

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

A regular meeting of the City Council of the City of Valentine, Valentine, Nebraska was held March 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.

PLEDGE OF ALLEGIANCE

The Council and those in attendance recited the pledge of allegiance.

1. 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.

2. CIVIC GROUP RECOGNITION:

**Cherry County Ambulance Service
Valentine Municipal Airport-Miller Field**

Tonya Fay and Steve Garwood were in attendance to report on the activities of the Cherry County Ambulance Service. The ambulance appears at various sporting events around the community and career day. The ambulance responds to medical emergencies, structure fires and ground transfers to other medical facilities. The members of the unit must keep up their certifications and have continuing education requirements. This squad has the second highest number of run miles in the state. And almost the highest in the state in terms of numbers of runs for a squad. There are 35 members on the squad with 11 active.

Bob Kilmer and Dave Higgins were in attendance to report that the Valentine Municipal Airport was recently awarded the "Airport of the Year Award" for 2003. This was a competition with all of the other airports in Nebraska. There have been several improvements in the recent years including T hangars, runways and the administration building itself. There has been a lot of pilot participation and financial assistance from Rollie Pestel. Dave Higgins prepared the application for the award. Few airports this size have as much traffic as the Valentine Airport.

3. CONSENT AGENDA

Councilmember Neujahr made the motion to approve of consent agenda items #4, 5, 6 and 7 as presented. Second by Councilmember Nieuwenhuis. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried.

4. *REVIEW OF VARIOUS BOARD MINUTES:

- a) **Planning Commission meeting of March 3, 2003**
- b) **Library Board meeting of February 3, 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.

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**5. *APPROVAL OF THE FEBRUARY 17, 2003 REGULAR COUNCIL MEETING MINUTES
AND FEBRUARY 20, 2003 SPECIAL MEETING MINUTES**

Councilmember Neujahr made the motion to approve of the City Council minutes from the regular meeting of February 17, 2003 and the special meeting minutes of February 20, 2003 as presented. Second by Councilmember Nieuwenhuis. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

6. *APPROVAL OF THE FEBRUARY 2003 RECEIPT REPORT **\$361,524.59**

Councilmember Neujahr made the motion to approve of the February, 2003 Receipt Report in the amount of \$361,524.59 as presented. Second by Councilmember Nieuwenhuis. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

7. *REVIEW OF THE FEBRUARY, 2003 FINANCIAL REPORTS

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

**8. REVIEW/DISCUSSION/ACTION ON THE FEBRUARY 2003 CLAIMS & PAYROLL
\$359,231.88**

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

**9. REVIEW/DISCUSSION/ACTION ON JOINING THE CENTRAL NEBRASKA JOINT
HOUSING AUTHORITY:**

- a) Resolution declaring the need for a Joint Housing Authority
- b) Resolution appointing Councilmember to the Central Nebraska Joint Housing Authority

Trine McBride was in attendance to explain the functions and programs of the Central Nebraska Joint Housing Authority. There are currently 49 members of the Housing Authority that consist of government entities. They provide Section VIII rent vouchers which is HUD money provided to low income families to assist in payment of their rent. The amount given is based on the household income. The rental units must meet housing quality standards. There is no fee to be a member of this organization. The only requirement is for the community to provide a representative to sit on their board. They meet 3 times per year.

Ms. McBride also provides grant writing services for housing rehab grants and home buyer assistance programs. NW Community Action Service does not do housing programs. The next grant cycle would be March 2004 and she is based out of Loup City. The member appointed to the board does not have to be a Councilmember, it can be a member from the community. They meet the 2nd Tuesday of the month on June, September and January. A board member does not need to be appointed at this time but one should be appointed by June.

Councilmember Nelsen made the motion that we do join the Central Nebraska Joint Housing Authority with the adoption of the following Resolution:

RESOLUTION DECLARING A NEED FOR A JOINT HOUSING AUTHORITY TO SERVE THE CITY OF VALENTINE, NEBRASKA.

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

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The City Council of the City of Valentine, Nebraska, does hereby determines, finds and declares:

1. That unsanitary or unsafe inhabited dwelling accommodations exist in the city of Valentine, Nebraska; and
2. That there is a shortage of safe or sanitary dwelling accommodations in the City of Valentine, Nebraska, available to persons of low income or elderly or handicapped persons of low income, at rentals they can afford; and
3. That there is a need for a Joint Housing Authority to function in the City of Valentine, Nebraska; and
4. That the City of Valentine, Nebraska, does therefore find a definite need to join with other jurisdictions for the purpose of creating a joint housing authority that can command the resources necessary to develop housing in the area of operation of the Joint Housing Authority; and
5. That the City Council of the City of Valentine, Nebraska, does hereby approve of the City of Valentine, Nebraska, joining other jurisdictions in the Central Nebraska Joint Housing Authority, which may exercise any power, privilege or authority, authorized by the Nebraska constitution or statute or charter which a Joint Housing Authority or community might enjoy but never beyond the limitation of such powers, privileges or authority for the purpose of development and management of housing in the City of Valentine, Nebraska, and other similarly situated communities; and
6. That the shortage of safe and sanitary dwelling accommodations in the City of Valentine, Nebraska, compels that this resolution become effective without delay and therefore, the same shall take effect and be in full force immediately upon its adoption.

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

Councilmember Neujahr suggested that someone should be found from the community to fill this position, otherwise she would be interested in doing this. Councilmember Nelsen made the motion to table agenda item 9(b) until we have a volunteer. Second by Councilmember Neujahr. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried.

10. REVIEW/DISCUSSION/ACTION ON THE APPOINTMENT OF A COUNCILMEMBER AS A NORTH CENTRAL NEBRASKA RC&D REPRESENTATIVE

City Manager New explained that we are not real active in this group. The city does receive the newsletter sent out by this group. Councilmember Rhoades still receives the newsletter and he would volunteer to be on the board.

Councilmember Nelsen made the motion to appoint Councilmember Rhoades as a representative to the North Central Nebraska RC&D Council. Second by Councilmember Nieuwenhuis. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried.

11. 7:15 P.M. PURSUANT TO NOTICE IN THE VALENTINE MIDLAND NEWS, A PUBLIC AUCTION WILL BE OPENED AT 7:15 P.M. AND HELD OPEN FOR 1 HOUR TO RECEIVE BIDS ON THE FOLLOWING LAND FOR LEASE:

Parcel A 135.0 acres more or less

Pursuant to notice in the Valentine Midland News, a public auction was opened at 7:15 p.m. to receive bids on the land lease for Parcel A. The public auction was held open for 1 hour and the only bid received was \$411.00 from Bill Ward. The public auction was closed at 8:15 p.m..

12. REVIEW/DISCUSSION/ACTION ON THE BID RECEIVED FOR THE CITY LAND LEASE

At the conclusion of the public auction, Councilmember Nieuwenhuis made the motion to accept the bid of \$411.00 from Bill Ward for the Parcel A land lease. Second by Councilmember Neujahr. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried. Said lease to include the payment of a lease amount, real estate taxes advertising costs and preparation fee.

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**13. REVIEW/DISCUSSION/ACTION ON AUTHORIZATION TO DRAFT AN ORDINANCE TO
ADOPT AN OCCUPATION TAX ON MOTEL/HOTEL ROOMS**

Councilmember Balliet stated that this is an item that was considered a couple of years ago. The city is looking for funding to help pay for items within the city and this occupation tax is being proposed to help fund the Airport and the Chamber office.

The City of Valentine received letters of protest today (3/17/03) from the following: Roger Little, Holiday Inn Express by Jerry O’Kief, Joan Rupe-Tradewinds Lodge, Yvonne Greene-Fountain Inn Motel, and Sam Spain-Raine Motel. This letter was read aloud to the public.

Mike Young, who has an interest in the Comfort Inn and the Dunes Motel, read a letter of protest to the public and the Council. All of the letters of protest have been received by the City Clerk and will be on file at City Hall.

City Manager New explained that this item appeared before the Council in the year 2000 and was not designated for anything. It appears to her to be appropriate to designate this revenue source to one debt, specifically the airport. People would know where the tax money is going and when it would end. This occupation tax would need to be adopted by an Ordinance of the Council and can be amended at any time. Feedback from a motel industry person was that they do not want the money to go toward the ballfield or the general fund. They would like to see the money be used to support and promote winter time activities.

Sam Spain addressed the Council. He felt that this is an unfair tax on just the motels. The competition along Hwy 12 is not within the city limits and would have an unfair advantage. Mr. Spain handed out a flyer on LB499. In his opinion the taxes collected cannot be used for capital construction. He contacted cities along Hwy 83, 20 and 12 and no other city has this kind of tax. He suggested that it go for a vote to see how it comes out.

Dean Jacobs stated that the state law being referenced (LB499) is a county law. This may not be the same law that would be imposed on a municipality. City Clerk Hanzlicek stated that there is a difference between an occupation tax and a lodging tax. Mr. Jacobs stated that he is not aware of any other city that uses an occupation tax for other than the Chamber or other tourism promotion.

Jerry O’Kief stated that a tax is a tax. He is asking that a study be done to see what other communities are doing and how it is being handled. A sales tax is shared by all of the citizens in the community including the people who come into town, the tourist. Whereas the occupation tax is geared to 1 particular type of business. He has not had an opportunity to do any type of research. He is asking a fair hearing in front of the Council before a decision is made on this.

Councilmember Nelsen would agree with the statements made by Mr. O’Kief. More time is needed to study the situation. He has not heard of any motel owner that is in favor of this.

In discussion, the County Lodging Tax is used for tourism. A Nebraska Hotel & Motel flyer was discussed. It was a legislative alert concerning LB 726 to allow all counties under 300,000 population to assess another 2% tax on lodging for rooms for capital improvements. This is the same type of tax that is allowed in counties with a population of greater than 300,000. This flyer noted that Omaha, Hastings, Grand Island, Kearney, North Platte, Blair and Wahoo have implemented the 2% local option tax.

Councilmember Rhoades noted that there was a Bull Bash again this year which brought people to the community in the retail off season. He was interested in the amount of rooms rented during this activity. Mike Young stated that it was a positive event. There were people that did stay over night. John Rupe stated that the Tradewinds did not have any business but that the promotion was positive for the community in general. If you get people here to look at your community they will come back later. That is paid for through advertising and we do not need another tax. Councilmember Rhoades asked if they would be in favor of some kind of taxation that would take advantage of the tourism industry?

Dean Jacobs wanted to clarify that LB 726 is before the legislature now and that is to add an additional 2% on their county lodging tax to allow for capital construction. If lodging tax is used to built things it will draw people into their area. To be used for capital construction or tourism promotion. It will be up to the County on whether they want to do it. This is something that needs to be looked at down the road.

Mike Young stated that Valentine needs new things in this town. It might be a good time to bring the city sales tax issue back to some discussion. The biggest fear of a sales tax is that it would go into the city coffers and disappear as an expense. It should go to economic development or the betterment of Valentine. He would like to see an indoor arena. We need some type of activity to bring people in during the winter time. The people along the Hwy and the streets may be ready to talk about it again. The plan was bad last time and with the right plan it might fly.

Bill Ward stated that back in the 60's there was an occupation tax that businesses were to pay. It was noted that this has been phased out of the city code book over time.

Councilmember Nelsen made the motion to table item #13 until the next meeting and to ask the representatives of the motels in the area to come back at our next meeting and also ask Dean Jacobs to attend. Second by Councilmember Nieuwenhuis. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried.

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

Councilmember Balliet stated that Mr. Carlson is not here and did not plan on coming. They are close to negotiating a franchise and they need to receive a couple of waivers and to wait for FCC approval. It will take approximately 30 days and Valentine should have the Denver station by the middle of April or the first of May. A list of concerns that was discussed at the previous Council meeting was sent to him and he will look into those. Steve Hamling has moved back to Valentine and is the technician for Valentine and was in attendance to answer questions.

Dave Dent asked why the negotiations for this service did not start sooner. When a contract is coming up for renewal or about to expire, negotiations should begin far enough in advance so we do not have this problem.

Councilmember Rhoades asked Mr. Hamling's technical advise on the volume control changes of the different stations. Mr. Hamling stated that it has been worked on within the last couple of days and the volume of the stations should be close. There is still some equipment that needs to be replaced. The volume problem has greatly improved and there is not anything that can be done about the commercials.

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Councilmember Nelsen made the motion to accept the concrete bid from Allard Precast and the labor for construction by Daugherty Construction. Second by Councilmember Rhoades. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried.

17. REVIEW/DISCUSSION/ACTION ON CERTIFICATE OF PAYMENT NO. 1 IN THE AMOUNT OF \$21,726.90 TO TECHNICAL MAINTENANCE & SERVICE CO. FOR WORK COMPLETED ON THE VALENTINE WASTEWATER SCADA RETROFIT PROJECT NO. 2001-0884

City Manager New explained Certificate of Payment No. 1 in the amount of \$21,726.90 to Technical Maintenance & Service Co. is the full amount of the project less 10% retainage. A walk through of the project was conducted and seems to be working fine. Another phone line needs to be installed yet.

Councilmember Neujahr made the motion to pay \$21,726.90 to Technical Maintenance. Second by Councilmember Rhoades. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried.

18. 8:00 P.M. PURSUANT TO NOTICE IN THE VALENTINE MIDLAND NEWS, A PUBLIC HEARING WILL BE HELD AT 8:00 P.M. TO RECEIVE COMMENTS ON THE PROPOSED EXTENSION OF RUNWAY 03-21 AT MILLER FIELD, VALENTINE AIRPORT, AIP PROJECT NO. 3-31-0084-02 AND PROTECTION ZONES CONTAINED IN THE PROPOSED RUNWAY EXTENSION PLAN

Pursuant to notice in the Valentine Midland News, a public hearing was opened at 8:00 p.m. to receive comments on the proposed extension of runway 03-21 at Miller Field, Valentine Airport, AIP Project No. 3-31-0084-02 and protection zones contained in the proposed runway extension plan. Eric Johnson of Kirkham Michael was in attendance to explain the project extension. City Attorney Coupland commented that to extend the runway that private real estate needs to be acquired and the City of Valentine is required to hold a public hearing in this attempted process. A portion of the public notice as it appeared in the paper was read. The Valentine City Council will also hear and consider any objections from anyone in regard to the project.

There are 3 properties involved in the project. The property owners have been notified that in the event this project moves forward that the acquisition will take place. They also have the right to be represented by an attorney.

Eric Johnson presented a drawing of the proposed runway extension at Miller Field. This project is needed for 1) safety and 2) capacity and condition of the existing crossway runway. Whenever a city accepts a grant from the FAA, they are required to maintain the airport with air safety standards. One of the 37 grant conditions is maintaining a runway protection zone (RPZ). Runway protection zone cannot have houses constructed in this trapezoidal area. Currently there is a trailer park involved that encroaches in this RPZ. The runway needs to be relocated so the RPZ is free of obstructions and in this case it would have to be shifted to the southwest so the RPZ is on city property which is free of obstructions.

For this runway, the FAA requires a minimum of 3,400 feet with a 60 foot width. Currently the runway dimensions are 2,800 feet by 50 feet wide. This does not meet the FAA criteria. The city is required to own the RPZ and also the Part 77 sideslopes which go off to part of the runway. This is the reason for the relocation and extension of the runway.

Jack Bond, who owns land with a center pivot on it in the area southwest of the runway, was in attendance and asked if the runway is necessary to the City of Valentine for safety? Eric Johnson answered "yes". The city is obligated to maintain an airport that meets standards. Some airports can get the proper wind coverage with a long runway but in Valentine we need to have 2 runways to get the 95% FAA required wind coverage.

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Mike Young-how do you get the wind coverage? This information is gathered through various wind reporting stations from the National Weather Service and the Automated Weather Observing Station(AWOS). Can anything be done to the other runway to get the proper wind coverage, like make it longer? If that was done you would probably have to rotate it to get proper wind coverage.

Jack Bond asked if the project is critical since he has a plane hangared there and he has never had the necessity to use the crosswind runway. Eric Johnson said that if the project is not done, it could be an issue with this grant and future grant applications. Rob Coupland stated if grant money is offered and we turn it down then we may not get another look at a new grant. This federal grant should cover 93% of the project cost. Not doing this project could limit this grant and you may not receive future grants.

Bob Kilmer-asked if it was true that the FAA instigated this project. Mr. Johnson stated "yes". Mr. Kilmer also noted that the safety areas have been expanded from what they used to be. Mr. Johnson noted that they have changed the criteria from years ago. This area could have been acquired through an easement but not it is mandated that the city own this area. And the size has increased over time.

Dave Higgins-if that runway was closed or if we don't go along with what the FAA mandates, then this could put us in a different class of airport and possibly interfere with possibly some of our medical flights in and out of here on certain conditions? We could be pushed back to a different class of airport without the runway. Mr. Johnson-potentially "yes".

City Manager New stated that previously the city could have bought the trailers in the RPZ then the city would have acquisition and relocation costs involved. This was an option that was presented a long time ago.

Tonya Fay-from a medical standpoint, there have been times when the runways have been closed and critical patient transport was a struggle.

Bob Kilmer-the state has designated Valentine as a primary airport which means it has more importance in the airport system than Ainsworth or O'Neill. It is important that we keep it viable.

Jerry O'Kief was in attendance representing Drinkwater, Richter and Borman who have land involved in the acquisition. Is the RPZ on both ends of the runway to have the same restrictions? Mr. Johnson replied that it will remain the same for current FAA standards. Mr. O'Kief asked if the appraisals made of the property are available for the property owners to see? The answer given is that they may be available so many days after this meeting. Mr. Coupland asked if the red zone affects the land that his client owns which Mr. Borman has been unable to use and if that gets moved will he be able to use the land out by the motel? Mr. O'Kief replied that he does not know and that Mr. Borman has been gone. Mr. Coupland noted that they may stand to gain something on the other end of the runway should it be moved.

City Clerk Hanzlicek asked what is in the RPZ now. Mr. Johnson responded that the majority of it is trailer houses.

The public hearing was closed at 8:35 p.m.

19. REVIEW/DISCUSSION/ACTION ON LAND ACQUISITION FOR RUNWAY EXTENSION PROJECT

City Attorney Coupland stated that the City is restricted in when it can actually begin negotiations beyond the initial offer or letter that has been written to the various land owners.

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City Manager New stated that she will have to make a phone call to find out if the property owners can see the appraisal or not. The City was required to select and appraiser who is qualified to appraise airport land. The City was required to have an appraisal done and then the work was verified by another appraiser.

Jack Bond asked if the federal government continues to pay a percentage of the maintenance on the improvements made. In discussion it was noted that the community would be responsible for the maintenance and upkeep. Mr. Bond feels that his land is not just grassland and that it is unique in characteristics. You cannot go out and find a like piece of property just anyplace. He also stated that he has an 850 gpm well on that land.

Councilmember Nieuwenhuis made the motion to keep going forward with this. Second by Councilmember Neujahr. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried.

At 8:44 p.m. the Council recessed. The Council returned to session at 8:50 p.m.

20. REVIEW/DISCUSSION/ACTION ON THE AMENDMENT TO SECTION VI OF THE CITY OF VALENTINE PERSONNEL POLICY MANUAL

City Attorney Coupland explained that this amendment is being suggested by him. A large portion of the work force is taken out of this section because of the union contract. This amendment would apply to the Police Department and non-union employees. Changes were made eliminating reference to department head and department heads making disciplinary action. Disciplinary action should be done by the City Manager. Forms have also been added which includes the Notice of Disciplinary Action, Notice of Proposed Charges Against Employee Notice of Investigatory Suspension and Notice of Appeal. Discussion was held in reference to City Manager form of government versus Mayor/Council form of government.

This policy amendment may need to be reviewed by the union. This does not affect the City Manager which was established by the court last year. Union employee discipline falls under the rules and regulations and spelled out in the union contract. This policy already exists in the Personnel Policy Manual and is just being amended. The changes are to provide a procedural due process to the employee and to protect the city. There are not two standards for city employees. Police Chief and City Manager need to work together in deciding what activities the officers are doing. The ultimate responsibility of the discipline fall on the Manager.

It was requested that the changes being made are highlighted and reviewed. City Attorney Coupland emphasized that the forms be used during a disciplinary situation. There is still a question as to whether this should be adopted in Ordinance form instead of just being incorporated into the personnel policy manual by resolution.

Councilmember Nieuwenhuis made the motion to table this until the next meeting and to highlight the changes. Second by Councilmember Nelsen. Cliff Petersen was in attendance and that the code of conduct that was mentioned previously should be a departmental policy rather than city wide. He agreed with the due process and that this would make it more formalized. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried.

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21. REVIEW/DISCUSSION/ACTION ON THE AUTHORIZATION TO ADVERTISE FOR ULTRA VIOLET DISINFECTION SYSTEM FOR THE SEWER TREATMENT PLANT

The ultra violet system in place now was purchased in 1990 and it needs to be upgraded to disinfect the wastewater before it goes down the stream. The equipment replacement is estimated at \$36,000 and must be advertised for bids. Funds to purchase the equipment will come from the Sewer Reserve Fund.

Councilmember Rhoades made the motion to authorize the advertisement for the ultra violet disinfection system for the sewer treatment plant. 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 SCHEDULE

It was noted by Councilmember Balliet that agenda item #23 is for setting the date to meet as the Valentine Solid Waste Agency and that on the agenda will be this agenda item #22. There is no reason for agenda item #22 to be addressed at this time.

23. REVIEW/DISCUSSION/ACTION FOR SETTING A DATE TO MEET AS THE VALENTINE SOLID WASTE AGENCY

There is a need for the Valentine Solid Waste Agency to meet and review the franchise agreement. The City Council controls the franchise agreement and that is done by Ordinance. This agreement has been renewed without redoing the Ordinance. Also the Council controls by federal and state law how garbage is picked up in the city of Valentine. The Valentine Area Solid Waste Agency (SWA) runs the landfill. This is an agency formed by an interlocal agreement with the County to run the landfill and standards are set such as who has access to the landfill, what kind of garbage can be dumped.

Something needs to be done by the City Council with the franchise agreement before May 4, 2003. The SWA has a deadline to decide who has access to the landfill. That deadline is sometime this fall. A SWA meeting should be called to go through some Ordinances and laws, the way the landfill is structured in terms of rules and regulations so changes and ideas can be incorporated into upcoming agreements. There have been developments in the law since 1992 when this was first established.

Some issues to consider are the use of dumpsters. competitive garbage hauling, what is allowed into the dumpsite and so forth.

Councilmember Rhoades made the motion to meet as the Valentine Solid Waste Agency at 6:30 p.m. on Monday, April 7, 2003. Second by Councilmember Nelsen. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried.

24. CITIZEN COMMENT TIME

No comments were received from the public at this time.

25. REVIEW/DISCUSSION/ACTION ON CITIZEN COMMENT TIME AGENDA ITEM

Councilmember Balliet attended the League of Nebraska Municipalities meeting and talked to Executive Director Lynn Rex about the Citizen Comment Time agenda item. Having an open ended agenda item may violate the open meeting laws. Her recommendation was to get rid of the agenda item. If you keep it you may have to suffer consequences later. Anything that the Council talks about should be on the agenda and the material for discussion should be delivered far enough in advance to allow for adequate research and review before the meeting. This would also allow the general public to know what was going to be discussed at the meeting.

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Councilmember Nelsen feels that the agenda item is an important part of the meeting and it gives the people an opportunity to come in and say something. The public needs to have a chance to say something to the Council. The Council and staff is getting paid to serve the public and the public in attendance at the meeting is not getting paid to be there. What gets you in trouble is when the public does not show up.

Councilmember Neujahr noted that the Council cannot respond to the comments made by the public. That would be frustrating for the citizen to make their comment and have no response from the Council. The Council is not prepared to answer items when they are presented in this fashion. If it was a concern to them they would make the effort to see that it is on the agenda so the Council can do something about it.

A clarification was made on potential consequences that could happen if this agenda item were to remain. If comments are made that affects someone and they are not in attendance because it is not on the agenda, then the Council may be in violation of open meeting laws. Councilmember Rhoades noted that the public may get discouraged and think they are being ignored if the Council cannot respond to them.

Laura Eastman stated that that Warren Arganbright has suggested to the Niobrara River Council to do away with that kind of an agenda item for legal reasons. They are having the same problems that the Council is facing. There are other committees that are having this problems as well.

Cliff Petersen stated that the problem does not occur from receiving the information, but instead of taking action on the information received. City Attorney Coupland stated that the problem comes in when there is no notice to the other side to be present and also make a presentation. It violates the open meeting law because you are excluding the ability to tell people what you are going to do at your meetings and what you are going to receive information on. If the item is on the agenda then the public can see it coming. You don't get your public involved if you have excluded a whole segment of them.

Lee Petersen stated that the comment thing is still good. The public may not always expect a response. And if it is important enough then it can be put on the agenda for next time. How do you get on the agenda? When is the agenda full? Discussion followed. The cut off date for the agenda is the Wednesday night before the meeting unless it is an emergency. If a request to be on the agenda can be worked out before hand then it does not need to be placed on the agenda.

City Attorney Coupland stated that lawyers advise political bodies to avoid situations that may get their client into problems. They like to practice preventive law, which tells you ahead of time not to do something. It is on the agenda now but it is dangerous. There are alternate ways to get information to other people and to get on the agenda. The way things are being done is not good.

Neil Wescott asked how agenda item #26 "New Business" be addressed when there is not anything listed on it? The answer was that there are not any topics listed tonight but there have been in previous meetings.

Brian Perrett stated that with the school board it has to be on the agenda for the public to review.

Councilmember Rhoades stated that Lincoln had a similar issue and they amended their comment time to certain regulations, rules and standards. If it is kept then there should be limitations.

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Councilmember Neujahr made the motion to suspend the Citizen Comment Time at this point. Second by Councilmember Rhoades. Discussion followed and the removal of the Citizen Comment Time from the agenda is understood to be indefinite. If it is decided to put it back on it can be done later. Roll call vote: Aye-Balliet, Neujahr, Rhoades, Nieuwenhuis. Nay-Nelsen. Motion carried.

26. NEW BUSINESS:

There were no items listed under new business, therefore, no discussion was held.

27. MEETING ADJOURNED

With no further business before the Council, Councilmember Nelsen 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 March 26, 2003.

John Hanzlicek
City Clerk