

Kimball City Council  
Regular Meeting  
September 3, 2013

A regular meeting of the Mayor and City Council was convened in open and public session at 7:00 p.m. on September 3, 2013 at the City Council Chambers. Mayor Schnell and Council members Warner, Shields, and Morrison were present. Council member Christensen 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 7:00 p.m. and the Pledge of Allegiance was recited.

Schnell acknowledged the posted Open Meetings Act poster.

Discussion was held on the Mayor's appointment of Bob Culek to the Planning Commission. Schnell said Culek is willing to serve out the remainder of John Kinney's term. There being no further discussion, Warner moved and Shields seconded to approve the Mayor's appointment of Bob Culek to the Planning Commission. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Warner, Shields, and Morrison. Nay: None. Absent: Christensen. Motion carried.

Schnell opened discussion on amending the city code book to change certain provisions regarding height of weeds, grasses or worthless vegetation. Hadenfeldt explained the legislature allows cities and villages to define their own height. There are several sections in Kimball's city code where the height of 12 inches is set. If council wants to change that height, an ordinance needs to be drafted to amend the city code. Warner doesn't see any need to change and discussion was held on worthless vegetation.

There being no further discussion, Warner moved and Morrison seconded to leave the city code book height as it is. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Warner, Shields, and Morrison. Nay: None. Absent: Christensen. Motion carried.

Schnell opened discussion on the Keno grant application from the Farmer's Day Committee. Assunta Callise, 205 S. Berg, explained that the committee has requested Keno funds every year. These funds help them put on many events for Farmer's Day. After discussion, Shields moved and Warner seconded to approve Keno funds in the amount of \$4,000.00 for the Farmer's Day Committee. On roll call vote, the following

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

Schnell opened discussion on the application for special designated license from Sportsman's Liquor for a beer garden on September 27, 2013. Warner is personally against beer gardens however she realizes that it is one of those things that is done in the community. Morrison said this will be held on Friday night on Webster Street and there will be two bands and the beer garden. They plan to start at 8:30 p.m. after cruise night and after the melodrama performance. Callise indicated there should be a food vendor as well. Discussion was held on the location and Morrison indicated the location allows it to be fair and a little more neutral.

There being no further discussion, Warner moved and Shields seconded to approve the application for special designated license from Sportsman's Liquor for a beer garden on September 27, 2013. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Warner, and Shields. Nay: None. Abstaining: Morrison. Absent: Christensen. Motion carried.

Schnell read a memo from Ortiz on the rail spur as follows:

*"In 2007, the City created and adopted an Economic Development Plan (the "Plan") under LB 840 legislation. Revenue for the Plan was derived from ½ cent of the City's local sales tax. The duration of the Plan was scheduled for fifteen years, ending on September 30, 2023. In 2010, however, the City amended its Plan via a public election. After the amendment, revenue for the Plan was still derived from ½ cent of the City's local sales tax until September 30, 2023, but additional revenue was collected from .4% of the taxable property within the City. The duration of the property tax revenue was scheduled for twenty-one years, ending on September 30, 2031. The amendment also authorized the City to issue bonds in an amount not exceed \$3,000,000 payable with revenue collected from .4% property tax.*

*The City initially had worked with Wilson & Company to develop the engineering designs. At that time the rail spur project consisted of developing an additional mainline track and constructing two turn outs to service industry in the eastern part of the city. The project was bid out for construction twice. The first bid occurred in 2009 and came in at \$3,797,041. The second construction bid occurred in 2012 and came in at \$4,000,000 to \$4,392,000. Each time the City did not move forward with construction.*

*Last summer the City opted to change engineering firms and entered into an agreement with CRS Advance, LLC. This coincided with a change in design and consideration of new locations for the rail spur, but remained in the general vicinity of the eastern part of the city. While working with CRS in developing a 10% design plan it has become apparent that the funding level that was initially allocated for this project is insufficient to cover the cost of developing a rail served industrial park. CRS's engineering estimate for the railroad infrastructure alone is estimated at \$7,032,726. Additional expenses that have to be considered such as the cost of acquiring the land necessary for development, cost of providing the industrial park with basic utilities and infrastructure (roads, sewer, water, electricity) are likely to exceed the cost of developing the rail spur beyond \$10,000,000. Outside funding sources that offer the amount of funding the City*

*would need are limited, highly competitive, and generally require the project to be at the point of ready for construction. One of the larger funding sources is the U.S. Department of Transportation's Transportation Investment Generating Economic Recovery, or TIGER Discretionary Grant program, which does not fund projects that have not met specific milestones such as right-of-way acquisition, final design completion, and received all necessary approvals and permits, including "completion of the National Environmental Policy Act (NEPA) process at the time the application is submitted".*

*To date no land has been acquired for this project and the City has not rebid the project for construction. Considering how much the value of land has risen over the past several years and the cost of infrastructure that would be needed for the rail spur and land development, the project would exceed any feasible initial cost estimates. If the project is to move forward additional sources of revenue will have to be allocated beyond the \$3,000,000 in bonds that have been authorized."*

Schnell said the City is chasing a tail they can't catch. It has been difficult to try to figure out avenues to follow. The City is at a point right now of deciding whether they should move forward to see if there is something else. Hadenfeldt explained the program would need to be terminated or amended. To amend the program, the City would need to go through the voting process. Terminating the entire program can be done by the City Council.

Morrison inquired if the current plan defines how the rail spur is to be built. Hadenfeldt said the Economic Development Plan states the City would own the rail spur. Morrison said Castronics is still interested in the rail siting. There is plenty of land to put a siting on. Initially, the previous owners of Castronics were willing to donate 60 acres to get the siting. Castronics is still very interested in the siting; however, it wouldn't be on City land. Hadenfeldt said the City couldn't come to an agreement previously with what was proposed.

Ortiz said if the City were to move forward, the lift station project may have to be halted for the time being. If the siting is a direction that Castronics wants to go, it is something that is going to have to be worked out.

Warner remained positive about the project and suggested starting smaller and adding as the project progresses. If there were a couple rail sitings, companies would locate there and she would like to see what can be done before the project is totally scrapped. Go with the original plan or something like it on a smaller scale. Ortiz cautioned that Union Pacific would have to be willing to take on a smaller project because they go by "car count". The other issue is what Castronics is proposing would probably be purely for their use; it would be for a sole source user. Morrison said Castronics really doesn't want to have another siting on their property.

Discussion was held on criteria and the original track and Schnell said if the project were an industrial park type project, the City would not be held to the Union Pacific's 9,000 foot and car count criteria.

Ortiz said there will have to be some re-engineering done with the project and there will be additional costs. Union Pacific will have to be approached once again and the City

will have to work with the engineers to develop the 10% design again. Warner inquired about the cost for the 10% design and Ortiz indicated it was \$5,000 with the current engineering firm.

Further discussion was held on other companies and acquiring private property. It was indicated that everything has to start from scratch to be looked at by Union Pacific's engineers and Ortiz commented that the City could be looking at \$5 million.

Morrison indicated that no land has to be acquired to put in the "B" track. He said Castronics is willing to pay if they don't provide the 60 acres. Jim Huff, 706 S. Howard Street, inquired what the taxpayers are gaining if a rail spur is located on Castronics property and mentioned that the City already has a rail. Warner commented that originally there was going to be a car charge and that charge was going to pay off the bond. Ortiz commented on the bond and said if the City collected revenue on the cars, the bond could be paid off early. The Economic Development Plan stated the City would own the rail spur and the land. The initial plan entailed the City owning the land and leasing out the rail spur usage. Morrison told Huff that the spur on the west side of town is worthless. Castronics could gain customers that would send products by rail if they had a place to unload it. He commented on the growth of Castronics and it would be one more reason to keep it. If there are more options, they can still maintain doing business there. Huff reiterated his question, what do the taxpayers benefit over what there is already in place if this would not be owned by the City?

Warner inquired if the rail spur plan could be modified in some way without doubling the cost and service another company or two. Morrison said he could not imagine that Castronics would not be adverse to donating the land under the rail spur because they can't use it anyway. Schnell commented on stabilization of communities and said with the funds the City has, maybe that is the only route they have, if this is something that could be worked out with Union Pacific's approval. Bob Abramson, 408 S. Washington Street, inquired if the plan was approved by Union Pacific once. Schnell said it was initially approved by them. Huff inquired how much has been spend so far and Russell said \$508,710.25. Warner suggested spending some more to see what the City's options are. She hates to give it up now.

Ortiz said if the City were able to acquire the property east of Castronics, they would be looking at an additional rail crossing. Instead of putting in a single rail crossing, they could be putting in two so the costs could potentially double. Huff inquired if the council honestly thinks this project is feasible based on the bids being 25% higher than what was originally projected and he commented on the price of land now. Schnell said the best bet would be to ask Union Pacific if they would even consider any other plan and then bring it back to the Economic Development Committee for their recommendation. Discussion was held on used rail. Bowling commented that everyone needs to look at right now and how much will be spent going forward.

Warner commented again on the 10% design and Ortiz said he can re-engage CRS but he needs to have a better idea, i.e., whether to consider the property just at Castronics or the property at CR 47 east.

Further discussion was held on the plan and Hadenfeldt explained there has to be a vote to amend the plan to stop collecting the .4% property tax. If the City is not going to go forward with the rail spur, they will have to stop collecting the property tax and that would take a vote of the people.

Roger Wynne, 719 Vista Drive, said if the City is going to revisit a different plan, they should go to Union Pacific and discuss it with them. Schnell said the biggest issue with Union Pacific will be "car count". Huff commented on the City acquiring the land before spending any more money.

Discussion was held on the A and B tracks and the 9,000 foot plan. Schnell said the 9,000 foot plan had four to five sites.

Abramson inquired about CRS and Warner indicated they are the 2<sup>nd</sup> engineering firm the City has contracted with. Schnell said they were on the rail park and industrial park design. He would have to go back with them and get them involved in the different rail spur design. Ortiz indicated the agreement with CRS was solely for the engineering design of the rail track. He commented on Olsson and Associates Engineering firm and said they don't only do the engineering, but full blown development. Olsson and Associates know the players in Omaha. Warner inquired about the cost and Ortiz said he can certainly ask them what their consulting services would cost. Larissa Binod, Keep Kimball Beautiful, commented on a gentlemen at CRS that worked with Union Pacific for 30 years and the City would have somebody very close in CRS who could help navigate the Union Pacific Railroad. Ortiz said the project that CRS designed was \$7 million. Binod indicated that the City is looking at a \$9 to \$12 million project wherever they look.

Schnell asked council members if they want to move forward or amend the Economic Development Plan. No matter what is done, the City is basically starting from the beginning again. What has been collected to date would probably pay the bills. Schnell said the question to the citizens would be if they want to amend the plan and take the .4% property tax away. Huff said it seems to him that it would be logical to go back to the taxpayers. Warner would like to see the City go ahead with a plan to service Castronics with the potential of servicing others at the least amount of cost. Ortiz said he can re-engage both CRS and Olsson and Associates to find out. Warner said it would be worth a few more dollars.

There being no further discussion, Warner moved and Shields seconded to proceed with options of what the cost would be for a rail spur that would service Castronics and possible potential for other locations. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Warner, Shields, and Morrison. Nay: None. Absent: Christensen. Motion carried.

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

1. Minutes from the August 15, 2013 budget workshop, August 22, 2013 special meeting, and August 27, 2013 budget workshop; and
2. Claims.

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

Ortiz reported on the Landfill Cell and C & D Cell expansion. There is a pre-construction meeting on September 12<sup>th</sup> with the contractors and Golder Associates. The time line for construction will be within a one month period. They have had to widen the gate at the Landfill to accommodate the heavy equipment. Discussion was held on the widening of the gate and the earth moving.

Ameritas Financial will be at a future meeting to present bond information for the Landfill expansion and RICE compliance project.

With regard to the RICE compliance project, new catalytic converters were installed last weekend. The testing instruments are in the process of being calibrated.

The next regular City Council meeting is September 17, 2013.

There being no further business to come before the Council, Morrison 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 Morrison. Nay: None. Absent: Christensen. Motion carried.

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James Schnell, Mayor

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Rosemarie Russell, City Clerk

City of Kimball-City Council-General Claims-September 3, 2013-Wilson Bowling-Mileage-75.71; Community Internet Systems, Inc.-Monthly Internet Service-15.00; Frenchman Valley Coop-Tank Lease-37.98;Gempler's Inc.-Parts-165.20; Herstead Monument Company-Monument-150.00; Ideal Linen Supply, Inc.-Supplies-71.44; Kimball Event Center-Rent- 500.00; Kimball Handyman Project-Handyman Project-992.99; Kimball Insurance-Bond-100.00; Kimball Midwest-Tools- 493.60; Kimball Public Schools-License Fees-3,195.00; Kimball Volunteer Fire Department-Expense Allowance-5,400.00; L.W. Cartage Co.-Lot Rent-100.00; Max's Vacuum & Sewing Center-Repair-31.01; Napa Auto Parts-Parts-25.47; Sandberg Implement Inc.-Blade-59.54; Jodell Schulte-Reimbursement-150.00; Sherwin-Williams Co.-Supplies-502.75; Chad Wise- Credit Card Due-3,716.86; Chad Wise-Golf Pro Compensation-2,835.00; Arrowhead Distributing Inc.-Liquor Purchase-129.00; High Plains Budweiser-Liquor Purchase-249.80. City of Kimball-Economic Development-Claims-September 3, 2013-Kimball County Treasurer-990/995 Split-1,000.00.