

City of Valentine
Regular Council Meeting
City Library Meeting Room
January 20, 2003

A regular meeting of the City Council of the City of Valentine, Valentine, Nebraska was held January 20, 2003 at 7:00 p.m. in the Valentine City Library Meeting Room, the same notice of meeting being published in the Valentine Midland News. All of the proceedings hereafter shown were taken while the meeting was open to the public. A Public Information Council Agenda packet was available at the public information table.

1. PLEDGE OF ALLEGIANCE

The Council recited the pledge of allegiance at this time.

2. MEETING CALLED TO ORDER

Chairman of the Council, Balliet presided at the meeting with the following Council members in attendance: Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Also in attendance were City Manager New and legal representative Coupland. City Clerk Hanzlicek recorded the minutes.

3. CIVIC GROUP RECOGNITION:

**Fill an Empty Stocking
Share Gift of Reading**

Dale Bessey and Andy Hoban were in attendance to update the Council on the Fill an Empty Stocking program. American Legion Post 90 sponsors this program for the benefit of the community as a whole including other communities in Cherry County, not just in Valentine. Many years ago Glen Beman organized this program with the help of the American Legion Post 90 and the Sheriff's Reserve. Gifts are distributed to children to help make their Christmas more enjoyable. The Rotary Club has since become involved and refurbish bicycles to be given away. This year 52 homes were visited and 1 hospital visit. One hundred twenty-five children were served and 12 bicycles were distributed. Gordon Valley 4-H Club, Rotary 1503 Interact, American Legion Aux. Unit 90, CJ's Nickelodeon, Town Square, Presbyterian Church and Valentine Badger Pause helped with the program along with several donations. Valentine Elementary donated 15 computers and ALCO has donated the funds from the cute baby contest.

Virginia Nelsen from the American Legion Aux. Post 90 and Jan Keady, a 5th grade teacher, were in attendance to explain the Share Gift of Reading Program. Books are collected from many individuals, boxes at the schools, Badger Pause, older children, Girls and Boy Scouts, many extension groups and 4-H groups. One year, since 1994, there were up to 155 children served in this area. Books were donated from many places including Seneca, NE. Jan Keady had a project to educate the children on the history of who we are and where we are today by having war veterans and parents of children in the service talk to the children to create a living history book.

4. CONSENT AGENDA

Councilmember Neujahr made the motion to approve of consent agenda items #5, 6, 7 and 8 as presented. Second by Councilmember Nieuwenhuis. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried.

5. *REVIEW OF VARIOUS BOARD MINUTES:

- a) Library Board meeting of December 3, 2002 and January 7, 2003
- b) Planning Commission meeting of January 13, 2003

Councilmember Neujahr made the motion to acknowledge review of the Library Board and Planning Commission minutes as presented. Second by Councilmember Nieuwenhuis. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

6. APPROVAL OF THE DECEMBER 16, 2002 REGULAR COUNCIL MEETING MINUTES

Councilmember Neujahr made the motion to approve of the City Council minutes from the regular meeting of December 16, 2002 as presented. Second by Councilmember Nieuwenhuis. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

7. *APPROVAL OF THE DECEMBER 2002 RECEIPT REPORT **\$490,509.66**

Councilmember Neujahr made the motion to approve of the December 2002 Receipt Report in the amount of \$490,509.66 as presented. Second by Councilmember Nieuwenhuis. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

8. *REVIEW OF THE DECEMBER 2002 FINANCIAL REPORTS

Councilmember Neujahr made the motion to acknowledge review of the December 2002 financial reports. Second by Councilmember Nieuwenhuis. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

9. REVIEW/DISCUSSION/ACTION ON THE DECEMBER 2002 CLAIMS & PAYROLL
\$530,746.41

The Council reviewed and asked questions on claims as they were presented to them. Councilmember Balliet made the motion to approve of the Claims & Payroll as presented. Second by Councilmember Neujahr. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

10. PRESENTATION OF FISCAL YEAR 2001-2002 AUDIT BY McDERMOTT & MILLER
AND MOTION TO ACCEPT THE AUDIT AS PRESENTED

Mary Kalb, from the auditing firm of McDermott & Miller, was in attendance to present the fiscal year 2001-2002 audit to the council. One item of non compliance reported is that we are not to spend more than we budget and in certain funds (Police, Fire, Street, Airport, Sales Tax) we were over spent, but the overall budget was not over spent. This happened one other time for the City of Valentine. Ms. Kalb reviewed the report with the Council.

Councilmember Nieuwenhuis made the motion to accept the City of Valentine fiscal year 2001-2002 audit as presented. Second by Councilmember Nelsen. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

11. REQUEST BY CHERRY COUNTY COMMISSIONER RAVENSCROFT TO ADDRESS
THE COUNCIL

Mr. Ravenscroft was in attendance and stated that the Cherry County Commissioners are requesting help from the city on the jail. They need help in finding a location and would like input on moving it to the outlying area of Valentine and they have felt that the Police Department needs to go in with the Sheriff's Department. The location being looked at is east of the hospital along Hwy 12. They may move it farther east and try to acquire some school land.

He also noted that a new dispatcher agreement needs to be worked on. The existing agreement was entered into 13 years ago and costs have increased.

The location being looked at would be at least 1/2 mile from the high school, which is farther away than where the existing jail is located today from the Middle School. The County has been working a year on finding a location and they are still moving forward with the project.

Councilmember Neujahr stated that she has no problem in working with the County and that this is an excellent idea but she would like to know exactly what the city is going to get out of this. We cannot commit ourselves until we know what we are going to get out of it. The city does not want what is left over in a building design. The city has needs also. Councilmember Nelsen agreed that it has to be a city/county project or else there is not any other way in doing the project. Councilmember Nieuwenhuis stated we need to work as a team.

City Manager New will attend the County meeting and report back to the Council.

12. REVIEW/DISCUSSION/ACTION ON REQUEST TO RESCIND THE BLIGHTED AND SUBSTANDARD DESIGNATION IN A PORTION OF VALENTINE

The City of Valentine received a request from Myrna Brock to rescind the blighted and substandard designation which was approved by the Council in December 2002. Councilmember Rhoades asked if there was any reason to continue the blighted designation since the TIF project did not pass. City Manager New stated that there are still some advantages for property owners who own land in this blighted and substandard area. Some government programs are made available for improvement or financing of projects. Legal counsel needs to look into the process in how to rescind this designation. It may need to be done by Resolution after conducting a public hearing. It is not known if the designated area can be adjusted to take out some of the newer homes that are included in this designation.

Councilmember Rhoades made the motion to begin the rescinding process. Second by Councilmember Nieuwenhuis. Discussion followed. It was suggested that the boundary needs to be changed or amended somehow to satisfy the land owners. It was suggested that the Keech Addition should be removed. Neal Muirhead suggested that the amendment should be all or none. Johnstown, NE qualified for grants to improve housing in the area with the aid of blighted and substandard designation. If this designation is the only avenue of funding the city has for improvements in City Third then it still should be looked at. The public needs to be better informed/educated on this process and what the ramifications are. The FHA may not have a problem is working with property in the blighted and substandard area. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

13. 7:30 P.M. PURSUANT TO NOTICE IN THE VALENTINE MIDLAND NEWS, A PUBLIC HEARING WILL BE HELD AT 7:30 P.M. TO RECEIVE COMMENTS ON THE ZONING CHANGE REQUEST FROM RESIDENTIAL TO LIGHT INDUSTRIAL AS REQUESTED BY 3L PARTNERSHIP-SAM SPAIN FOR THE FOLLOWING LOCATION:

Lots 3, 4 and 5, Block 5, Kautz Addition to the City of Valentine

Pursuant to notice in the Valentine Midland News, a public hearing was opened at 7:35 p.m. to receive comments on the zoning change request from Residential to Light Industrial Lots 3, 4 and 5, Block 5, Kautz Addition to the City of Valentine as requested by 3L Partnership-Sam Spain. City Clerk Hanzlicek explained that this item was addressed at the previous Council meeting but due to an error in the legal description needed to be done again to reflect the proper location. No comments were received from the public and the public hearing was closed at 7:43 p.m.

14. REVIEW/DISCUSSION/ACTION ON ORDINANCE NO. 2003-2004M ENTITLED: ZONING CHANGE AS REQUESTED BY SAM SPAIN FOR LOTS 3, 4 AND 5, BLOCK 5, KAUTZ ADDITION TO THE CITY OF VALENTINE FROM RESIDENTIAL TO LIGHT INDUSTRIAL

At the close of the public hearing in the previous agenda item, Councilmember Balliet introduced Ordinance No. 2003-2004M entitled: Zoning Change.

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Councilmember Neujahr moved that Statutory Rule requiring reading on three different days be suspended. Second by Councilmember Nieuwenhuis. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

The motion to suspend the rules was adopted by three-fourths of the Council and the statutory rule was declared suspended for consideration of said Ordinance.

The Ordinance was read by title:

AN ORDINANCE OF THE CITY OF VALENTINE, NEBRASKA, AMENDING THE OFFICIAL ZONING MAP OF VALENTINE, NEBRASKA, AS ADOPTED BY SECTION 77-629M OF THE MUNICIPAL CODE OF THE CITY OF VALENTINE, NEBRASKA, BY REZONING THE FOLLOWING TRACT OF LAND: LOTS THREE (3), FOUR (4) AND FIVE (5), BLOCK FIVE (5), KAUTZ ADDITION TO THE CITY OF VALENTINE, CHERRY COUNTY, NEBRASKA, CHANGING THE ZONED AREA FROM RESIDENTIAL "R" TO LIGHT INDUSTRIAL "IL"; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR PUBLICATION OF THIS ORDINANCE; PROVIDING WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND TAKE EFFECT.

Councilmember Rhoades moved for final passage. Second by Councilmember Nelsen. The Council President asked if Ordinance No. 2003-2004M is to be adopted. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

The passage and adoption of said Ordinance No. 2003-2004M having been concurred in by a majority of all members of the Council, the Council President declared the Ordinance adopted.

15. REVIEW/DISCUSSION/ACTION ON REQUEST FOR RIGHT-OF-WAY PARKING AGREEMENT AS REQUESTED BY MIKE WESCOTT/ANNETTE MILLER FOR LOT 32, BLOCK 9, ORIGINAL TOWN (the corner of 5th and Cherry Street)

The City of Valentine received a request from Mike Wescott/Annette Miller for a Right-of-Way Parking Area Agreement at the corner of 5th and Cherry Street. Mike Wescott was in attendance to explain that this will be for off street parking and a sidewalk. The understanding is that the City of Valentine will push the snow to the curb and Mr. Wescott will move it from then on. There should be an adequate set back so backing into Cherry Street should not be hazardous. Off street parking is already located next to the clinic building and it seems to be working according to Mr. Wescott. The curb will be removed with a grinder. Andy Hoban was in attendance and stated that a Qwest phone line inside the curb going west from the alley but it should be deep enough where it should not be a problem.

Councilmember Nieuwenhuis made the motion to approve the request. Second by Councilmember Nelsen. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

16. REVIEW/DISCUSSION/ACTION ON RECOMMENDATION TO THE NEBRASKA LIQUOR CONTROL COMMISSION ON THE MANAGER APPLICATION IN REFERENCE TO LIQUOR LICENSE #A2285 FOR THE PIZZA HUT OF VALENTINE, INC.

The City of Valentine received a liquor license manager application for liquor license #A2285 for the Pizza Hut of Valentine, Inc. The new manager is Bruce Anderson who was in attendance at the meeting. The Council was advised by city staff that this is the procedure used whenever there is a manager change at an establishment and the license is under the managers name. Mr. Anderson has been with Pizza Hut for 3 years and is coming here from Broken Bow, Nebraska. Pizza Hut has the license but corporations have managers, therefore, the request for the change on the liquor license.

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Councilmember Nelsen made the motion that Mr. Anderson be granted approval on this request. Second by Councilmember Neujahr. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

17. REVIEW/DISCUSSION/ACTION ON REQUEST FOR A SPECIAL DESIGNATED LIQUOR LICENSE FOR ROBERT H. CARR II FOR AN EVENT AT 1100 E 10TH STREET ON JANUARY 27, 2003

The City of Valentine received a request from Robert H. Carr II for a designated liquor license permit for a fund raiser to be held at Cherry Hills Estate on January 27, 2003. Lois Beel was in attendance to represent the applicant who was not able to attend. She explained that at a charitable organization you are allowed to give alcohol away but since they are charging for tickets there is a gray area in the law that they would like to eliminate by having a designated liquor license. The event will be for the Sandhills Foundation.

Councilmember Rhoades moved to approve the request. Second by Councilmember Neujahr. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

18. ACCEPT/REJECT BIDS RECEIVED ON THE 1977 SLUDGE TRUCK DECLARED AS SURPLUS

The City of Valentine advertised for sealed bids on the 1977 Ford F-900 sludge truck. The following bids were received on January 17, 2003:

Ward Plumbing & Heating Valentine, NE	\$1,383.00
Kerry Krueger	\$3,300.00

This item was advertised previously for sale but the lone bid received was rejected by the Council and readvertised. City Manager New made the recommendation that the \$3,300.00 bid be accepted.

Councilmember Nelsen made the motion to accept the \$3,300.00 bid from Kerry Krueger for the 1977 sewer slurry truck. Second by Councilmember Rhoades. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

19. THIRD READING OF ORDINANCE NO. 2002-1098M ENTITLED:ANNEXATION AND DISCUSSION/ACTION ON ORDINANCE NO. 2002-1098M

The Ordinance was read for the third time by City Attorney Coupland by title:

AN ORDINANCE OF THE CITY OF VALENTINE, NEBRASKA, ANNEXING TO, AND INCLUDING WITHIN, THE CORPORATE LIMITS OF THE CITY OF VALENTINE, NEBRASKA, A TRACT OF LAND LOCATED IN THE SOUTHEAST QUARTER, SECTION TWENTY-FIVE, TOWNSHIP THIRTY-FOUR NORTH, RANGE TWENTY-EIGHT, WEST OF THE SIXTH PRINCIPAL MERIDIAN, AND THE NORTHEAST QUARTER, SECTION THIRTY SIX , TOWNSHIP THIRTY-FOUR NORTH, RANGE TWENTY-EIGHT, WEST OF THE SIXTH PRINCIPAL MERIDIAN, CHERRY COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SECTION 25, T34N, R28W OF THE 6TH P.M.; THEN N0°51'W ALONG THE SECTION LINE A DISTANCE OF 1,827.7 FEET, SAID POINT BEING 80.0 FEET NORTH OF THE NORTHEAST CORNER OF LOT 1, LAKE SHORE, SUBDIVISION; THENCE S89°39'W A DISTANCE OF 525.0 FEET; THENCE S11°04'58"W A DISTANCE OF 331.6 FEET TO THE NORTHEAST CORNER OF LOT 2, LAKE SHORE SUBDIVISION; THENCE S81°51'W ALONG THE NORTH LINE OF SAID LOT 2, A DISTANCE OF 167.1 FEET; THENCE S25°57'W A DISTANCE OF 399.7 FEET; THENCE S44°20'W A DISTANCE OF 398.2 FEET; THENCE N29°49'W A DISTANCE OF 258.7 FEET; THENCE S69°48'W A DISTANCE OF 258.0 FEET; THENCE S20°19'E A DISTANCE OF 398.4 FEET; THENCE N65°44'W A DISTANCE OF 236.4 FEET; THENCE S72°38'W A DISTANCE OF 318.4 FEET; THENCE S44°14'00"E A DISTANCE OF 560.70 FEET; THENCE S31°56'00"E A DISTANCE OF 179.00 FEET; THENCE N7°16'W A DISTANCE OF 109.1 FEET TO THE NORTHWEST CORNER OF LOT 3, LANZ SUBDIVISION;

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THENCE S20*16'E ALONG THE WEST SIDE OF SAID LOT 3 A DISTANCE OF 146.00 FEET; THENCE S6*37'E A DISTANCE OF 100.00 FEET; THENCE N76*45'46"E A DISTANCE OF 120.28 FEET; THENCE N34*09'46"W A DISTANCE OF 72.55 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION 25, T34N, R28W; THENCE S88*07'00"E ALONG THE SECTION LINE A DISTANCE OF 1316.59 FEET TO THE POINT OF BEGINNING, SAID TRACT OF LAND CONTAINING 51.70 ACRES MORE OR LESS, WHICH IS CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF THE CITY OF VALENTINE; PROVIDING THAT THE INHABITANTS OF SUCH AREA SHALL BE SUBJECT TO THE ORDINANCES AND REGULATIONS OF THE CITY OF VALENTINE; PROVIDING FOR THE FURNISHING OF BENEFITS TO THE INHABITANTS OF SAID TERRITORY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR PUBLICATION OF THIS ORDINANCES IN PAMPHLET FORM; AND PROVIDING WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND TAKE EFFECT.

The previous two reading dates of this proposed Ordinance were November 18, 2002 and December 16, 2002.

Councilmember Nieuwenhuis made the that we approve this Ordinance. Second by Councilmember Balliet. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

20. REVIEW/DISCUSSION/ACTION ON RESOLUTION TO APPROVE THE PRELIMINARY SUBDIVISION PLAT OF LOTS 1 & 2, BLOCK 1, FIRST & GOVERNMENT STREET SUBDIVISION OF THE CITY OF VALENTINE, NEBRASKA FOR OWNER WARD PLUMBING AND HEATING, L.L.C.

The Planning Commission reviewed a preliminary subdivision plat of Lots 1 & 2, Block 1, First & Government Street Subdivision of the City of Valentine, Nebraska for owner Ward Plumbing and Heating, L.L.C. at their meeting held in January 2003. That board requested improved documentation on the intended location of the utility services and other requirements. The Planning Commission made the recommendation to the Council to approve this preliminary subdivision plat as presented.

Don Pettigrew was in attendance to explain the map that was drawn. The map shows that sewer services for proposed Lot 2 would be from the sewer line located north of the lot, which sewer line runs under First Street. Mr. Pettigrew stated that the owner may request an easement from the potential owner of Lot 1 to run a sewer line from Lot 2 across Lot 1 to the manhole located in the northeast corner of proposed Lot 1.

Councilmember Nelsen made the motion to adopt the following Resolution:

Whereas the preliminary plat for Lots 1 & 2, Block 1, First & Government Subdivision has been submitted to the Mayor and City Council together with the recommendation of the Planning Commission for consideration; AND

Whereas, the Mayor and City Council, upon receiving the Planning Commission's recommendation shall by resolution grant approval to or reject the preliminary plat.

NOW, THEREFORE, BE IT THE RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF VALENTINE, NEBRASKA, AS FOLLOWS:

1. The preliminary plat is hereby:
 - a) (X) Approved as presented

Second by Councilmember Neujahr. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

**21. REVIEW/DISCUSSION/ACTION ON RESOLUTION SETTING FEES FOR THE
REDUCTION AND RECYCLING BULK WASTE FACILITY**

The Council received a proposed Resolution to establish updated fees for accepting items at the old landfill. City Manager New stated that the rates are being adjusted to equal our cost of disposal. If we do not raise the rates it will cost the City of Valentine that much more money.

Councilmember Neujahr made the motion to adopt the following Resolution:

**RESOLUTION SETTING FEES FOR THE
REDUCTION AND RECYCLING BULK WASTE FACILITY**

WHEREAS, The City of Valentine shall maintain a solid waste landfill for the purposes of maintaining and operating a Reduction And Recycling Bulk Waste Facility;

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE MAYOR AND COUNCIL OF VALENTINE, NEBRASKA, as follows:

That the City of Valentine hereby establishes the following rates for customers of its Reduction And Recycling Waste Facility as follows:

Description	Fee
a. Automobile tires	\$ 2.00 each
b. Truck tires	\$ 7.00 each
c. Farm rear tires	\$15.00 each
d. Loader tires	\$15.00 each
e. Over the road truck tires	\$55.00 each
f. Appliances without compressors	\$ 5.00 each
g. Appliances with compressors	\$10.00 each
h. Concrete, bricks, trees, tree limbs or scrap lumber:	
i. per pickup load or pickup trailer load	\$10.00 each
ii. per truck or dump truck load	\$25.00 each
i. Wood pallets	\$ 1.00 each

Second by Councilmember Nieuwenhuis. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

**22. DISCUSSION ON CITY OF VALENTINE LANDFILL FRANCHISE AGREEMENT AND
RATE STRUCTURE**

Jess Hurlbert of Olsson Associates was in attendance to explain the work done to date on the review of the rate structure of the Valentine Landfill. Perrett Environmental has requested an increase in their charge for doing business. The City of Valentine has absorbed the last 2 rate increases by the contractor without passing this on to the retail customer. There have been some recent developments including the possible collection of refuse from South Dakota, and the issue of other garbage collectors coming in to the Valentine Landfill and additional collectors within Valentine. Things are on hold until there is a better sense of the direction this is going.

A new cell will need to be started next year at the landfill. The retail rates have not been adjusted since 1994 when the landfill was built. Taking in additional waste may change the timing of the opening of a new cell. If the City of Valentine has another trash collector in town, this could lead to changes on how the trash business is handled from collection to billing to hauler agreements.

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Councilmember Nelsen stated that the recycling end of the trash business is an important part. A lot of the people in the community participate in this program. We want to keep the recycling for sure.

City Attorney Coupland stated that the landfill itself is subject to an interlocal agreement. The Valentine Area Solid Waste Agency operates the landfill and the City of Valentine owns the facility. This agency would be the entity to amend the rate structure. The City Council regulates the disposal of the garbage within the city. The City Council would enter in to an agreement with a contractor to haul garbage. The recycling is due in part to the Waste Reduction Act of Nebraska. An analysis needs to be done to find out where we are going with this facility. Recent litigation has now defined what is legal and not legal in regards to rates and collection services. Further information will be presented to the Council at a later date.

City Manager New stated that the insurance and liability requirements of the city and the trash haulers need to be reviewed. People are starting to ask questions and there is interest in hauler competition.

The City of Valentine landfill does collect garbage from quite a bit of Cherry County. Woodlake, Springview, Brownlee, Kilgore, Merriman, Cody, Crookston and the casino are some of the surrounding customers of the Valentine Landfill.

The City of Valentine has local control of their landfill. Some other local communities who went someplace else and gave up local control are paying for it now. If a community has a contract with a hauler, they cannot even make them haul into their landfill.

Perrett Environmental is currently receiving 62% of the gross amount billed for garbage services. The City of Valentine does the billing and collection of funds. He would like an increase in that amount to 72%.

City Clerk Hanzlicek made comments regarding the finances of the landfill and stated that changes need to be made if the hauler receives an increase in their contract fee. Options that the city has would be to absorb the additional increase in the hauler fee with no change to the customer, increase the customer fee to offset increased percentage paid to the hauler or the city could take on the trash hauling as another utility and operate it itself.

The Agency regulates people who have access to our landfill and we do not have to let people in there. Construction waste is being hid in the dumpsters and placing household waste on top. The City of Valentine loses money when this happens. An education process needs to be done on this matter to the public. There are state statutes in effect which prohibit this type of activity which have not been enforced here. The use of dumpsters is being abused by construction people with illegal dumping.

Brian Perrett stated that the alleys are considerably cleaner than in the past due to the dumpsters being in place.

23. REVIEW/DISCUSSION/ACTION ON PAYMENT B4-FINAL IN THE AMOUNT OF \$18,194.69 TO LAYNE WESTERN FOR WORK COMPLETED ON THE VALENTINE MUNICIPAL WELL PROJECT

Jess Hurlbert of Olsson Associates was in attendance to explain that contract has been completed and they recommend payment to final the project. Layne Western was in town today to do a walk through on the well and operations of the well house.

Councilmember Neujahr made the motion to approve the payment to Layne western on the municipal well project. Second by Councilmember Balliet. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Nieuwenhuis. Abstain-Rhoades. Nay-None. Motion carried.

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24. REVIEW/DISCUSSION/ACTION ON CERTIFICATE OF PAYMENT NO. 4 IN THE AMOUNT OF \$48,085.37 TO WATTS ELECTRIC CO. FOR WORK COMPLETED ON CITY OF VALENTINE ELECTRIC DISTRIBUTION SYSTEM IMPROVEMENT PROJECT

NO. 2001-0112

City Manager New explained that this is not a final pay request and that 5% is still being withheld until the project is accepted. Councilmember Rhoades made the motion to approve payment. Second by Councilmember Nieuwenhuis. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

25. REVIEW/DISCUSSION/ACTION ON CHANGE ORDER C-1 AND FINAL WITH TECHNICAL MAINTENANCE AND SERVICE CO. IN THE AMOUNT OF \$1,240.00 INCREASE FOR A TOTAL CONTRACT PRICE OF \$70,196.00 ON THE MUNICIPAL WATER WELL, TRANSMISSION LINE AND SCADA SYSTEM PROJECT

Jess Hurlbert from Olsson Associates was in attendance to explain the change order. The master PLC (programmable logic controller) did not do the job it was intended to do and needed to be upgraded to communicate with the wells. Each well has a PLC unit but the master PLC at the shop needed to be upgraded.

Councilmember Rhoades made the motion to approve of item #25. Second by Councilmember Nieuwenhuis. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

26. REVIEW/DISCUSSION/ACTION ON CERTIFICATE OF PAYMENT NO. C-2 & FINAL IN THE AMOUNT OF \$8,135.60 TO TECHNICAL MAINTENANCE & SERVICE FOR WORK COMPLETED ON THE MUNICIPAL WATER WELL, TRANSMISSION MAIN AND SCADA SYSTEM

Jess Hurlbert from Olsson Associates was in attendance to explain the final pay request in the amount of \$8,135.60 to Technical Maintenance & Service for the hardware and installation of the SCADA System.

Councilmember Nieuwenhuis made the motion to pay item #26. Second by Councilmember Neujahr. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

27. REVIEW/DISCUSSION/ACTION ON RESOLUTION TO APPOINT A COUNCILMEMBER TO EXECUTE CHECKS ON BEHALF OF THE CITY OF VALENTINE

City Clerk Hanzlicek presented a Resolution to appoint a Councilmember to execute checks on behalf of the City of Valentine. The appointment of another Councilmember will make it easier to get checks signed on a timely manner.

Councilmember Nelsen made the motion to insert the name Jerry Rhoades under item "C" of the following Resolution and moved for approval of said Resolution:

WHEREAS, there are occasions when payments for city claims and payroll need to be processed in the absence of the President of the City Council, *ex officio* Mayor.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VALENTINE, NEBRASKA, as follows:

1. That the following persons shall have individual capacity to execute checks on behalf of the City of Valentine, Nebraska, to-wit:
 - A. President, Wallace Balliet
 - B. Vice-President, Patricia Neujahr
 - C. At Large, Jerry Rhoades
2. That this Resolution shall be in full force and take effect from its date of passage.

Second by Councilmember Nieuwenhuis. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

28. REVIEW OF ELECTRIC UTILITY RATES AND AUTHORIZATION FOR THE PREPARATION OF AN ORDINANCE TO AMEND RATES

City Manager New explained that last year the City of Valentine conducted a rate study on the electric system when NPPD announced their rate increases. Mike Towne of Western Consulting created various scenarios for rates and April 2002 the Council increased the electric rate 3.25% with the anticipation that this will be an annual increase in the years 2003, 2004, 2005 and 2006 to offset the NPPD wholesale rate increases. NPPD is scheduled to increase their wholesale rates again this spring.

Prior to last year, the City of Valentine had not raised their electric rates since 1980 and had given rebates back to the customer for several years and had absorbed the wholesale rate increases the NPPD had. NPPD recently changed their billing structure and are charging more for demand and more on kilowatt hours. The City of Valentine has not increased its cash reserve in several years.

There is some work to be done on the substation at the mill pond and if the City of Valentine can wait long enough, then the bond issued for the purchase of the fringe area would be paid off. The Council needs to authorize the drafting of an Ordinance to change the rates.

Councilmember Rhoades would like an answer on the efforts of the load management system. Someone needs to tell us to increase it, decrease it, update it, throw it out or if it does or does not affect our billing.

The City of Valentine has a 25 year contract with NPPD. The City of Valentine is a winter demand peak customer and when NPPD recently restructured their rates, we have to pay more for the power in the winter season.

It was the consensus of the Council to have the City Attorney draft an Ordinance to amend the electric rates.

29. REVIEW/DISCUSSION/ACTION OF POLICE DEPARTMENT ITEMS:

- a) Police Chief applications
- b) Authorization for overtime pay by Resolution

City Manager New addressed the Council regarding the Police Chief applications. She asked if the Council would like to be involved with the selection/interview process. Once before a citizen committee was formed to be in the selection process.

Councilmember Nelsen stated that he disagreed with the statement that the City Manager is not to be in the chain of command with the police department.

Councilmember Neujahr commented that if Norma Jean wants to go through the applications and select some and have the Council in on the final act. The Council is ultimately responsible even though she does the hiring and firing.

Councilmember Nieuwenhuis and Councilmember Neujahr volunteered to help with the Police Chief interviews. Councilmember Balliet appointed these two Councilmembers to perform this function.

The City Manager has received a request from the police officers to receive overtime pay instead of compensation time. There are educational classes that some officers plan on attending which will create an overtime situation with the 4 officer staff. Currently Officer Petersen is receiving overtime and the other 3 officers are receiving comp time. The budget was prepared using 4 officers and a Chief.

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A Resolution was presented to the Council for their review on this request. City Attorney Coupland reviewed the Resolution with the Council. Councilmember Nieuwenhuis disagreed with paying overtime to an officer for doing secretarial work. City Manager New stated that this will be resolved. Applications for the secretary position have been received.

A few years ago the City of Valentine began paying the police officers according to fair labor standards. There are other payment schedules that can be used that will be looked at.

Councilmember Rhoades made the motion to adopt a Resolution authorizing overtime pay for the police department. Second by Councilmember Neujahr. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

30. CITIZEN COMMENT TIME

Dennis Colsden asked why the City of Valentine is not attempting to resolve the issue of his reinstatement in a timely manner. Councilmember Balliet noted to Mr. Colsden that this item will be talked about in agenda item #31. This is citizen comment time only and the Council does not plan to respond.

City Attorney Coupland suggested to the Council that this agenda item may violate the open meetings law and it should be looked at as to whether it should remain a part of the standard agenda. It does not give the public any notice of what is to be discussed. Councilmember Nelsen suggested that the comment time is a great idea.

Ramona Colsden addressed the Council and noted that a lot of the signatures on the petition received by the Council were from business people. And people are angry at the Council delaying action.

The Council took a short recess at 10:00 p.m. and reconvened in open session at 10:07 p.m.

31. REVIEW OF PENDING LITIGATION AND PERSONNEL ISSUES IN EXECUTIVE SESSION

Councilmember Nelsen made the motion to go into executive session for review of pending litigation and personnel issues. Second by Councilmember Rhoades. Dennis Colsden questioned the Council on putting in the agenda what issue you are going to discuss and what type of issues you were going to discuss in executive session. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried. The Council entered into executive session at 10:11 p.m. with City Manager New.

Councilmember Rhoades made the motion to exit the executive session. Second by Councilmember Nelsen. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried. The Council returned to open session at 10:54 p.m.

Councilmember Balliet directed City Manager New to talk to Dean Skokan to look at the possible finalization of the litigation with Dennis Colsden.

32. NEW BUSINESS:

- a) **League of Nebraska Municipalities Meeting**
- b) **Review agenda structure**
- c) **Gymnatorium fire sprinkler system**

City Clerk Hanzlicek advised the Council of the League of Municipalities meeting in Lincoln on February 24 and 25. Registrations and reservations need to be made for those attending.

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The Council was presented with information about possibly updating the code book with an agenda structure. Some guidelines should be developed to be able to efficiently prepare an agenda. A deadline should be established on when an item can appear on the agenda. The public should be educated on the process to have an item appear on the agenda. Should acquire a legal opinion to make sure statutes are being met.

The Council discussed the citizen comment time line item on the agenda. Research needs to be done to determine if this violates state statute since the item is too broad and the public does not know ahead of the time topics to be discussed. We could make separate line items under the citizen comment time so others could be prepared to discuss.

Councilmember Nelsen likes the opportunity for the public to address the Council to let them know what is on their mind in one or two minutes. It could complicate it if it turns into an agenda item. City Clerk Hanzlicek suggested that a form be developed so that if people wish to appear on the agenda the request is standardized. Maybe the members of the League can advise us on this matter.

The fire inspector came to the gymnasium last year and we need the fire alarm system improved because of the rental spaces and the tenants in the gymnasium. City Manager New would like to use the money budgeted in the park fund for the concession stand and use it in the park fund for the sprinkler system update at the gymnasium. Additional funding is needed to help with the operation of the gymnasium and grants should be looked into for the building operation.

The City Manager contract review is to be scheduled for the agenda in February. Discussion was held on the change in the cable TV lineup where Valentine customers have lost the Denver station. It was replaced with a station from Tennessee. Discussion also focused on the rate increases by the cable system. Service response by Midcontinent cable has not been customer friendly and complaints are being passed on to the Council members.

33. MEETING ADJOURNED

With no further business before the Council, Councilmember Balliet made the motion to adjourn. Second by Councilmember Nieuwenhuis. Roll call vote: Aye-Neujahr, Balliet, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried.

President of Council

I, the undersigned City Clerk of the City of Valentine, Nebraska, hereby certify that all of the subjects including the foregoing proceedings were contained in the agenda for the meeting; kept continually current and available for public inspection in the office of the City Clerk; that such subjects were published in the Midland Newspaper; that said minutes were made available January 31, 2003.

John Hanzlicek
City Clerk