

**SPENCER CITY COUNCIL MEETING
COUNCIL CHAMBERS, CITY HALL
Monday, January 4, 2016
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 21, 2015:
- B. Licenses: Class B Wine, Class C Beer, Class E Liquor License and Sunday Sales for C's Liquor Store; and Class C Liquor License for Sports Page;
- C. Roll Call: Resolution Adopting Final Assessment Schedule and Confirming and Levying the Assessments for Tree Trimming;
- D. Roll Call: Resolution Adopting Final Assessment Schedule for Snow Removal Costs and Confirming and Levying the Assessments;
- E. Approve Purchase of Two 52" Deck Mowers from Galen's Pro-Mow for a total of \$27,542.00 (with 1 trade-in); (CIP/Cemetery Reserve)

3. Old Business:

- A. **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, Second 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.

4. Public Hearing:

A. Public Hearing on CDBG Grant Application for \$600,000.00 to the Iowa Dept. of Economic Development, for the 2017 4th Avenue West Storm Sewer Project;

1. Roll Call: Resolution to Approve the Submission of a Community Development Block Grant (CDBG) Application for Phase I – 4th Avenue West Combined Storm Sewer and Sanitary Sewer Separation Project; and to Authorize the Mayor and City Clerk to Execute and Sign Said Application and Related Materials;

Enclosed in your packet information is a Resolution authorizing the City to Submit a CDBG grant application for Phase I of the 4th Ave. West Combined Storm Sewer and Sanitary Sewer Separation Project. If successful, the City could get up to \$600,000.00. **I would recommend approval**

5. New Business:

A. Motion: Approve Professional Services Contract with Kruse, Cate & Nelson for Engineering Services in Connection with 2016 Fairway Woods Second Addition PCC Paving Project;

Enclosed in your packet information is a contract with Kruse, Cate & Nelson for Engineering Services for the 2106 Fairway Woods Second Addition PCC Project. The cost for the services is \$36,000.00. **I would recommend approval.**

B. Motion: Approve City of Spencer, Iowa – Clay County, Iowa East 4th Street, County Road B-24 Shoulder and Overlay Improvements Agreement – Phase 2;

Enclosed in your packet information is an agreement with Clay County for shoulder and overlay improvements on East 4th Street from 10th Ave. East to the

Beltway, including 350th Street to Highway 18. The City share is 75% of the first mile (\$90,000.00 estimated). The total estimated cost for the joint project is \$1,440,000.00. The City's share (\$90,000.00) will be paid out of Street reserve with the balance being paid by Clay County and a SAFETEA-LU grant.

I would recommend approval.

6. Department Head Reports:

- A. City Attorney
- B. Parks & Recreation
- C. Golf Course
- D. Planning Department
- E. Library
- F. Fire
- G. Police
- H. Public Works

7. Engineer's Report:

8. City Manager's Report:

9. Mayor's Report: Discuss MLA, Part 2 Training

10. Council/Comm. Reports:

Public Works Comm. Tuesday, 1/12/16, 6:00 PM
Prog. & Dev. and Public Safety, Tuesday, 1/19/16, 6:00 PM
Finance & Personnel, Monday, 1/25/16, 6:00 PM

11. City Clerk's Report:

- Bill and Claims
- Funds Transfers

12. Other Business/Opportunity to Address the Council

13. Adjourn