

**SPENCER CITY COUNCIL MEETING
COUNCIL CHAMBERS, CITY HALL
Monday, December 21, 2015
Regular Council Meeting
6:30 o'clock P.M.**

1. ROLL CALL: Petska, Orrison, Bomgaars, Swanson, Hanson, Prentice, Moriarty

2. Consent Agenda:

A. Minutes of December 7, 2015:

B. Licenses:

C. Approve Purchase of 10 SCBA Tanks for Fire Department from Feld Fire of Carroll, Iowa for \$7,500 (CIP Item);

3. Old Business:

1. Roll Call: An Ordinance Amending Title 9, Chapter 7A, Section 3B of the Spencer City Code to Permit “Communications Towers” as a Special Exception Use in the “F” Fair and Exposition Zoning District, Final Filing;

Enclosed in your packet information is an amended ordinance to allow for Communication Towers, by Special Exception Use in the “F” Fair Exposition Zoning District. The Planning and Zoning met on this item and voted to recommend approval. **Subject to any comments from the public I would recommend approval of the final filing.**

4. New Business:

A. Motion: Approve Agreement with RDG Planning & Design for Grand Avenue Bridge Monument & Plaza Remediation Plans for \$2,500;

Enclosed in your packet information is an agreement with RDG for the Grand Ave. Bridge and Monument and Plaza Remediation project. The need for the project came from City staff noticing that the Bridge Monuments appeared to be sinking as well as leaning. The council discussed this item in great detail at the Monday, August 31, 2015 Committee of the Whole.

As a result of those discussions staff was directed to get the process started to get the project out to bid. This agreement is the next step in the process. The scope of the agreement calls for preliminary design, Final design as well as construction administration. The total cost for this service is \$2,500. **I would recommend approval.**

B. 2017 4th Ave. W. Storm Sewer Project ;

The 2017 4th Ave. W. Storm Sewer project is part of the City of Spencer's Storm Water Separation Project that is being mandated by the EPA. The project runs along 4th Ave. W from North of W 7th Street to West 18th Street. Items 1-4 below are needed to meet the requirements of getting a CDBG grant. If successful the City could receive up to \$600,000 in grant proceeds.

1. Motion: Select Kruse, Cate & Nelson as Project Engineer;

The City received 3 RFQ's from engineers interested in this project. All 3 had great qualifications. The scoring committee selected Kruse Cate Nelson for the Engineering firm for this project and is recommending them for approval. **I would recommend approval.**

2. Motion: Approve Community Development and Housing Needs Assessment Goals and Objectives for CDBG Application;

Enclosed in your packet information is a Community Development and Housing Needs assessment that was put together by Northwest Iowa Planning and Development. **I would recommend approval.**

3. Motion: Set Public Hearing on CDBG Grant Application for 1-4-16, 6:30 P.M., Council Chambers, City Hall;

I would recommend approval.

4. Motion: Approve Facilities Plan;

Enclosed in your packet information is a Facilities Plan that was prepared by KCN for the project. **I would recommend approval.**

C. Motion: Approve Real Estate Contract with Stanley H. Tripp for \$110,000 for Real Estate in Clay County to the North of Spencer for North Trail Extension;

Enclosed in your packet information is a Real Estate Contract with Stanley Trip for a 100 foot wide strip of land. This land is former railroad right of way and will extend the trail portion an additional 1 mile north of Morton Buildings property. The City applied for and received a REAP Grant from the DNR in the amount of \$100,000 that will be applied towards the purchase price of this land. Any remaining amount not covered by the grant will be covered by Clay County since this portion of the trail will be outside of City limits. **I would recommend approval.**

D. Roll Call: An Ordinance Amending Title 7, Chapter 14 of the Spencer City Code to Permit the Operation of All Terrain Vehicles on City Streets, First Filing;

Per the request from the Public Safety Committee, staff is bringing forth an ordinance that would allow for ATV's on certain designated streets which leads to the Corporate Limits.

Please see Don's memo below:

FROM: Donald J. Hemphill, Spencer City Attorney

DATE: December 14, 2015

RE: Revised ATV Ordinance Amendment

Provided with this Memo is the latest draft of an Ordinance amending Title 7, Chapter 14 of the Spencer City Code permitting operation of all-terrain vehicles on city streets. The changes incorporated in this draft are found in 7-14-4 G which requires ATVs to be operated on a direct route from the place of storage to designated city streets then to the corporate limits. The second change is found in Section 6 which creates a new ordinance section 7-14-8 which requires the owner of an ATV to obtain a city permit and place a city sticker on the ATV.

The proposed amendment is quite complicated; primarily, because there are three classes of ATV use contemplated under the Ordinance. The first class are those uses permitted under state law; these uses include surveying, operations by public agencies, for snow removal on adjacent sidewalks, and by Spencer Police, Fire Department and Clay County Sheriff's Officers. These uses are permitted under Section 7-14-2 of the existing Ordinance.

The second class of use is for snow removal. This use is now permitted under Section 7-14-2 F of the City Code. In the enclosed amendment, these provisions are now included in Section 7-14-3. These uses are currently permitted and I understand are to continue.

The third class of use is described in new Section 7-14-4: "Limited Operation on City Streets". These are the new provisions which allow resident owners of ATVs to operate them to designated streets and then to the corporate limits.

New Section 6 creating new 7-14-8 contains the permit requirements. Permits are not required for the uses permitted by state law, but are required for snow removal uses and limited general operation. An initial permit fee of \$100 is provided with annual renewal fees of \$20. The application is to indicate the route on which the ATV will be operated. When a permit is approved, the City will issue a sticker which must be prominently displayed on the ATV.

The Ordinance Amendment provided is an attempt to incorporate the thoughts of a majority of the Council members, as understood by the City Manager and me.

I do not recommend adoption of the Ordinance. I believe that use of ATVs on city streets should not be expanded because such operations are dangerous. I also believe

that the costs of administration and the difficulty of enforcement outweigh the limited benefit which might be provided to a few citizens.

Please see the Police Chiefs memo below:

As Police Chief in Spencer, I was not against the ATV ordinance with the provision that the city could get permission from the state to cross the Grand Ave Bridge. Since this is not a possibility, I am against the ordinance. I took a look at the revised ATV ordinance that City Attorney Don Hemphill has drafted. I see that this ordinance will be prone to several violations. First, the ordinance allows for Spencer citizens to operate only to and from the owner's residence or place of storage, to the nearest point of the corporate boundary by the most direct route. I do not believe this will be followed. I believe that the most direct route will be blurred depending on the intended destination of the rider as well as the return route of the rider or the location of said storage of ATV. This will not limit the amount of roads used for travel as it was intended. In checking with the Clay County Recorder's Office, 376 ATV's were registered. If one third of these ATV's were located in Spencer, one only has to draw a map from 125 random locations to the closest city limit boundary to realize a large amount of city streets would be utilized. Enforcement efforts could be hampered. A driver only has to say he was taking his vehicle from storage and, at some point, the officer will be unable to verify the route. (buddy's residence, storage building, or a change of address). Iowa code section 321I.27 allows for Officers to stop and inspect an ATV operated, parked or stored on public streets, highways, public lands, public ice, or designated riding trails of the state to determine if the ATV is registered, numbered, or equipped as required by Iowa code. I believe that if this ordinance is passed a large amount of police/ATV rider interactions will occur resulting in a negative view for the city and the police department. Current City and Iowa codes do not allow ATV's or snowmobiles to be ridden in city parks, campgrounds, or city trails. Currently, if you look at the tracks in the snow at west Leech Park, under the Grand Ave Bridge, and the adjacent campground, you will find evidence of violations. To pass this ordinance would only complicate an already abused city code. An analogy I have for this situation is Iowa code section 321.194 Special Minors' license (school permits). This license entitles the student to drive between the hours of 5am and 10pm over the most direct and accessible route between the licensee's residence and schools of enrollment for the purpose of attending duly scheduled courses of instruction and extracurricular activities within the school district. Now, I believe this is one of the most abused licenses the state of Iowa has. Although, in theory, this license serves a purpose for students that live farther than 1 mile from school, the tendency over time is to stretch the most direct route, stretch the times in which the license is valid to drive and or stretch the extracurricular activities (to include church functions). Parents eventually get comfortable with their child's driving and allow them to push the boundaries of the license for the sake of convenience. This would be the same situation if the revised ATV ordinance is passed. Wood in theory this would be difficult to enforce. In closing, I believe the revised ordinance drafted does not represent the goals the people that signed the petition were after. The initial goal I heard included transportation to work, running errands, and fishing. As a last resort, the idea of simply getting the ATV out of city limits to take advantage of the relaxed county ordinance seemed to grab momentum. Although good in theory, this ordinance, if passed, will provide a challenge for the citizens intending to use the ordinance as well as the law enforcement officials intending to uphold it. In my mind, as soon as the State denied the crossing of the Grand Ave Bridge, the original intent of the petition was defeated. Therefore, I am against the passing of the ordinance.

E. Motion: Retain Dorsey & Whitney as Bond Counsel for 2016 Fairway Woods 2nd Addition PCC Paving Project;

The developer of Fairway Woods 2nd Addition has notified the City of his intent to pave the streets in the subdivision in 2016. Because this will be a special assessment project for the street we need to approve a motion to retain Dorsey & Whitney as Bond Counsel. **I would recommend approval.**

F. Roll Call: Resolution Imposing a Moratorium on the Issuance of Certain Building Permits for Residential Properties Abutting North Grand Avenue, North of 11th Street and South of 18th Street;

Enclosed in your packet information is a Resolution imposing a Moratorium on the issuing building permits for Residential Properties that abut North Grand Ave., North of 11th Street and South of 18th Street. The Resolution is being brought forward to allow time for the P&Z to review a proposed Overlay Zoning District that would require a 75 foot front yard setback. This is being considered to protect the integrity of the area that is designated a Historic Residential District. **I would recommend approval.**

5. Engineer's Report:

6. City Manager's Report:

7. Mayor's Report:

8. Council/Comm. Reports:

Public Works Comm. 1/11/16, 6:00 P.M.

Progress & Dev. And Public Safety 1/19/16, 6:00 P.M.

Finance & Personnel, 1/26/16, 6:00 P.M.

9. City Clerk's Report

- Bills and Claims

- Funds Transfers

10. Other Business/Opportunity to Address the Council

11. Adjourn