

City of Valentine
Regular Council Meeting
City Library Meeting Room
July 21, 2003

A regular meeting of the City Council of the City of Valentine, Valentine, Nebraska was held July 21, 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

Chairperson 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, Administrative Assistant Beckby and legal representative Coupland. City Clerk Hanzlicek recorded the minutes.

2. CIVIC GROUP RECOGNITION:

a) Annual report Valentine Public Library

Marie Wiley and Kelli Cole were in attendance to report to the Council on the Valentine Public Library Annual Report and read a report on the grants received by the library in the years 2002 and 2003.

3. CONSENT AGENDA

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

4. *REVIEW OF VARIOUS BOARD MINUTES:

- a) Planning Commission Meeting of July 7, 2003**
- b) Cemetery Board Meeting of July 14, 2003**
- c) Solid Waste Agency Meetings of July 16, 2003 and July 30, 2003**
- d) Library Board Meeting of July 7, 2003**

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

5. *APPROVAL OF THE JUNE 16, 2003 REGULAR COUNCIL MEETING MINUTES AND THE JUNE 30, 2003 SPECIAL MEETING MINUTES

Councilmember Neujahr made the motion to approve of the City Council minutes from the regular meeting of June 16, 2003 and the special meeting minutes of June 30, 2003 as presented. Second by Councilmember Nelsen. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

6. *APPROVAL OF THE JUNE 2003 RECEIPT REPORT

\$436,485.39

Councilmember Neujahr made the motion to approve of the June, 2003 Receipt Report in the amount of \$436,485.39 as presented. Second by Councilmember Nelsen. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

7. REVIEW/DISCUSSION/ACTION ON CLAIMS AND PAYROLL FOR JUNE 2003

The Council received and reviewed the Claims and Payroll list for June 2003 in the amount of \$490,954.75. Councilmember Neujahr made the motion to approve the June 2003 Claims and Payroll in the amount of \$490,954.75 less claim #35 in the amount of \$233.28 for Jerry Rhoades, dba Rhoades Electric. Second by Councilmember Balliet. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried.

8. REVIEW/DISCUSSION/ACTION ON LB 370 CLAIM TO JERRY RHOADES DBA RHOADES ELECTRIC

Councilmember Nelsen made the motion to approve of claim #35 in the amount of \$233.28 to Jerry Rhoades, dba Rhoades Electric according to LB 370. Second by Councilmember Nieuwenhuis. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Nieuwenhuis. Nay-none. Abstain-Rhoades. Motion carried.

9. REVIEW/DISCUSSION/ACTION ON THE REQUEST OF BILL FREEMAN TO INSTALL A CURB CUT/HANDICAP RAMP AT 428 N MACOMB STREET

Bill Freeman was in attendance to request that he be allowed to install a curb cut/handicap ramp at 428 N Macomb Street. His daughter, Janice Bristol, spoke on his behalf. In the winter time it would be handy for him to be able to get in and out of the van. He is willing to pay for all of the expenses. The concern of the city with a handicap access is that one would drive a wheelchair out into traffic from the middle of the block. The question is if it would be better if the space in front of the house is designated as handicap parking. A sign would be posted and space allowed and the city would not be liable. Mr. Freeman would like it so he could get to the sidewalk and load up his wheelchair.

The city is not under an obligation to provide handicap access because it is a private home in a residential area. The city has provided handicap ramps at the corners of the block.

Councilmember Nelsen asked about the situation at Dr. Miller's office whereby curb has been removed and parking spaces created from the curb to the sidewalk. Business and corporate entities need to meet the ADA requirements and this was one of the ways Dr. Miller wanted to comply. The city still has a liability because it is public right-of-way. A waiver needs to be signed by the owner to remove possible liability.

The city contacted property owners within 400 block of North Macomb to fix the sidewalks if they were in disrepair. Mr. Freeman spoke and cited examples within the community whereby handicap loading and unloading is located in residential areas. If nothing else, he would like to put in a driveway access on his lot even though he does not have a garage to drive a vehicle into.

Dave Beman asked if by singling out Mr. Freeman and treating him differently than commercial business, is the city perhaps, possibly illegally discriminating against a person with a handicap. The second question is if the city is concerned over safety issues legitimate or is it simply an excuse for political retaliation. City Manager New stated that by law the city needs to provide handicap access at the corners of the block. Mr. Freeman stated that it does not do him any good when the sidewalks are so bad that he cannot get to the corners and the city plows the snow up so high that he cannot get around. He paid someone to scoop 7 houses of sidewalk so he could get to the Senior Center.

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Councilmember Neujahr advised Mr. Freeman that if he removes curb along the street that he will have the same problem when the maintainer plows the snow. Mr. Freeman stated that he would shovel his own out.

Councilmember Nelsen asked what is done in other communities and noted the handicap access that is allowed at the New Generation Apartments which is used by the residents. A review was made of the city codes.

Councilmember Rhoades asked if Mr. Freeman were to receive a complete curb cut and pave his right-of-way with city permission, that could be his possible loading and unloading area off of the street. In the new paving district, some owners have opted to have areas of drop curb instead of a full curb. Can a driveway cut be allowed when a garage is not in place or being proposed. Mr. Freeman would like a driveway ramp to drive his vehicle up to the sidewalk. Councilmember Rhoades stated that this would get him and his vehicle off of the street.

City manager New recapped that instead of a wheel chair ramp and/or a handicap zone, he is asking for a driveway curb cut and/or cemented right-of-way. A driveway/curb cut for the entire property would be agreeable to the Freeman's. They are to work with Don Pettigrew and Norma Jean New to work on this situation and come up with a compromise. If this proposal is approved by the City Manager it does not have to come back to the Council. The Freeman's would like to put cement from the street to the sidewalk.

10. REVIEW/DISCUSSION/ACTION ON RESOLUTION TO ACCEPT OR REJECT THE PRELIMINARY SUBDIVISION PLAT FOR THE FOLLOWING:

**Lots 1 and 2 of Schubauer's Subdivision of Pt. of the SE 1/4
Section 36 T33N, R28W for owner Greg Schubauer**

Lloyd Smith was in attendance to address the Council reference the request for the subdivision of Lots 1 and 2 of Schubauer's Subdivision of Pt. of the SE1/4 Section 36, T33N, R28W for owner Greg Schubauer. This item appeared before the Planning Commission and they made the recommendation that the preliminary plat be approved. All utilities are available to the property and there is street access to the property. Councilmember Nieuwenhuis made the motion to adopt a Resolution to approve the preliminary subdivision plat for Lots 1 and 2 of Schubauer's Subdivision of Pt. of the SE 1/4 Section 36, T33N, R28W for owner Greg Schubauer. Second by Councilmember Rhoades. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried.

11. PUBLIC HEARING 7:30 P.M. PURSUANT TO THE PUBLICATION IN THE VALENTINE MIDLAND NEWS ANNEXATION: A TRACT OF LAND BEING PART OF NE1/4 SECTION 6 T33N, R27W OF THE 6TH P.M. TO THE CITY OF VALENTINE, NE KNOWN AS THE TRADEWINDS LODGE

Pursuant to notice in the Valentine Midland News, a Public Hearing was opened at 7:35 pm to receive comments on the proposed annexation of a tract of land being part of NE1/4 Section 6, T33N, R27W of the 6th P.M. to the City of Valentine known as the Tradewinds Lodge area. No comments were received from the public on this item. This annexation had been reviewed by the Planning Commission and they made the recommendation to the City Council to continue with the annexation. The Public Hearing was closed at 7:45 p.m.

12. REVIEW/DISCUSSION/ACTION FOR AUTHORIZATION TO PREPARE ORDINANCE FOR ANNEXATION

At the conclusion of the public hearing, Councilmember Nelsen made the motion to authorize to prepare an Ordinance for annexation. second by Councilmember Nieuwenhuis. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried. The Council was advised that the Ordinance will need to be acted on them at three different meetings.

13. REVIEW/DISCUSSION/ACTION ON LANDFILL ITEMS:
a) Request for Preferred Hauler Contract

Councilmember Nelsen wanted to make sure the Council was comfortable in having one preferred hauler. Councilmember Nieuwenhuis wanted to have no less than 2 and no more than 4 preferred haulers to give the tax payers an option or else have the city do it themselves. Councilmember Nelsen disagreed. The City has 1 cable TV, the City provides the power and he sees nothing but problems if you have any more preferred haulers. What number do you stop at. If there were some legal problems then the City could take it over to make sure the landfill is paid for.

Councilmember Neujahr stated that if we had more than 1 preferred hauler then they would have to abide by the same rules. Councilmember Nieuwenhuis expressed concern that if the Council did not request RFP's for this then there could be the potential for a lawsuit. City Attorney Coupland advised that the Council could do this if they want to but feels that they do not have to but the choice is up to the Council. The option is up to the Council.

Councilmember Neujahr stated that she did not have an objection to a second hauler but that they would need to meet the contractual obligations and meet those expectations when they signed the contract. Whatever we demand of a hauler, everyone has to be ready to do it now, today.

City Attorney Coupland advised that if you request RFP's then you may not end up with a local company doing the garbage business. Councilmember Nelsen would prefer to keep the operations local as long as we can be legal and local. If we had more than one hauler then the public could go out and hire who they want. Mr. Coupland commented that the City could make the preferred hauler take the garbage to the City landfill. Councilmember Rhoades is happy with the way things are now and to move on and maintain the economics and stability of the landfill.

City Manager New suggested several different possibilities in selecting a preferred hauler. It would be up to the Council on how they wanted to do it. The information being presented tonight has been verbal but if the Council would want to create a committee they could do so. Tonight the Council is discussing the possibilities of starting discussion with a person.

Councilmember Nelsen stated that if someone has a contract and they are doing good work, then they should automatically renew the contract. The majority seems to be happy with Perrett Environmental.

Dave Otradovsky asked for clarification on the difference between a preferred hauler and a franchised hauler. It was explained that the laws have changed over the years and lawsuits have defined and honed the law so we have a better idea on what we have to do to meet federal and state requirements. So we are moving away from a franchise and into a contract system.

Councilmember Nelsen made the motion to have the preferred hauler be Perrett Environmental. Second by Councilmember Neujahr. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades. Nay-Nieuwenhuis. Motion carried. Councilmember Nelsen suggested that the Chairman and Vice Chairman be the negotiating committee. Councilmember Balliet then appointed himself and Councilmember Neujahr to a committee to review and negotiate the preferred hauler agreement.

14. REVIEW/DISCUSSION/ACTION ON APPOINTMENT OF CITY CLERK/TREASURER

Councilmember Balliet stated that the individuals who were offered the position has turned it down. City Manager New said that the applicant from Ainsworth did not call but indicated that she was interested. There are other applications to review so a committee could set up interviews or else readvertise the position. She stated that there are 2 or 3 other cities looking for City Clerks.

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

15. REVIEW/DISCUSSION/ACTION ON RENEWAL OF GYMNASIUM LEASES FROM AUGUST 1, 2003 TO JULY 31, 2004:

| | | |
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| a. Room 8, 9, 10 | \$6,300 annual lease | Northwest Community Action |
| b. Room 1 and 5 | \$250 monthly lease | 4 to 6 Club |
| c. Room 2 | \$200 monthly lease | Northwest Community Action |

City Manager New reported that lease (a) has all of the paperwork and information in order for the Headstart Program. Lease holder (a) and (c) are current on lease payments and have proof of insurance. Lease holder (b) is current now but we do not have proof of insurance. Lease holder (c) is using 2 rooms as of today so it was suggested that the situation be reviewed before acting on that lease agreement.

Councilmember Nelsen made the motion to renew gymnasium lease (a) for rooms 8, 9 and 10 for \$6,300 annually to Northwest Community Action. Second by Councilmember Nieuwenhuis. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried. The other items need to appear on the agenda for next month.

16. REVIEW/DISCUSSION/ACTION ON AMENDED NEBR. PUBLIC POWER REALIGNMENT AGREEMENT BY JIM FLORKE AND JOHN BENNETT

John Bennett and Jim Florke were in attendance to explain the amended true up Realignment Agreement. It was explained that estimated costs were used to prepare the agreement and now actual costs are being inserted into the contract to arrive at an amount they feel the city owes to Nebraska Public Power District. According to the negotiations, the City of Valentine owes approximately \$30,000. Most of the adjustment was in the labor costs associated with the agreement. This is the final true up agreement.

Councilmember Nelsen made the motion to accept the agreement with Nebraska Public Power in the amount of \$30,408.00. Second by Councilmember Rhoades. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried.

17. REVIEW/DISCUSSION/ACTION ON LOCATING A JAIL FACILITY IN BLOCK 10 OF ORIGINAL TOWN AND MOU

The Council discussed the possibility of locating a jail facility in Block 10 of Original Town and an MOU Agreement. City Manager New updated the Council with information she has received on this matter since the last meeting. The proposed MOU is a non binding agreement with the hopes of having a binding agreement available in 45 days. The MOU has not been before the Cherry County Commissioners as of yet.

Discussion was held on the 45 day number placed in the MOU. There was concern that 45 days was not a long enough time to come up with an agreement. The City Attorney stated that if the goal is not achieved in 45 days then another MOU could be proposed or both could just extend the time line.

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Councilmember Neujahr stated we need to have some questions answered for ourselves before we get into an agreement whereby the other party is telling us this is the way it will be. We need to know the cost of remodeling City Hall. Is it feasible? Is it cheaper? Who is going to pay for the demolition of the building? What is the fair market value of the land? What is it going to cost the city? We need to get the answers ourselves. We owe our tax payers an answer to those questions first.

Councilmember Nelsen and Rhoades stated that the County has not told us to do anything yet. We are at the point to see if we can come up with a plan for the County and the City to work together on this. City Attorney Coupland stated that the City is acknowledging the willingness to discuss the matter by signing the MOU. He does not know why the 45 days in the MOU would be bad for the city. This does not obligate you to sign an agreement in the future. At this point the city has little or no preparation to negotiate with the County. You do not know the answers to the questions Councilmember Neujahr proposed. There are some bond issuing questions that need to be addressed also.

The Council reviewed information provided by Carlson West Povondra Architects on building plans and expenses. They also reviewed proposed floor plans and space requirements for a city hall. Councilmember Nelsen made stated that him and Councilmember Rhoades tried to advise the County that we would like to work with them on this project and what kind of plan needs to be worked on.

City Attorney Coupland recommended that the MOU be adopted and that the city get their bonding personnel involved in the process. Councilmembers Nelsen and Rhoades recommend an MOU based on other projects that the city has been involved in but Councilmember Rhoades had reservations about a 45 day limit before a binding agreement would be presented.

Councilmember Nieuwenhuis made the motion to accept the MOU based on the recommendation of the committee. Second by Councilmember Balliet. Roll call vote:Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried.

18. REVIEW/DISCUSSION/ACTION ON REQUEST FOR NEGOTIATIONS ON A DISPATCHER AGREEMENT

City Manager New stated that this item is not complete yet and there are some items she needs to talk to Mel Christensen and the Cherry County Commissioners about. She recommended that this item be tabled.

Councilmember Nieuwenhuis made the motion that this agenda item be tabled. Second by Councilmember Nelsen. Roll call vote:Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried.

19. REVIEW/DISCUSSION/ACTION ON CONSULTANT AGREEMENT FOR NDA AIRPORT PROJECT 3-31-0084-02

This is the agreement for the work to be done on the federal and state improvement project at the airport. We are now ready to sign an agreement with the consultant. Kirkam Michael is the firm that has been selected as the consultant. This contract has been approved by the NDA. Negotiations for the land acquisition has been going on for several months.

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

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20. NEW BUSINESS:

a. Mill Pond Work Session

City Manager New advised the Council that the Mill Pond is filling up with sand again and that the engineers will be here on June 30, 2003 and that other parties who have an interest in the project will be notified about the meeting. There may be not enough flow to stop the sand from building up. Dave Beman reported that there is moss growing in the pond.

21. MEETING ADJOURNED

With no further business before the Council, Councilmember Nelsen made the motion to adjourn. Second by Councilmember Nieuwenhuis. Roll call vote: Aye-Balliet, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Absent: Neujahr. 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 August 1, 2003.

John Hanzlicek
City Clerk