

City of Valentine
Regular Council Meeting
City Library Meeting Room
February 17, 2003

A regular meeting of the City Council of the City of Valentine, Valentine, Nebraska was held February 17, 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 was led in the pledge of allegiance by Boy Scout Troop members 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:

**City of Valentine-Scott Egelhoff, Water Operator
Jean Todd-World War II Memorial**

Scott Egelhoff was the recipient of the 2003 Nebraska Certified Water Operator Excellence Award. He thanked the public and the city staff for receiving this award because it was with their help that he was given this award.

Jean Todd was in attendance to explain that a choir concert was held as a fund raising activity for the World War II Memorial. This was a successful event to honor all of the veterans.

The Boy Scout group was in attendance working on their communication badge.

4. CONSENT AGENDA

Councilmember Rhoades made the motion to approve of consent agenda items #5, 6, 7, 8, 9 and 10 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) **Planning Commission meeting of February 3, 2003**
- b) **Cemetery Board meeting of January 16, 2003**

Councilmember Rhoades 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 JANUARY 20, 2003 REGULAR COUNCIL MEETING MINUTES AND FEBRUARY 6, 2003 SPECIAL MEETING MINUTES

Councilmember Rhoades made the motion to approve of the City Council minutes from the regular meeting of January 20, 2003 and the special meeting minutes of February 6, 2003 as presented. Second by Councilmember Nieuwenhuis. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

7. *APPROVAL OF THE JANUARY 2003 RECEIPT REPORT \$365,017.35

Councilmember Rhoades made the motion to approve of the January, 2003 Receipt Report in the amount of \$365,017.35 as presented. Second by Councilmember Nieuwenhuis. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

8. *REVIEW OF THE JANUARY, 2003 FINANCIAL REPORTS

Councilmember Rhoades made the motion to acknowledge review of the January, 2003 financial reports. Second by Councilmember Nieuwenhuis. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

9. *APPOINTMENT OF THE FOLLOWING TO THE BOARD OF HEALTH FOR A TERM OF JUNE 2002 TO JUNE 2003:

- a) **Wally Balliet-Mayor**
- b) **Cliff Petersen-Acting Chief of Police**
- c) **Dr. Allen Hunt-Physician**
- d) **Patricia Neujahr-Vice Chairperson of the Council**

Councilmember Rhoades made the motion to appoint the following individuals to the Board of Health for a term of June 2002 to June 2003: Wally Balliet-Mayor, Cliff Petersen-Acting Chief of Police, Dr. Allen Hunt-Physician and Patricia Neujahr-Vice Chairperson of the Council. Second by Councilmember Nieuwenhuis. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

10. *APPOINTMENT OF THE FOLLOWING:

- a) **Jim Lutter to the Planning Commission for a term expiring June 2003**
- b) **Norman Blume to the Board of Adjustment for a term expiring June 2003**

Councilmember Rhoades made the motion to appoint Jim Lutter to the Planning Commission for a term expiring June 2003 and to appoint Norman Blume to the Board of Adjustment for a term expiring June 2003. Second by Councilmember Nieuwenhuis. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

**11. REVIEW/DISCUSSION/ACTION ON THE JANUARY 2003 CLAIMS & PAYROLL
\$525,748.98**

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

**12. REVIEW/DISCUSSION/ACTION ON CABLE TELEVISION ISSUES WITH ROD CARLSON,
MIDCONTINENT CABLE TV**

The City of Valentine received a call from Rod Carlson and he would not be in attendance tonight. He did fax a letter today dated February 17, 2003 updating on the status of the negotiations to try to get KMGH (Denver) back to the channel lineup. The letter was read to the public and made available for public review.

Norm Nollett-Valentine really needs the Denver ABC station. Cable company does not address the poor quality signals that it can correct. We have gone weekends with the weather channel off of the air and some stations with poor picture quality. The volume level should be equal on all of the channels. We should have better service.

Zelma Dean-why couldn't the council put in their contract that they cannot take off those good channels.

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Cliff Jacobs-about the main thing he watches on ABC out of Denver is Nebraska football. There may be ways to get an ABC station from other areas. Certainly the station out of Knoxville, Tennessee is not worth diddly squat.

General comments were held regarding the fact that Midco does have a full time cable person here. Norm Nollett stated that he offered to help them with the volume level problem but they do not want to pay anyone else to do it. There is no reason why they can't. They can do it if they want to.

Bill Renning-WB? What are we going to gain by it. He is more interested in it for the ABC affiliate and Nebraska football. What are the chances of getting another carrier in here instead of Midcontinent? Councilmember Balliet stated that it may be an option but you would need to find someone to overbuild the existing system or buy them out. We cannot tell Midco what stations to carry.

Sherri Bacon-When they raised the rates, was it just Valentine or did they raise it for everyone? The notice in their letter stated that they had 220,000 customers and they raised the one rate \$2 per month. They have gained this revenue and our service has been terrible. At least 3 times last week the station she was watching was gone. They raised rates for all of this new stuff and training for their people according to their letter. Councilmember Neujahr stated that Ainsworth may have had a rate increase also.

Woody Vosburg-On their statement they note that they are committed to quality service. How can it be quality service when we are given an ABC station from Nashville which means that college football season may bring televised football games that Nebraska watchers are not interested in because of the regional selection/line up. We would be interested in Nebraska football games or at least the Big 12 Conference games.

Myrna Brock-They have a rate hike and add channels that people don't really care about. And yet we are paying for them. This is very upsetting.

Councilmember Nelsen stated that the public should be encouraged to call them up. It would do just as much good than to have the city council talk to them.

Can't a letter be written to the FCC stating that the quality of service is unacceptable?

Norm Nollett-The provider cost has gone up about 10% and the 2 dish companies have increased their price about \$2 per month. This is primarily due to stations like ESPN , ESPN2 and FOX Sports. Sport channels seem to be the more expensive ones. There are low cost junk channels which are thrown on to a package because they really do not cost much. This is why we end up with channels that we don't watch. The price increase may be pretty much across the industry.

Woody Vosburg-on December 31 when they switched over he called and got an answering service and taped his comments.

Norma Jean New advised the public that she can give them Mr. Carlson's direct line phone number if they contact her at city hall.

The question was asked of Norman Nollett how much control does the FCC have over this? On the technical side they may have some input but over the programming they would be some what limited in controlling that.

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 FINAL SUBDIVISION PLAT FOR LAND OWNED BY WARD PLUMBING AND HEATING L.L.C.:

Lots 1 & 2, Block 1, First and Government Street Subdivision

At 7:30 p.m., a public hearing was opened to receive comments on the final subdivision plat for land owned by Ward Plumbing and Heating L.L.C. for Lots 1 & 2, Block 2, First and Government Subdivision. City Clerk Hanzlicek explained the process of subdividing property and the location of the land to be subdivided is west of the sale barn on the southwest corner of First and Government Street. City Clerk Hanzlicek read the comments from the Article 6 Report reviewing the requirements and conditions of the subdivision. This report is on file at city hall. The staff recommendation was for the approval of the subdivision as presented. No comments were received from the public. The public hearing was closed at 7:42 p.m.

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

Don Pettigrew was in attendance and advised the council that the legal description is First and Government Subdivision and not what was listed on the agenda. Councilmember Nelsen made the motion to approve the subdivision plat on First and Government with the passage of the following Resolution:

Whereas the final 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 final plat.

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

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

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

15. 8:00 P.M. PUBLIC HEARING PURSUANT TO NOTICE IN THE VALENTINE MIDLAND NEWS, A PUBLIC HEARING WILL BE HELD AT 8:00 P.M. TO RECEIVE COMMENTS ON THE CITY OF VALENTINE ONE AND SIX YEAR STREET PLAN FOR 2003

At 8:00 p.m. a public hearing was opened to receive comments on the City of Valentine One and Six Year Street Plan for 2003. Street Superintendent Pettigrew presented a list of proposed improvements. The One Year Plan will be strictly maintenance which consisted of 12 projects. The Six Year Plan shows major construction which consists of curb and gutter, paving and grading. There are 3 projects: 6th Street from Macomb Street to Ray Street; 6th Street From Ray Street to Valentine Street; and Ray Street from 5th Street to 6th Street. These improvements could be done by petition or forced gap paving. At this time public input was requested. One comment was that the corner of 5th Street and Essex Street has a dip in the road and water stands in it for a long time. It may need to have an inlet box put in. This is located near the swimming pool.

A question was asked "Who is in charge of the sidewalks?". The public was advised that the property owner is and if they want to do repair or maintenance work they should contact city hall for the proper form to fill out.

The public hearing was closed at 8:12 p.m.

16. APPROVE/DENY RESOLUTION TO APPROVE THE CITY OF VALENTINE ONE AND SIX YEAR STREET PLAN FOR 2003

At the conclusion of the public hearing, Councilmember Rhoades made the motion to approve the One and Six Year Street Plan for 2003 with the adoption of the following Resolution:

Be it resolved by the Mayor and City Council of the City of Valentine, Nebraska that there is hereby adopted for the City of Valentine, a long range six-year plan of highway, road and street improvements based upon priority of needs and calculated to the orderly developments of an integrated state wide system of highways, roads and streets which plan is attached hereto.

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

17. REQUEST FOR AUTHORIZATION TO ADVERTISE FOR BIDS ON CONCRETE AND MAINTENANCE PROJECTS FOR 2003

City Manager New and Street Superintendent Pettigrew reviewed the list of maintenance work scheduled for 2003. The City of Valentine has been bidding out the concrete and the work for the maintenance. Each year a list of the maintenance work is prepared and bid out. Last year there were 17 on the list. Last year 5 listed projects were done and 12 are remaining. Some items that are not on the list are done as needed also. Councilmember Nelsen asked if there was money in the budget to do the projects. He was advised that last year more was spent for this type of work than what is being proposed. City Manager New stated that the funds are budgeted and the list is used as a guideline on where to go.

Councilmember Nelsen made the motion to authorize to go out for bids for concrete and maintenance projects for 2003. Second by Councilmember Neujahr. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried. City Manager New commented that the City breaks up the concrete and removes it.

18. REVIEW/DISCUSSION/ACTION ON THE REQUEST TO AUTHORIZE THE ADVERTISEMENT OF THE ANNUAL LAND LEASES:

Parcel A	135.0 acres more or less
Parcel B	114.4 acres more or less
Parcel C-Tract 1	25.0 acres more or less
#1	Lot 5 and portion of Lot 4, Valentine Subdivision
#2	Lot 8, Valentine Industrial Subdivision
#3	Lot 9, Valentine Industrial Subdivision
#4	Lot 6, Valentine Industrial Subdivision

City Manager New requested that lease #1 be pulled since the City of Valentine uses this property as a gravel pile. This is the area known as "Mistake Lake". If any land is leased then it would be subject to property taxes. When leases are made the lessee would pay for the advertisement, taxes, preparation fee and the bid amount for the lease.

Due to the range conditions of Parcel B and Parcel C-Tract 1, it was recommended that these parcels not be rented. A condition report has not been updated but due to previous reports and the lack of moisture the condition has not improved. The City had held this property previously with hopes of placing the longhorns on the land, but that did not happen. City Manager New suggested to leave the land sit and use it for a nature trail or a sledding hill. This is land located north of the park road. Parcel A is located near the old city dam and is in better range condition and can be rented. It was noted that the spring on Parcel B went dry last year.

Lease #2, #3 and #4 need to be checked out to see if they are being used and/or usable at this time. Last year the water line project interrupted the use of these lots. These lots are located near the auction company property. Another option the City has would be to sell these lots so they would not have to be rented every year. The City could use this land in conjunction with Lease #1. City Manager New stated that she can talk to the Valentine Auction Company to see if they are interested in purchasing the lots. If the City controlled these lots then the owner(s) of Lots 7A and 7B would be land locked. City Manager New recommended the advertising of Parcel A since that is leased now and come back with more information on the other lots.

Councilmember Nelsen made the motion to advertise Parcel A which is 135.0 acres more or less for leasing. Which lease agreement is to include lease price, plus taxes, plus preparation fee for the lease. Second by Councilmember Neujahr. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

Councilmember Neujahr made the motion to reserve Parcel B and Parcel C-Tract 1 for recreational purposes and foot traffic only. Second by Councilmember Nelsen. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

19. REVIEW/DISCUSSION/ACTION ON CITY CODE 1-201 APPOINTED MUNICIPAL OFFICIALS; GENERAL AUTHORITY AND CITY CODE 1-207.01 MUNICIPAL ATTORNEY, PRIVATE PRACTICE PERMITTED, LIMITATIONS

Susan Neujahr Beel addressed the Council reference City Code 1-201 and 1-207.01. She wrote a letter to the Council stating that the City Code as amended is too broad and has not allowed her to take a couple of ad litem cases which she has had in the past. This new code has harmed the legal practice that she is trying to build. Did the Council think about the whole affect on someone who is interested in working for the city and how much it would curtail their private practice. Whether in intentional or not. She has a real estate practice and sometimes Don Pettigrew might be involved. She also may have a client who has a liquor license that may come before the Council. She enjoys being a city prosecutor. She can make more money doing guardian ad litem cases than working for the city. If you truly did not someone representing the city doing these other types of legal cases..... It is not working out for her.

Rob Coupland has had similar cases in dissolution. Can't represent the victim of abuse because a police office might be involved. There was an accident case where police were involved so he could not work on that case either. In his letter to the Council he included a section on ethical consideration on conflicts of interest that is put out by the counsel on the supreme court. In his letter he would agree to not defend criminal cases where city police officers are the arresting officers. There is a shortage of attorneys in this area and this language limits who can work cases with the city.

An opinion from the League of Nebraska Municipalities dated 2/13/2003 was reviewed. From the letter "In the absence of a court case specifically deciding this issue, I cannot say definitely that 1-201 of Valentine's code as amended by the ordinance is invalid though I can articulate some arguments for its invalidity. My recommendation would be that the Valentine City Code follow the text of 19-618 of its ordinance."

Discussion followed. It is not known whether a judge would find this amendment invalid or not. This has not been tested in court. There is a lot of gray area and until it is tested in court you don't know if it is right or wrong. Mr. Coupland stated that the Council would be wisest to follow the text of the statute rather than test it. The Attorney General and the League will not bring suits to go get opinions from judges.

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Councilmember Neujahr stated that the restrictions being placed on the city attorneys are much too broad. You are not going to be able to find anyone to act as a city attorney if it is going to limit their private practice. It will increase the cost of the legal services. What is it going to cost the city? The last council made this change and the League is not saying whether it is legal or not. The validity of the Skokan Report was discussed. The information contained in it may not have been accurate.

Councilmember Rhoades disagreed with the decision to take the power away from the city manager in hiring the city attorney. We are a city manager form of government and when you take these powers away, how many other powers do you take away before we are a mayor form of government again. No matter who you hire for city attorney, you will place these limitations on them.

City Manager New stated that city attorneys have to use their own judgment in deciding what cases they can take. She does not know how you can restrict any city attorneys privilege from doing their private practice in a small town.

Councilmember Nieuwenhuis stated that the reason 1-207.01 is included in the ordinance is because we have had this problem in the past of this situation. When the city attorney goes to court he should be defending the city employee. Ms. Beel might be a victim of circumstances when this happened.

Lee Petersen presented a scenario where Mr. Coupland's client alleges police abuse, then wouldn't he be obligated to defend. Then it becomes an action against the city with the police officer as a witness for the city. Mr. Coupland responded that he does not believe that he would take a case against the city. If you have already taken the case and then your client alleges police abuse. Mr. Coupland said that it would be a separate case action if the client wants to sue the city and he would not be able to do that.

Lee Petersen asked if there could be an agreement on a case by case basis and to consult the city official to determine if there is conflict with him. Mr. Coupland said that he deals with that conflict of interest issue under the counsel of discipline with the supreme court. Mr. Petersen suggested to change the resolution to work it out.

Dave Beman wanted a clarification of who the city attorney represents. Mr. Coupland said that he represents management and the Council. He represents the city. The corporate body.

Susan Beel stated that there are already a lot of conflicts of interest and to put this ordinance on top of the things that are already out there precludes her from a lot of cases because of who they are related to and who might be called as a witness.

Mr. Coupland said that he and Ms. Beel would be willing to negotiate the limitations. If you want it in an agreement form, then it should be negotiated in a contract. You do not want to pass an ordinance so broad that they do not even know what it means. It is so broad that you do not know when a conflict situation will come up.

Councilmember Rhoades stated that if you are going to restrict someone's private practice then you are going to have to increase their wages. What attorney in this community would not be affected by city code 1-207.01?

Councilmember Balliet stated that there are two issues with the ordinance. One has to do with the hiring and firing authority. He is not comfortable with personnel issues and would rather let someone else do it. He also recommended to strike 1-207.01 from the code. This deals with their lives and their income and what they can do.

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Councilmember Nieuwenhuis approves of 1-201 because the Council has to answer to the taxpayers. On 1-207.01 he would be willing to work something out. Councilmember Nelsen thought it was a good idea to come up with an alternative so that there is not a conflict.

Dave Beman stated that anyone coming to the meetings for the last several years recognizes that this limitation of private practice is a result of an abuse of not having any restrictions. Mr. Beman printed out the Professional Code of Responsibility which are the rules that all of the lawyers need to follow. He brought it with him to the meeting if anyone wants to read the rules that attorneys are suppose to follow. The other folder he has with 400+ pages is a rebuttal to Mr. Coupland's response to the bar complaint the he filed against Mr. Coupland for unethical behavior. Many of these rules are specifically designed to prevent conflicts of interest. All you have received tonight is one side of the story. And he thinks it is a biased side of the story. This has only been brought about because of an abuse of the system previously.

Councilmember Balliet is confident that this ordinance can be re-written so that it does not affect their private practice. And there are times when they are just going to have to back out. He would personally like to take it out altogether.

Mr. Coupland asked if the Council is trying to prevent the city attorneys from her being a guardian ad litem? From us handling dissolution matters if there has been domestic abuse. Or did the police department not like the fact that they were being disciplined and at the same time he was representing criminal defendants. What is it the council wants to limit them on? The law states that the manager hires the attorney but that the Council sets the salary.

If there is a contract drawn up then the limitations can be documented in the contract along with the salary. An agreement could then be changed without repealing an Ordinance.

City Manager New was asked her opinion regarding 1-201. Rob has been hired with a contract with the City Council. The City Attorney should actually be working for the City Council. No matter who hires him, the contract should be made through the City Council. His job needs to be separated so you guys (the Council) know what is going on. She would not feel slighted by having the hiring authority taken away from her because the Council would have more control. She would be concerned if other employees are taken away from her authority because they do business day to day with the City Manager. Mr. Coupland stated that he deals with day to day activities with the City Manager and for the city.

Councilmember Nieuwenhuis stated that his concern is addressed on page 3 of Rob's memo dated February 11, 2003. Item (e) states "...I agree not to defend criminal cases where city officers are the arresting officers....." Mr. Coupland agrees with this premise. This is clarified to mean that any time the city police are involved in the investigation or appear as witnesses he would step down from the case.

Councilmember Nieuwenhuis made the motion to keep 1-201 but to repeal 1-207.01. Second by Councilmember Neujahr. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried.

Councilmember Neujahr made the motion to negotiate a contract with the City Attorney and prosecuting attorney covering salary and limitations. Second by Councilmember Nelsen. Discussion followed. Councilmembers Balliet and Nieuwenhuis are to help with the negotiations and have it at the next meeting. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried.

The Council recessed the meeting at 9:30 p.m. and reconvened at 9:37 p.m.

20. REVIEW/DISCUSSION/ACTION ON THE REQUEST TO WRITE OFF ACCOUNTS RECEIVABLE IN THE AMOUNT OF \$7,148.03

City Manager New presented a list of uncollectable accounts consisting of utility and miscellaneous sales. Some have been turned over to the credit bureau and some have claimed bankruptcy. Some accounts go back to 1989 and the meter deposits have been applied to the accounts.

Councilmember Neujahr made the motion to write off the accounts receivable in the amount of \$7,148.03 as presented. Second by Councilmember Rhoades. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried.

21. REVIEW/DISCUSSION/ACTION ON RESOLUTION ESTABLISHING RULES AND FEES FOR ADVERTISING AT THE BALL FIELD COMPLEX

A Resolution was presented to the Council establishing advertising rules and fees at the ball field complex which covers all of the ball fields. It was noted that the key to the contract is for the selling organization to receive 50% of the proceeds and then the city will receive 50% which will go into the park fund to be used for the ball field complex. There is a lease and contract that will be used with the advertising company.

Councilmember Nieuwenhuis made the motion that the Resolution be accepted for advertising at the ballfield complex. Second by Councilmember Nelsen. 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

Councilmember Balliet noted that the Council also serves as the Solid Waste Agency (SWA) and a meeting should be called to discuss landfill issues. This would be a special meeting as a Solid Waste Agency. Work on the franchise contract agreement should be completed by May 4, 2003. The permits for the landfill that the SWA controls expire in October 2003. In order to build the landfill the SWA was created. The SWA controls the landfill which is done by an interlocal agreement with the County. The Council control the actual garbage pickup within the city and the franchise agreement for the garbage pickup. There are different issues on where you take the garbage. The SWA borrowed money from the FHA for construction of the landfill. An Ordinance was adopted making Perrett Environmental the franchise holder in picking up the garbage. Contract have been negotiated over the years by Resolution. The Ordinance needs to be amended to update for some issues that have been added or changed. The SWA need to meet and determine the rules and regulations for permitting at the landfill like who gets in and what kind of garbage. Then interlocal agreements need to be updated. The garbage rates need to be reviewed as well as recycling issues also.

Ordinance No. 2000-1071M allows the city to set a fee for garbage pickup and can give a contract to someone to pick up the garbage and charge people at their homes or businesses for garbage. If a homeowner or business person does not want to use our hauler or if they recycle 100%, then they should not have to pay the city a fee for garbage if they hire someone else. As long as the customer can show that their garbage is actually in compliance with the solid waste laws, being hauled to a properly licensed landfill by a properly licensed hauler, we cannot force them to do business with the city. The customer is required to come to city hall with their billing receipt showing a statement from a permitted solid waste hauling service for collection or a transfer station or disposal facility. They need to show that they have thrown their garbage away legally.

While sitting as a SWA they will be setting rules for who can dump into the landfill. The haulers will be permitted by the SWA.

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**23. REVIEW/DISCUSSION/ACTION ON ORDINANCE NO. 2003-2005M TO AMEND
CITY CODE CHAPTER 3, ARTICLE 9 BY ADDING SECTION 3-925: SOLID WASTE;
LIABILITY FOR CHARGES, PROOF OF PROPER DISPOSAL**

In review of the Ordinance records, Ordinance No. 2000-1071M was adopted on September 25, 2000, therefore, Ordinance No. 2003-2005M does not need to be addressed.

**24. REVIEW/DISCUSSION/ACTION ON THE ADOPTION OF ORDINANCE NO. 2003-2006EL
AMENDING CHAPTER 3, ARTICLE 10, SECTION 3-1007: ELECTRIC RATES**

This is as per the electric rate study that was conducted in 2002. It was advised that incremental rate increases should be taken to cover the wholesale rate increases. The electric reconnection fee for non payment customers will be increased to match that of the water services. The 3.25% rate increases is scheduled to happen for the next 2 or 3 years based on the electric rate study to offset the wholesale rate increases from NPPD.

Councilmember Balliet introduced Ordinance No. 2003-2006EL entitled: Electric Rates.

Councilmember Nieuwenhuis moved that statutory rule requiring reading on three different days be suspended. Second by Councilmember Nelsen. 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 CHAPTER 3, ARTICLE 10, SECTION 3-1007 OF THE MUNICIPAL CODE OF THE CITY OF VALENTINE, NEBRASKA, ORDINANCE NO. 77-629M, BY PROVIDING FOR THE ELECTRIC RATES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM; AND PROVIDING WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND TAKE EFFECT.

Councilmember Nelsen moved for final passage. Second by Councilmember Neujahr. The Mayor asked in Ordinance No. 2003-2006EL is to be passed and adopted. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried.

The passage and adoption of said Ordinance No. 2003-2006EL having been concurred in by a majority of all members of the Council, the Mayor declared the Ordinance adopted.

25. APPOINTMENT OF A COUNCILMEMBER TO THE JAIL COMMITTEE

It was noted that Councilmember Rhoades is already a member of this committee. Councilmember Nelsen volunteered to also sit on this committee. President of the Council Balliet made the appointment of Councilmember Nelsen to the committee.

26. CITIZEN COMMENT TIME

Neal Muirhead addressed the Council asking about the recent blighted and substandard designation for a portion of the town. The Council seems to do business pretty quick in some instances. Why not on this issue as well. City Manager New asked him to call her at the office in the morning. He is unable to do that. Mr. Coupland will visit with him after the meeting tonight.

Lee Petersen spoke asking if the city has considered if a wind generator could be erected for electricity. This area in Nebraska is a candidate for a wind generator. The payback is less than 5 years.

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He estimated that the cost of the Dennis Coltsden situation was \$75,000 which included a settlement, overtime and legal services.

He talked about the open meeting laws and the reasons that are allowable to be in executive session. The openness should be in favor of the public.

27. CITY MANAGER REVIEW WHICH MATTER MAY BE HELD IN EXECUTIVE SESSION:

- a) personnel review
- b) contract status

City Manager New addressed the Council regarding her personnel review. She supplied the Council with her contract in the agenda packet. She recapped projects and personnel matters that took place within the last year. Comments offered by the Council was that she is doing a good job and putting in a lot of hours for the city.

The Council discussed the city manager contract and the Skokan Report reference this item. Employment law and the types and length of contracts were discussed. The consensus of the Council was to leave the existing contract in place. The cost of living adjustment is part of the contract.

28. NEW BUSINESS:

- a) League of Municipalities meeting
- b) Airport Zoning Board vs Airport Advisory Board

The City Clerk reminded the Council of the League of Municipality meeting in Lincoln starting February 24, 2003.

The Airport Zoning Board is interested in becoming an Airport Advisory Board. The Airport Zoning Board members do have a concern in the operation of the airport and are expressing an interest in its continuance.

City Clerk Hanzlicek requested that the Council call for a special meeting on Thursday, February 20, 2003 for the authorization to issue a registered warrant for operating cash until bonds are issued for the City Third development or until a CD comes due on March 31, 2003.

29. 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 February 20, 2003.

John Hanzlicek
City Clerk