

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

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

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 and legal representative Coupland. City Clerk Woodcock recorded the minutes with the assistance of Former City Clerk John Hanzlicek.

2. CIVIC GROUP RECOGNITION:

Chairperson of the Council Balliet asked Legal Representative Coupland to read a letter from Chris Kuchta, Program Coordinator for the Guiding Star Girl Scout Council in North Platte. This letter highlighted the special accomplishments of four members of Girl Scout Troop 190 in Valentine and their achievement of the Girl Scout Gold Award. These young women are: Katie Brill, Christen Colvin, Kasandra Epke, and Bethany Knudsen. Letters of commendation for each of these young women were sent to the Guiding Star Girl Scout Council on behalf of the City of Valentine.

3. CONSENT AGENDA

Councilmember Neujahr made the motion to approve of consent agenda items #4 and 5 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 October 14, 2003**
- b) **Library Board Meeting of October 7, 2003**

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

5. *APPROVAL OF THE FOLLOWING CITY COUNCIL MEETING MINUTES:

- a) **Regular Meeting of September 15, 2003**
- b) **Special Meeting of September 22, 2003**

Councilmember Neujahr made the motion to approve of the City Council minutes from the regular meeting of September 15, 2003 and the special meeting of September 22, 2003 as presented. Second by Councilmember Nieuwenhuis. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

6. *APPROVAL OF THE SEPTEMBER 2003 RECEIPT REPORT

The September 2003 Receipt Report was not presented to the Council at this time.

7. *REVIEW OF THE SEPTEMBER 2003 FINANCIAL REPORTS

Regular Council Meeting
October 20, 2003

The September 2003 financial reports were not presented to the Council at this time.

8. REVIEW/DISCUSSION/ACTION ON SEPTEMBER 2003 CLAIMS AND PAYROLL

The Council received and reviewed the revised Claims and Payroll list for September 2003 in the amount of \$490,567.37. Councilmember Neujahr made the motion to approve the revised September 2003 Claims and Payroll in the amount of \$490,567.37 less Claim #23 in the amount of \$405.10 for Prince of the Road and Claim #32 in the amount of \$1,434.00 for Jerry Rhoades, dba Rhoades electric. Second by Councilmember Rhoades. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried.

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

Councilmember Nelsen made the motion to approve of Claim #32 in the amount of \$1,434.00 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.

10. PUBLIC HEARING 7:15 P.M. PURSUANT TO ADVERTISEMENT IN THE MIDLAND NEWS AND NEBRASKA STATE STATUTES SECTIONS 13-501 TO 13-512, A PUBLIC HEARING WILL BE HELD AT 7:15 P.M. TO RECEIVE COMMENTS ON PROPOSED ZONING AMENDMENT (LOTS 24A AND 24B, EVERGREEN ADDITION)

This agenda item was opened at the same time as agenda item #11. Pursuant to notice in the Valentine Midland News, a Public hearing was opened at 7:15 p.m. to receive comments on the City of Valentine proposed Zoning Amendment to change Lots 24A and 24B, Evergreen Addition to the City of Valentine from Highway Commercial to Light Industrial as requested by Mike Schubauer. City Manager New explained that the property has no highway access and is back behind the old Ideal Market. She further indicated that the City had no objections to the zoning change and the Planning Commission recommended the change at its last meeting. One question was posed from the public as to whether Mike Schubauer had asked for any easements or right-aways and was told that he had not. It was indicated that the only access to the property was through an unimproved access road off of B Street. Mike Schubauer was out of town and did not attend the meeting.

There were no other comments received from the public. The Public Hearing was closed at 7:19 p.m.

11. REVIEW/DISCUSSION/ACTION ON THE ZONING AMENDMENT REQUEST TO CHANGE LOTS 24A AND 24B, EVERGREEN ADDITION TO THE CITY OF VALENTINE FROM HIGHWAY COMMERCIAL TO LIGHT INDUSTRIAL

At the conclusion of the public hearing, Councilmember Nieuwenhuis made the motion to approve the Zoning Amendment changing Lots 24A and 24B, Evergreen Addition, from Highway Commercial to Light Industrial. Second by Councilmember Nelsen. Former City Clerk, John Hanzlicek, informed the Council that what they were approving was to have City Attorney Coupland prepare an Ordinance and that the Ordinance would be presented to the Council at its regular meeting in November. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried.

12. REVIEW/DISCUSSION/ACTION ON LAW ENFORCEMENT INTER-LOCAL AGREEMENT: "HIGHWAY 20"

Gordon Chief of Police Loren Tesch addressed the Council regarding participation in the Inter-Local Agreement on Highway 20. He indicated that local police can only be reimbursed by FEMA in an emergency if there is an

inter-local agreement in place. He further indicated that the agreement could enhance training possibilities for emergency personnel so that rather than traveling to eastern Nebraska, the training can be conducted locally or at least in

Regular Council Meeting
October 20, 2003

western Nebraska. He discussed the agreement now in place and indicated that Cherry County Sheriff's Department has already signed up. City Manager New asked who would have control and Chief Tesch indicated that the jurisdiction that called the emergency would be in control of the operation.

Valentine Chief of Police McLean was also in attendance and, when asked, restated the benefits of having an inter-local agreement. Chief Tesch indicated that goals for the group are to have a laptop computer for each patrolman so they have better communication on their watch. The group also has monthly meetings and participate in monthly training and self-defense classes for civilians. Group also has van fully equipped with communication equipment obtained from federal surplus that can be used to maintain communication during a disaster. It was also indicated that although the agreement now only covers the area from Valentine west, there is a strong possibility that it could be extended east of Valentine as well. Councilmember Nelsen made the motion that the City of Valentine enter into the Highway 20 Law Enforcement Inter-Local Agreement. Second by Councilmember Neujahr. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried.

13. REVIEW/DISCUSSION/ACTION ON PAYMENT OF EMERGENCY PROTECTION TRAVEL CHARGES FROM PANDA TRANSPORTATION FOR \$787.00 AND PRINCE OF THE ROAD FOR \$700.10

City Manager New brought this problem to the attention of the Council because Prince of the Road has turned their invoice over to a collection agency. This particular invoice was taken to the County and the County agreed to pay half of the amount but the City has never agreed to pay any of it. City Manager New has collected some of these charges from the individuals herself but this is the balance still due.

City Manager New further indicated that the hospital held a meeting this morning to address the emergency protection issue but by the time they'd gotten around to the payment of the bills for transportation, it was 1:00 p.m. and most everyone had to return to work and nothing was resolved on this issue. The medical community's main concern was who would respond to these calls, whether it would be the Valentine Police Department or the Cherry County Sheriff's Office. It was pretty well decided that the medical people will call the sheriff's office dispatcher and the police, police chief or sheriff will respond. Councilmember Neujahr brought up the issue of liability if the city did not respond. Legal representative Coupland stated that there is mention in the statute about reimbursement for transportation costs to the sheriff but nobody else. He further stated that the medical community wants/needs a protocol as to who to call when a person is brought in or comes in and is a danger to themselves or to others.

Councilmember Nieuwenhuis questioned why something couldn't be worked out so that the city and county split the bills. It was indicated that a meeting would need to be held between county and city officials to set up some type of agreement to that end. When questioned as to whether the county had paid anything on the current bills from Panda Transportation and Prince of the Road, City Manager New stated that she thought the County had already paid their half of the Prince of the Road bill and that the \$405.10 was the City's share. It was further indicated that the bill for \$295.00 was a new one and that Prince of the Road was requesting the full amount from the City. The bill for Panda Transportation for \$787.10 is also the City's share and the County has already paid their portion of it.

City Manager New indicated that it would cost much more for the City if the Police Chief and his officers had to provide the transportation themselves. She referred to the memo from Chief McLean outlining the costs that would be incurred if the Police Department had to provide the transportation.

Councilmember Nelsen suggested that the City pay the current bills and set up a meeting with the County Commissioners to work out some kind of agreement for EPC transportation costs.

Regular Council Meeting
October 20, 2003

Liability was again discussed and Legal Representative Coupland indicated that if City Police respond, the City may have liability. He indicated the decision ultimately rested with the dispatcher as to who was called to respond on an EPC.

Councilmember Nelson made a motion to pay the bills for Panda Transportation for EPC charges on 9/22/02, 4/14/03, 4/21/03, and 2/21/03 for a total of \$787.00 and for Prince of the Road for EPC charges on 7/30/02, 6/2/02, and 6/1/02 for a total of \$405.10 as well as the undated invoice for \$295.00 and that the issue be put on the agenda with the Cherry County Commissioners in order to sit down and discuss the issue and invite the law enforcement people to clear up this problem. Second by Councilmember Nieuwenhuis.

Dave Beman, a member of the audience, asked over the past five years how many of these transportations occurred each year. Legal Representative Coupland stated that at the meeting with medical personnel it was indicated that the number of these transportations had increased to sixteen in the last fiscal year...up from about six in previous years. Further discussion indicated that the billing from Prince of the Road for \$295.00 was not an EPC at all but was the removal of an uncontrollable juvenile from her home by the City Police Department at the recommendation of HHS and the probation office.

After more discussion, Councilmember Nelsen asked that his previous motion stand as it was stated and Councilmember Nieuwenhuis restated his second. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried.

14. REVIEW/DISCUSSION/ACTION ON RESOLUTION TO AUTHORIZE OVERTIME PAYMENT TO THE OFFICERS OF THE VALENTINE POLICE DEPARTMENT FROM OCTOBER 22, 2003 TO NOVEMBER 18, 2003

City Manager New asked Chief McLean when Devin Scott would be finished with school and Chief McLean stated that he would be finished on 12/18/03 but would have to return for some follow-up after the first of the year. City Manager New requested that a Resolution be approved similar to the Resolution that was approved last month in regard to authorizing overtime pay for the Valentine Police Department. This authorization would be for a specific time period of October 22, 2003 to November 18, 2003.

Councilmember Rhoades made the motion to adopt a Resolution to allow overtime pay for the Valentine Police officers which is to be extended 28 days from the last date in the previous Resolution. Second by Councilmember Nieuwenhuis. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried.

15. REQUEST BY THE HEART CITY BULL BASH COMMITTEE FOR THE CITY OF VALENTINE TO REQUEST THE STATE OF NEBRASKA DEPARTMENT OF ROADS TO CLOSE OFF MAIN STREET FOR THE 3RD ANNUAL HEART CITY BULL BASH, FEBRUARY 14, 2004 6:00 A.M. TO 6:00 P.M.

Ron Bauer was in attendance to answer questions concerning the 3rd Annual Heart City Bull Bash. City Manager New stated that this was the same time that was requested last year and the Council agreed that it was good for Valentine and Cherry County. One question was asked of Ron Bauer regarding the bull sale that was held last year during the Heart City Bull Bash and he indicated that it would probably happen again this year even though the committee had discussed the problems from last year with the sale barn.

Councilmember Nelsen made a motion that the City of Valentine request the State of Nebraska Department of Roads to close off Main Street for the 3rd Annual Heart City Bull Bash on February 14, 2004 from 6:00 a.m. to 6:00 p.m. Second by Councilmember Rhoades. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried.

Regular Council Meeting
October 20, 2003

16. REVIEW/DISCUSSION/ACTION ON THE THIRD AND FINAL READING OF ORDINANCE NO. 2003-2012M, REFERENCE ANNEXATION OF THE FOLLOWING: A TRACT OF LAND BEING PART OF NE 1/4 SECTION 6, T33N, R 27W OF THE 6TH P.M. TO THE CITY OF VALENTINE, NE KNOWN AS THE TRADE WINDS LODGE AREA

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

AN ORDINANCE OF THE CITY OF VALENTINE, NEBRASKA, ANNEXING TO, AND INCLUDING WITHIN, THE CORPORATE LIMITS OF THE CITY OF VALENTINE, NEBRASKA, A TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER, SECTION SIX, TOWNSHIP THIRTY-THREE NORTH, RANGE TWENTY-SEVEN, WEST OF THE SIXTH PRINCIPAL MERIDIAN, CHERRY COUNTY, NEBRASKA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE EAST QUARTER CORNER OF SECTION 6; THENCE N89°10'00"W ALONG THE EAST-WEST QUARTER SECTION LINE A DISTANCE OF 1,251.3 FEET, THENCE N14°15'00"W A DISTANCE OF 97.7 FEET TO THE POINT OF TRUE BEGINNING; THENCE N89°42'00"E A DISTANCE OF 108.19 FEET; THENCE N14°15'00"W A DISTANCE OF 859.19 FEET TO THE SOUTH LINE OF DOUG STREET AS PLATTED; THENCE S75°41'00"W ALONG THE SOUTH LINE OF SAID DOUG STREET A DISTANCE OF 513.10 FEET; THENCE S14°11'04"E A DISTANCE OF 731.60 FEET; THENCE N89°42'00"E A DISTANCE OF 421.40 FEET TO THE POINT OF TRUE BEGINNING, SAID TRACT OF LAND CONTAINING 9.38 ACRES MORE OR LESS, WHICH IS CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF THE CITY OF VALENTINE; PROVIDING THAT THE INHABITANTS OF SUCH AREA SHALL BE SUBJECT TO THE ORDINANCES AND REGULATIONS OF THE CITY OF VALENTINE; PROVIDING FOR THE FURNISHING OF BENEFITS TO THE INHABITANTS OF SAID TERRITORY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM; AND PROVIDING WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND TAKE EFFECT.

The previous two reading dates of this proposed Ordinance were August 18, 2003 and September 15, 2003.

Councilmember Neujahr made the motion for final passage of this Ordinance. Second by Councilmember Balliet. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

17. REVIEW/DISCUSSION/ACTION ON AMENDMENT OF ORDINANCE 2003-2010SW SECTION 3-919--SOLID WASTE COLLECTION: LIABILITY FOR CHARGES: PROOF OF PROPER DISPOSAL

City Manager New read from Ordinance 2003-2010SW the section regarding proof of proper disposal indicating that anyone who is not a customer of the City of Valentine for trash hauling, must show proper documentation to the City indicating proper disposal of their trash. She stated that at the present time, if you are not a customer of the City of Valentine, you must bring or fax a copy of the billing from your current hauler to the City of Valentine. Although the ordinance indicates that it must be done within 10 days, City Manager New has asked individuals to have their receipts turned in within 5 days of the start of the billing period for administrative reasons. City Manager New asked the Council to consider allowing the City Offices to use a list from any other hauler of their customers to process billings rather than waiting for individual customers to bring in or fax their receipts. She indicated that if they do not have a signed receipt within 10 days, the City of Valentine bills for trash service on the City's billing. She further indicated that many simply scratch off the trash billing and don't pay it and that some are getting quite nasty about having to provide receipts each month. City Manager New indicated that she and Norma Brown spend a lot of time dealing with this problem and feel that a single list might simplify things for them.

Legal Representative Coupland indicated that statute reads that each individual must notify the City of their intent to use a different hauler. The only variable is

the method in which they notify the City. The burden is on the customer to prove they are actually having someone haul their trash and not "ditch dumping". He indicated that the Ordinance reflects the state statute and must be followed so enforcement seems more viable than changing the Ordinance at this time.

Councilmember Rhoades asked how customers are being notified and City Manager New replied that although the City had written some a letter, the

Regular Council Meeting
October 20, 2003

majority of non-customers have not been notified as the non-City haulers do not notify their customers of this regulation. Councilmember Rhoades then asked if running a legal notice in the paper for three consecutive weeks would satisfy the City's legal obligation, to which Legal Representative Coupland replied yes. Former City Clerk Hanzlicek asked whether the notification information could be added to the bottom of the non-City hauler's bill. Question was posed to owner of NK Waste Management and he indicated that it was no problem but would not save time or money for the City employees. City Manager New suggested that the issue could be postponed for awhile longer to see whether notification brings about changes. Suggestion was made to put press release or article in the newspaper rather than a legal notice to explain the process. It was decided to follow that suggestion and return the issue to the agenda in a few months to see how it is progressing. No action was taken.

18. REVIEW/DISCUSSION/ACTION ON SALARY ADJUSTMENT FOR NON-UNION EMPLOYEES EFFECTIVE 10/1/03

City Manager New identified non-union employees as administration and police. She further stated that the union employees received a 3% salary increase per contract and that the previous year the Council had awarded the non-union employees the same amount. Councilmember Neujahr questioned whether the increase was included in the budget and was told that it was.

Councilmember Neujahr made the motion to increase the non-union employees' salaries 3% effective 10/1/03. Second by Councilmember Rhoades. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

19. REVIEW/DISCUSSION/ACTION RESOLUTION CONFIRMING INTEREST RATES AND MATURITY SCHEDULE FOR REFUNDING BONDS, SERIES 2003

City Manager New presented information from Kirkpatrick Pettis regarding resolution confirming interest rates that are less than what they had quoted initially. Legal representative Coupland indicated that resolution is standard form and just part of the process the City has been engaged in regarding refunding of the bonds. Question from Dave Beman in the audience as to whether initially, when the bonds were issued, were there sufficient paving districts created so that adjacent landowners paid 100% of the costs or did the payments made by the adjacent landowners only pay a part of the costs. Landowners only pay on front footage not city portions for intersections, etc.

Beman asked whether millings used in the paving process were included in the bonding or if they were procured at City expense. Council indicated that the milling was done at City expense and was not capitalized in the bonding process.

Councilmember Neujahr made a motion to confirm interest rates and maturity schedule as presented from Kirkpatrick Pettis. Second by Councilmember Nieuwenhuis. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

20. REVIEW/DISCUSSION/ACTION ON CONTRACT FOR SERVICES FOR LANDFILL PROJECT--OLSSON ASSOCIATES

Jess Hurlbert and Dave Montague from Olsson Associates were in attendance to discuss the contract for the Phase II Landfill Expansion and Licensing. Dave Montague was introduced as the landfill engineer for the project. State of NE likes to have everything six months in advance of licensing. Permit format has changed considerably since last permit was written. Montague indicated that

Regular Council Meeting
October 20, 2003

there is not enough material to build a landfill like was built the last time so need to do a feasibility study to determine what other options are out there. GCL (geosynthetic clay liner) is bentonite powder between two fabrics and looks like a carpet that just rolls out. Current cell is bentonite mixture in 2-feet of soil with flexible membrane liner. Councilmember Rhoades questioned whether, with changes in state requirements over the last ten years, Valentine would need a liner at all. Montague indicated that the only places in Nebraska with no liners were places where the soil had a decidedly different composition than in Valentine but the feasibility study would cover those issues. The time line is tight right now, so the feasibility study needs to be done in the next two months. in order for the project to still go with the June start date. Montague impressed with how clean the landfill was especially since it is not a bale landfill.

Councilmember Neujahr made a motion to award the contract for services for the landfill project to Olsson Associates. Second by Councilmember Nelsen. Roll call vote: Aye- Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-None. Motion carried.

21. OLD BUSINESS

- a) **Negotiations on a dispatcher agreement**
- b) **Location of a jail facility in Block 10 of Original Town**

The County Commissioners had requested a meeting with the Valentine City Council to discuss these items on Tuesday, October 28, 2003, at 6:30 p.m. following their regular meeting. Councilmember Balliet suggested that the issue of EPC transportation costs be added to the agenda for this meeting. Councilmember Nelsen made the motion to call a Special Meeting of the Valentine City Council in conjunction with the Cherry County Commissioners on Tuesday, October 28, 2003 at 6:30 p.m. Second by Councilmember Nieuwenhuis. Roll call vote: Aye-Balliet, Neujahr, Nelsen, Rhoades, Nieuwenhuis. Nay-none. Motion carried.

22. NEW BUSINESS:

No items were listed on the agenda under "New Business", therefore, no discussion was held. Question was asked as to what constituted "New Business" and was clarified by Legal Representative Coupland. Any "New Business" topic must be identified prior to the council meeting and be placed on the agenda.

23. MEETING ADJOURNED

With no further business before the Council, Councilmember Balliet made the motion to adjourn. Second by Councilmember Nieuwenhuis. Roll call vote: Aye-Balliet, Neujahr, 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 November 26, 2003.

Patricia L. Woodcock
City Clerk