

Kimball City Council
Regular Meeting
October 1, 2013

A regular meeting of the Mayor and City Council was convened in open and public session at 7:00 p.m. on October 1, 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, Economic Development Director Bowling, Street Superintendent Ryschon, 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.

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.

Morrison moved and Shields seconded to excuse the absence of Christensen from the October 1, 2013 City Council meeting. 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.

Mark Bohl, Kimball's Responsible Charge, was present to provide an update on the underpass project. The project is moving along. M.C. Schaff has been hired for engineering and design. HDR has been hired as the environmental engineers. The project is at the point now of scope of services and index cost estimate and negotiations. Once the notice from the Department of Roads is received, the environmental engineers will come to Kimball to do their assessment. Bohl commented on the check list that will need to be followed and then there will then be public meetings. It will most likely be five or six months before the documentation will be received. He said a lot of the work has been done previously and he hopes that can be used this time.

Bohl hopes to have the first public meeting in the spring. Warner inquired if there will be input about the design and Bohl indicated that during the public hearings is the time for input of what individuals want done and what they want it to look like – something that suits the community.

Schnell opened discussion on the agreement between the City of Kimball and the Municipal Energy Agency of Nebraska (MEAN) regarding payment schedule for Regulatory Independent Transmission System Operator and Transmission Adjustment.

Ortiz indicated this was a recent development with MEAN with regard to a SPP billing dispute and provided background information regarding MEAN and the settlement. MEAN began transmitting power through SPP in January 2010 and in 2012 it was alleged that MEAN was participating in market manipulation and violated SPP's regional Open Access Transmission Tariff. MEAN denied any tariff violation; however, they modified their electric load tagging practices to address SPP's allegations. SPP intended to invoice MEAN for \$18.9 million in charges and penalties. In February 2013, MEAN entered into a settlement agreement with SPP that provides for the payment of a settlement amount of \$6,286,806.41. The settlement was accepted by the Federal Energy Regulatory Commission on August 8, 2013 and became final on September 8, 2013. The settlement entails that no mistake was made intentionally and MEAN has also gone through reorganization.

The MEAN board approved a fair and equitable cost sharing allocation among MEAN's members and the total settlement payment will be spread out for five years to help minimize the impact to MEAN member communities as much as possible. Kimball's grand total is \$62,932.25. MEAN has offered three options, a lump sum payment, a monthly payment over three years, and a monthly payment over five years. The Board of Public Works has recommended the third option of monthly payment over a five year period. This monthly payment of \$1,048.87 would begin April 2014 and would be included in the City's MEAN billing. Ortiz indicated this will be budgeted for in the next fiscal year.

Ortiz further explained that there was a certain process that put MEAN members on a priority level of power and the members were essentially in the wrong category. Power was being transmitted at a different threshold than it should have been. He said the City can pay the payment and has the choice of opting out of MEAN.

Ortiz said action for the Council members is to choose to pay in a lump sum or choose to have MEAN bill the City monthly. A majority of municipalities have decided to pay the allocation on a five year payment.

There being no further discussion, Morrison moved and Warner seconded to remit a monthly payment of \$1,048.87 beginning April 2014 over a period of five years for a total amount of \$62,932.25. 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 a Keno grant application from the Kimball Partners Board for \$214.65. Bowling indicated they are requesting Keno funds to purchase an ad in the Western Nebraska Observer to advertise the "Marketing Hometown America" program. Kimball has been chosen as a test site for this program. Cheryl Burkhart-Kriesel, Business Development Specialist from UNL, said research was conducted about six years ago in Kimball and other communities about why citizens would relocate to these cities and it was indicated that people find the western part of Nebraska through social media blogs and through their families and friends. She said communities do not do a very good job of marketing their areas. Kimball and Neligh, Nebraska, were chosen as test sites. The "Marketing Hometown America" program starts with a kick-off community event where the process and goals are shared. The kick-off event is

planned for Thursday, October 10, 2013, at the Kimball Event Center. Keno funds will help to purchase an ad in the newspaper to promote the kick-off event. This program is about identifying why people come into towns. Small groups are formed and led by locally trained facilitators. Participants are given a community guide that provides background information, lists discussion questions and activities. Each small group will hold at least four meetings where they draft a marketing plan and identify activities they could do in the community to help make themselves more marketable. In November 2013, there will be a public meeting (an action forum) where each group will share their ideas. Burkhart-Kriesel said that before everyone leaves that meeting, they will have the opportunity to bring some of those ideas together to make them work.

Bowling indicated that the partners include Tourism Director Jo Caskey, the Chamber of Commerce and UNL. He and the partners are excited for this program and believe it is going to be a great program. Bowling invited Council members to participate. Burkhart-Kriesel said it is a great partnership when there are three entities involved. The program is being funded by the UNL Rural Futures Institute. She said the grant doesn't cover the cost of the food. Shields said believes this is a great cause and suggested increasing the amount to \$750.00.

There being no further discussion, Shields moved and Warner seconded to approve the Keno grant request from Kimball Partners Board and amend the amount requested to \$750.00. 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 escrow agreement for defeased bonds. Ortiz said this is tied to the bonding for the landfill expansion and the RICE compliance. Brad Slaughter, from Ameritas, explained defeasance means to "part cash". This will make the payments on the 2010 Electric bond. The City will part cash now and earn a small amount of interest.

For the new debt that the City is issuing, the landfill cannot stand on its own; therefore, with the new bond, they have combined electric, sewer and landfill revenue. In order to combine on the new bond issue, the City had to defease cash; basically taking the debt outstanding off of the balance sheet. Slaughter explained State Statute allows issuing combined utility bonds. He said part of the reason it has been set up this way is to allow the City time to increase rates steadily. As time continues and there are more projects to do, the City can continue to manipulate user rates to cover the bond payments.

Slaughter distributed a breakdown indicating the due date, the principal payment and the interest payment. The breakdown also showed the sources of funds and the uses of funds. This bond is "callable" in five years, which means after five years the City may have the ability to call in the debt or reissue bonds.

Slaughter commented on the NDEQ water bond and said NDEQ has provided a very reasonable interest rate on that, so it would not make sense to include that note in the combined utilities note. Between the combined utilities bond and the NDEQ water bond, the City will have about \$1.75 million worth of debt.

Schnell commented on the landfill cell being built in three phases and the first phase will have to be filled in seven years. Ortiz will research an incremental rate structure for increases.

Jim Cederberg, Board of Public Works Chairperson, said it is unusual for a municipality to have this type of bond and it is much more flexible this way. He also commented on the debt service coverage ratio. Cederberg said the RICE compliance approach was the least costly, a “band-aid” approach, but this still give Kimball a good back up that they need. He really believes that this bond is the right approach.

Discussion was held on the baler at the landfill and other equipment that is crucial to the landfill operations such as a water truck and a dozer. Cederberg said in terms of profit, the landfill has brought in \$58,000 more than last year and hopefully will continue to bring in revenue. He hopes this will very carefully and very purposefully get the City to the point that they can save rather than borrow.

There being no further discussion, Shields moved and Morrison seconded to authorize the Mayor to sign the escrow agreement for defeased bonds. 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.

Warner introduced the following resolution and moved its passage and approval.

RESOLUTION NO. 2013-11

A RESOLUTION OF THE CITY OF KIMBALL, NEBRASKA AUTHORIZING THE IRREVOCABLE DEFEASANCE OF \$425,000 PRINCIPAL AMOUNT OF ELECTRIC REVENUE AND REFUNDING BONDS, SERIES 2010, DATED DECEMBER 21, 2010

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

Section 1. That the following bonds of the City of Kimball, Nebraska (the “City”), which are not subject to redemption prior to maturity, are hereby authorized to be irrevocably defeased on a date to be determined by the Authorized Officers (herein defined), as provided in an Escrow Agreement (as defined below):

Electric Revenue and Refunding Bonds, Series 2010, dated December 21, 2010, in the remaining principal amount of Four Hundred Twenty-five Thousand Dollars (\$425,000), numbered as shown on the books of the paying agent and registrar for such bonds, becoming due and bearing interest as follows:

Maturing on December 15 of <u>Year</u>	Amount of Principal <u>Maturing</u>	Interest Rate to <u>Maturity</u>
2013	140,000	1.25
2014	140,000	1.55
2015	145,000	1.80

Said bonds are hereinafter referred to as the "Defeased Bonds."

All of the Defeased Bonds are unpaid and a legal liability against the City, provision for the defeasance and payment of which may be made by the deposit of funds with the paying agent and registrar for the Defeased Bonds or with a national or state bank having trust powers, or trust company, in trust, solely for such defeasance and payment, as provided in Section 17 of the ordinance authorizing the Defeased Bonds (the "Ordinance").

Section 2. The Mayor or City Administrator of the City (each, an "Authorized Officer") are each individually hereby authorized at any time on or after the date of this resolution, but in no event later than November 4, 2013, to direct the irrevocable defeasance of the Defeased Bonds on behalf of the City by entering into an escrow agreement (the "Escrow Agreement") between the City and Cornerstone Bank, York, Nebraska, as escrow agent, (the "Escrow Agent") without further action of the Mayor and Council of the City. The Escrow Agreement shall include a description of (1) the Defeased Bonds, (2) the available funds on hand of the City, including the debt service reserve account for the Defeased Bonds, irrevocably deposited with the Escrow Agent sufficient to pay principal of and interest on the Defeased Bonds as and when the same become due, in compliance with Section 17 of the Ordinance and (3) the U.S. Government Obligations in which such funds may be invested, pursuant to Section 17 of the Ordinance. The Escrow Agreement shall be in substantially the form presented herewith but with such changes as may be determined appropriate by the Authorized Officers.

Section 3. This resolution shall take effect as provided by law.

PASSED AND APPROVED: October 1, 2013.

CITY OF KIMBALL, NEBRASKA

/s/James W. Schnell, Mayor

ATTEST:

/s/Rosemarie D. Russell, City Clerk

Seconded by Shields. 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.

Warner moved and Morrison seconded to introduce Ordinance 699, read by title only and waive the statutory rule requiring reading on three different days. 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 read Ordinance 699 by title only.

ORDINANCE 699

AN ORDINANCE AUTHORIZING THE ISSUANCE OF COMBINED UTILITIES REVENUE AND REFUNDING BONDS, SERIES 2013, OF THE CITY OF KIMBALL, NEBRASKA, IN THE AGGREGATE PRINCIPAL AMOUNT OF ONE MILLION TWO HUNDRED FORTY FIVE THOUSAND DOLLARS (\$1,245,000) FOR THE PURPOSE OF FINANCING AND REFINANCING IMPROVEMENTS TO THE CITY'S ELECTRIC SYSTEM, SEWER SYSTEM AND SOLID WASTE DISPOSAL FACILITY; DIRECTING THE APPLICATION OF THE PROCEEDS OF SAID BONDS; PRESCRIBING THE FORM, TERMS AND DETAILS OF SAID BONDS; PLEDGING AND HYPOTHECATING THE REVENUE AND EARNINGS OF THE SEWAGE DISPOSAL PLANT AND SANITARY SEWER SYSTEM, ELECTRIC DISTRIBUTION SYSTEM AND SOLID WASTE DISPOSAL FACILITY OF SAID CITY FOR THE PAYMENT OF SAID BONDS AND INTEREST THEREON; PROVIDING FOR THE COLLECTION, SEGREGATION AND APPLICATION OF THE REVENUES OF SAID SEWAGE DISPOSAL PLANT AND SANITARY SEWER SYSTEM, ELECTRIC DISTRIBUTION SYSTEM AND SOLID WASTE DISPOSAL FACILITY; AUTHORIZING OFFICERS OF THE CITY TO ENTER INTO A BOND PURCHASE AGREEMENT FOR THE BONDS; ENTERING INTO A CONTRACT ON BEHALF OF THE CITY WITH THE HOLDERS OF SAID BONDS; AND PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

Warner moved and Shields seconded to pass and approve Ordinance 699. On roll call vote, the following votes were recorded on the electronic voting board. Aye: Warner, Shields, Morrison. Nay: None. Absent: Christensen. Motion carried.

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

1. Minutes from the September 17, 2013 meeting; and
2. Claims.

Morrison moved and Shields 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.

Chief Huff introduced police officer Sterling Hitch and new police Sergeant Justin Trout and indicated Sergeant Trout is the 2012 recipient of the officer of the year for the Nebraska Sheriff's Association.

Huff reported the City has been awarded the grant for the School Resource Officer in the sum of \$125,000. He will be proceeding with hiring an individual for that position. This position brings the Kimball Police Department to seven officers and one full time for the school. Ortiz has already started the conversation with the Superintendent of Schools and Mr. Hanks and a memorandum of understanding will need to be drafted.

Ortiz reported he is working on a paving project for the front of the Recycling Center. He is working with local and outside contractors for estimates and hopes to get that repaired before winter.

Schnell thanked Council member Morrison for his work on a great Farmer's Day event. Morrison said it wouldn't have happened without the great committee he has and all the volunteers.

A joint strategic planning meeting with the City Council, Board of Public Works and City Staff is scheduled for October 15, 2013 at the Event Center at 5:00 p.m., with the regular City Council meeting immediately after at 7:00 p.m.

There being no further business to come before the Council, Shields moved and Morrison seconded to adjourn at 8:10 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.

James Schnell, Mayor

Rosemarie Russell, City Clerk

City of Kimball-City Council General Claims-October 1, 2013-High Plains Budweiser-Liquor Purchase-121.50; Amazon/GECRB- Cable-15.74; Brown Transfer Co.-Liquor Purchase-81.27; Combined Utilities-Utilities-3,149.37; Consolidated Management Company-Meals-4.25; Devin's Window Tint-Tinting Window-500.00; Frenchman Valley Coop- Chemicals-182.80; Gale-Book Purchase-25.41; Hometown Hardware-Supplies-572.97; Ideal Linen Supply, Inc.-Supplies- 24.29; Johnson Brothers of Nebraska-Liquor Purchase-248.16; Kimball Auto Parts-Parts-175.25; Kimball Builder's Emporium-Contract Labor-325.00; MicroMarketing, LLC-Library Supplies-19.99; Miller Office Supply-Office Supplies- 50.98; Napa Auto Parts-Parts-122.27; Nebraska Law Enforcement Training Center-Testing-10.00; Presto-X-Monthly Contract-76.91; Jacob Price-Refund-11.78; Quill Corporation-Supplies- 299.92; Republic National Distributing Co., LLC- Liquor Purchase-51.72; Republic National Distributing Co LLC-Liquor Purchase-359.04; Sandberg Implement Inc.-Parts- 22.99; SourceGas, LLC-Gas Service-493.92; Sterling Distributing Co-Liquor Purchase-479.10; OCLC, Inc.-Subscription- 173.37; ALSCO-Supplies-46.00; CenturyLink-Telephone-73.88; Check's Ice Co.-Ice-51.00; Combined Utilities- Utilities-1,160.03; Combined Utilities-Transfer-100.00; Community Internet Systems, Inc.-Internet-15.00; Danko Emergency Equipment-Hose-21.58; Galls, LLC -Uniforms-104.98; Hometown Hardware-5.39; Ideal Linen Supply, Inc.-Supplies- 136.37; Jirdon Agri Chemicals, Inc.-Chemicals-71.79; Kimball Auto Parts-Parts-6.50; Nina LaBate-Contract Cleaning- 60.00; M.C. Schaff & Associates, Inc.-Professional Services-6,443.99; Napa Auto Parts-Parts-157.88; Nebraska Environmental Products-Parts-246.91; Daniel Ortiz-Reimbursement-301.01; Panhandle Coop-Fuel-261.45; Robert Abramson, CPA-Accounting Service-2,500.00; Jim Ryschon-Reimbursement-53.49; Shopko Stores-Supplies-22.79; SourceGas, LLC-Gas Service-48.17; Staples-Desk-30.10; The Right Impression-Graphics-420.00; TopKote, Inc-Chip Seal Project-77,477.10; Viaero-Cell Phone-254.00; Western Nebraska Observer-Meeting Notices- 432.07; Windstream-Long Distance-11.65; Chad Wise-Credit Cards-1,821.92; Wolf Automotive Center, Inc.-Vehicle Maintenance-

1,226.14; Kimball Event Center-Rent- 500.00; L.W. Cartage Co.-Lot Rent-100.00; Chad Wise-Golf Pro Compensation-2,835.00; Kimball Handyman Project-Expense-785.99. Economic Development-Claims - October 1, 2013 -Wilson Bowling-Expense Report-162.72; Western Nebraska Observer-Meeting Notices-7.20; Kimball County Treasurer-990/995 Split-500.00.