state shall have no duty during the time the City of Kimball is in control of the highway, as specified in the notice that will be provided to the Nebraska Department of Roads.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Kimball, Nebraska (the "City"):

1. The Kimball City Council now advises the Nebraska Department of Roads that the City of Kimball will be making use of two blocks of Highway 71, between Third Street and First Street, which is part of the state highway system and is not a freeway, for a special event known as Farmer's Day to be held on September 28, 2013. The use of Highway 71 will be from 6:00 a.m. until 6:00 p.m. on September 28, 2013 ("city's use"). As part of the special event, the Kimball City Council acknowledges the City of Kimball shall have the legal duty to protect highway property from any damage that may occur from the city's use of two blocks of Highway 71 and the State of Nebraska shall not have any such duty during the city's use of Highway 71 for the Farmer's Day celebration. Notice will be provided to the Nebraska Department of Roads at least thirty days prior to Farmer's Day.
2. The City Council, on behalf of the City of Kimball, acknowledges that any existing statutory or common law duty of the State of Nebraska to protect the public from damage, injury or death shall become the duty of the City of Kimball during the city's use of two blocks of State Highway 71 for the Farmer's Day celebration, and the state shall not have such statutory or common law duty during the city's use of two blocks of Highway 71 within the City of Kimball.
3. The City Council, on behalf of the City of Kimball, by this resolution, formally acknowledges that the City of Kimball accepts the duties set forth in subsection (2) of Neb. Rev. Stat. §39-1359, as well as the duty to protect the public from damage, injury or death during the city's use of two blocks of Highway 71 for the annual Farmer's Day celebration and if a claim is made against the State of Nebraska, the City of Kimball shall indemnify, defend and hold harmless the State of Nebraska from all claims, demands, actions, damages and liability, including reasonable attorney fees, that may arise as a result of the city's use of two blocks of Highway 71 during its annual Farmer's Day celebration.
4. The Kimball City Council now authorizes the Mayor to sign this resolution accepting and acknowledging its duties for control during the city's use of two blocks of Highway 71 during its annual Farmer's Day celebration, and to present this resolution to the Nebraska Department of Roads.

This Resolution shall become effective upon its passage and approval.

Passed and approved on August 6, 2013

/s/James W. Schnell, Mayor

ATTEST:

/s/Rosemarie D. Russell, City Clerk

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

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

1. Minutes from the July 16, 2013 meeting;
2. Claims;
3. Ratify the Kimball Volunteer Fire Department members; and
4. Acknowledge receipt of claim from McGinley, O'Donnell, Reynolds & Korth, P.C., LLO, representing Amie Rutledge. Forwarded to insurance carrier, no action taken.

Hadenfeldt explained the City has received a claim and has forwarded to City insurance carrier, but the City takes no action. After six months pass, the claimants are free to withdraw the claim and take it to court. Shields moved and Christensen seconded to approve the consent agenda items as discussed and presented. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Warner, Shields, and Christensen. Nay: None. Absent: Morrison. Motion carried.

Ortiz reported on the Cemetery Board meeting and the Board of Public Works agenda. The City did ask to borrow from the utility side to purchase a police vehicle. With the needs that Police Chief Huff has with his department, he will get two used vehicles from the Kansas State Patrol for \$16,400 each. It was initially planned to get one from the Kansas State Patrol and they said they have two for purchase. Huff will send two individuals to pick them up. The vehicles do come with a light bar.

Ortiz reported there has been quite a bit of vandalism at Gotte and City parks; six or seven instances. LED lights have been torn down and the irrigation sprinkler has been damaged. The individual who installed the security system in City Hall will give an estimate on security cameras for the parks. Schnell said it is becoming more and more of an issue of what it is costing the City and he commented on prosecution. Shields commented on the foot traffic on 5th Street and the equipment that is used to water. He feels that the equipment is a target and perhaps should be moved away from that area. The park is well-used and Shields commented on installing better lighting and getting some IT equipment and utilizing it. Ortiz said most of the instances appear to be in the early evening. Selves commented on the vandalism and said that Huff did say he would set up some surveillance around the pool area to help save money and costs

Ortiz reported the next utility bill will have a notice of trees in the power lines that have potential to cause issues. The notice will have pictures and suggestions of how to prune the trees. It is hoped that will help on the utility side. Warner commented that a couple years ago, it was discussed that the City would send a notice about tree trimming and she thinks the City needs to notify people before the City cuts on their trees. Ortiz said the City hasn't gotten to that point of trimming the trees because of the shortage of manpower. Warner said if the City crew sees it, the City might as well provide a notice. Ortiz said the garbage truck driver has been noting addresses that

need to have the trees trimmed. Hopefully with the notice with the utility bills, this will give some homeowners notice.

Warner said she is concerned about the utilities loaning the money for the police car. Ortiz indicated they will get reimbursed at the beginning of the new fiscal year. There is a lot more disposable income on the utility side. The Police Department budgeted \$17,600 for a vehicle in this fiscal year and next fiscal year, they will budget that same amount to repay the utility loan. Warner inquired if the Police Department could get by without a new vehicle. It was indicated that the Police Department has four operational vehicles for six police officers.

Ortiz reported we are in the midst of budget preparation and Schnell said the meeting on August 15th will be dedicated to the budget workshop.

The City Council budget workshop will be August 15, 2013 at 5:00 p.m. The next City Council meeting will be Thursday, August 22, 2013, at 7:00 p.m.

There being no further business to come before the Council, Christensen moved and Shields seconded to adjourn at 8:20 p.m. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Warner, Shields, and Christensen. Nay: None. Absent: Morrison. Motion carried.

James Schnell, Mayor

Rosemarie Russell, City Clerk

City Council Meeting-August 6, 2013-General Claims-Veronica Brown-Reimbursement-144.00; Dairy Queen-Employee Appreciation-25.00; Pizza Hut-Employee Appreciation-25.00; Points West Community Bank-Employee Appreciation- 75.00; Rosie Russell-Expense Report-40.00; Subway-Employee Appreciation-25.00; SourceGas, LLC-Gas Service-2,141.00; Kansas Highway Patrol Car Fund-Police Car-16,400.00; Combined Utilities-Utilities-3,688.04; Combined Utilities-City Utilities-5,735.16; Dietrich Distributing-Liquor Purchase-334.00; Nebraska Law Enforcement Training Center- Training-1,108.00; SourceGas, LLC-Gas Service-127.79; Viaero-Cell Phone-63.50; Western Nebraska Observer-Meeting Notices-300.79; Windstream-Long Distance-5.72; Wendy Baker-Handyman Project-1,005.54; Bluffs Sanitary Supply, Inc. -Supplies-55.00; C & M Air Cooled Engine, Inc.-Parts-140.54; CPS Distributors, Inc.-Sprinklers-284.44; Check's Ice Co-Ice -65.45; Chuck's Saw Filing, Inc.-Sharpen Chain-14.21; Combined Utilities-Utilities-1,059.69; Community Internet Systems, Inc.-Monthly Internet Service-15.00; Craft Trophy Co.-Badges-1,488.80; Culligan-Salt-48.00; Danko Emergency Equipment -Equipment-1,318.00; Doheny's Water Warehouse-Supplies-74.91; Elliott Equipment Co-Lock Adjustment-40.00; Frank Implement Company-Parts-22.59; Frenchman Valley Coop-Chemicals-83.45; Greenline Equipment-Parts-66.70; Hometown Hardware-Supplies-571.95; Ideal Linen Supply, Inc.-Mats-114.67; Rob Jackson-Refund-25.00; Jirdon Agri Chemicals, Inc-Chemicals-1,096.00; KSID AM & FM RADIO-Advertising-55.00; Kimball Auto Parts-Parts-285.88; Kimball Body Works-Repair-696.28; Kimball Event Center-Rent-500.00; Kimball Service Center-Vehicle Inspection-60.00; L.L.

2636

Johnson Distributing Co -Parts-391.42; L.W. Cartage Co.-Lot Rent-100.00; Nina LaBate-Contract Cleaning-60.00; Midwest Auto Supply Inc.-Glass-45.00; Miller Office Supply-Supplies-60.98; Napa Auto Parts-Parts-457.99; OFP Services, Inc.-Parts-68.70; Pack Rat Enterprises-Garbage Removal-96.00; Panhandle Coop-Bulk Fuel-4,434.13; Panhandle Coop Association-Supplies-4.29; Pepsi-Cola of Western Nebraska-Pepsi Products-259.90; Powerplan-Repair-814.84; Prairie Animal Hospital-Pound Fees-563.85; Jim Ryschon-Parts-62.00; Shopko Stores-Supplies-33.80; United Rotary Brush Corporation-Brushes-589.42; Chad Wise-Golf Pro Compensation-2,835.00; Chad Wise-Credit Card Due Chad-6,053.09; Wolf Automotive Center, Inc.-Vehicle Maintenance-198.66. Economic Development-Claims-August 6, 2013-Western Nebraska Observer-Meeting Notices-14.00; Intralinks, Inc.-Computer Support-75.00; Kimball County Treasurer-990/995 Split Funds-1,000.00; Wingate Inn-Charges-10.88.