

**SPENCER CITY COUNCIL MEETING  
COUNCIL CHAMBERS, CITY HALL  
June 5, 2017  
REGULAR COUNCIL MEETING  
6:30 o'clock P.M.**

**1. Pledge of Allegiance**

**2. ROLL CALL:** Petska, Orrison, Bomgaars, Jacobsen, Hanson, Prentice, Moriarty

**3. Consent Agenda:**

A. Motion: Approve Minutes of May 15, 2017;

B. Motion: Approve Class C Beer Permit, Sunday Sales and Ownership Update for **Casey's #1894**; Class E Liquor License, Sunday Sales, Class B Native Wine , Class C Beer Permit and Ownership Update for **Casey's #2902**; Class E Liquor License, Sunday Sales, Class B Native Wine, Class C Beer and Ownership Update for **Casey's #2877**; Class C Liquor, Outdoor Service and Sunday Sales for **Clay County Fair Association**; Class C Liquor with Sunday Sales for **Liberty Lanes**; Class B Beer Permit with Sunday Sales for **Pizza Hut**; Class C Beer Permit with Sunday Sales for **Hy-Vee Gas**; and New Class C Liquor License with Sunday Sales for **Southside Grill** at 331 11<sup>th</sup> Street S.W.; all subject to final approval by Iowa Alcoholic Beverage Division;

C. Motion: Approve Municipal Band Performance and Funding Agreement for 2017;

D. Motion: Approve Purchase of Street Division Plow Truck with Dump Box, Front Plow, Underbody Scraper and Sander from Hi Way Truck/Fox International, NJPA contract pricing for a 2018 International Chasis, for \$169,085.00; from CIP Plan;

E. Motion: Approve Sidewalk Construction and Assessment Agreements with Roger and Laurie Hakeman, 416 East 18<sup>th</sup> Street and Dillon White, 1309 2<sup>nd</sup> Avenue East;

F. Motion: Set Hearing Date for June 19, 2017 at 6:30 o'clock P.M. for Budget Amendment for Fiscal Year 2016/17 Budget;

G. Roll Call: Resolution Authorizing Permanent Transfer of Funds;

**4. Old Business:**

**1. Roll Call: Ordinance Amending Title 9, Chapter 9, Section 2A of the Spencer City Code to Permit "Personal Improvement Services" as a Permitted Use in the "E" Heavy Industrial Zoning District, Final Filing;**

Enclosed in your packet information is an amended Ordinance to the "E" Heavy

Industrial Zoning District by adding a category entitled “Personal Improvement Services” as a Right. An example of a Personal Improvement Service is a Yoga Studio. The reason for the amendment is to make it known to the Service that they are located in an “E” Heavy Industrial Zoning District and thus they would have a high bar to declare a nuisance against one of its neighboring businesses.

**I would recommend approval of the Final filing of the Ordinance that calls for the Personal Improvement Services by adopted Right.**

**2. Roll Call: Ordinance Amending Title 4, Chapter 5, Section 17A of the Spencer City Code Adopting a Late Payment Penalty for Solid Waste Charges, Final Filing;**

Enclosed in your packet information is an amendment to the Ordinance pertaining to a late payment penalty for Solid Waste Charges. The ordinance for the most part changes the finance charge for late payment from 1.5% per month to a penalty of \$10.00 for late payment over 20 days from the date of the invoice. This item was discussed at the last Finance and Personnel Committee Meeting and it was recommended for approval. **I would recommend approval of the Final filing.**

**3. Roll Call: Ordinance Amending Title 4, Chapter 5, Section 21 of the Spencer City Code Concerning Solid Waste Rates and Charges, Final Filing;**

Enclosed in your packet information is an amendment to the Solid Waste Rates and Charges. The proposed changes are attached to the ordinance. The Finance and Personnel Committee met on this item and voted to recommend approval. **I would recommend approval of the Final filing.**

**4. Roll Call: Ordinance Amending Permit and Administrative Fees Imposed Pursuant to the Provisions of Title 8, Building Regulations, of the Spencer City Code, Final Filing;**

Enclosed in your packet information is an amendment to an ordinance concerning Building Regulations. The ordinance sets our various permit and administrative fees and charges for this section of the code. The Finance and Personnel met on this item and voted to recommend approval. **I would recommend approval of the Final filing.**

**5. Roll Call: Ordinance Prohibiting the Use of “First-Class Consumer Fireworks” within the City of Spencer, Iowa, Final Filing;**

As you are aware, the State recently passed legislation to legalize fireworks in Iowa. The Legislature did however put in an option for cities to opt out of allowing fireworks. It is my understanding that the Fire in Spencer (1931) was part of the reason why fireworks were originally banned. We have enclosed in your packet information, a copy of an ordinance that would allow the Council to opt out of allowing fireworks in our City Limits. Since the State Fire Marshal has adopted the National Fire Protection Association standards as part of the state rules, these provisions have been removed from

the Ordinance before you tonight. The attached Ordinance reverts back to the version adopted by the Council on 1st filing.

**I would recommend approval of the Final filing of the ordinance.**

**6. Roll Call: Ordinance Amending Title 1, Chapter 7, Article A, Section 1 of the Spencer City Code Concerning the City Seal, 2<sup>nd</sup> Filing;**

**A. Motion: Suspend Rules;**

**B. Roll Call: Ordinance Amending Title 1, Chapter 7, Article A, Section 1 of the Spencer City Code Concerning the City Seal, Final Filing;**

Enclosed in your packet information is a proposed Ordinance concerning the requirement of the use of the City seal on warrants and checks. Technology has changed over the years to where many of our payments and warrants are being issued digitally or electronically and is no longer feasible or customary to attach the seal. Staff is requesting that the requirement of using the city seal on these items be removed from the City Code. The agenda also allows for the Council to contemplate the suspending of the rules and placing the Ordinance on Final filing. **I would recommend approval of the 2nd filing as well as suspending the rules and adopting the Final filing.**

**5. New Business:**

**A. Roll Call: Resolution to Accept Restitution Pursuant to a Consent Order Between the Iowa Insurance Division and Two Rivers Insurance Company, Inc., Dated May 22, 2017, No. 82456 and Authorizing the Mayor to Execute Documents;**

As you may recall, the State Insurance Division instituted an investigation into Two Rivers Insurance Company regarding billing practices related to the IGHCP Health Insurance Trust. The City has belonged to the Trust for the past several years as the provider of our Health Insurance. The Insurance Division alleged that Two Rivers was commingling their commission and the Wellmark premium and telling participants in the Trust that it was all premium cost. Two Rivers has entered into a settlement agreement with the State and while they maintain they did nothing wrong in their practices, has agreed to pay restitution to current and former members of the Trust. The amount of restitution attributable to each member was determined by the State based on an estimate of what they felt was overpaid. The City's amount is approximately \$20,300.00. The action to be taken by the Council authorizes the Mayor to sign a Release and Agreement to Settle with Two Rivers.

**I would recommend approval of the Resolution to approve the Settlement Agreement with Two Rivers.**

**B. Roll Call: Ordinance Amending Title 7, Chapter 6, Section 2 of the Spencer City Code Concerning Vehicle Weight Limitations on City Streets, 1<sup>st</sup> Filing;**

In your packet is a proposed Ordinance amending weight restrictions on certain city streets. The proposed Ordinance adds a weight restriction to 7<sup>th</sup> Avenue SW from Southmoor Drive to 6<sup>th</sup> Street SW. This is the sealcoat street on the west side of Lincoln School. The Ordinance also cleans up a couple of other weight restrictions that have become obsolete.

**I would recommend approval of the 1<sup>st</sup> filing of the proposed ordinance.**

**C. Motion: Award & Approve Electronic Waste Services Agreement with The Retrofit Companies, Owatonna, Minnesota;**

As you may recall the Council adopted a policy for the Landfill that bans the disposal of OCC Cardboard and E-Waste effective July 1, 2017. Currently, only the City of Spencer is recycling E-Waste and pursuant to this new policy the remaining entities within our Landfill Planning Area will be required to recycle E-Waste as well. Since we have experience with it and we did not want this implementation to be too complicated for the other entities, staff thought it would be best if the City of Spencer arranged for an overall contract with an E-Waste recycling company that would pick up E-Waste from the entire Planning Area. We sent out an RFP for proposals for the collection of E-Waste throughout the Planning Area and are recommending a contract be approved with The Retrofit Companies. Within the agreement, each entity will be responsible for paying the disposal costs for their own E-Waste.

**I would recommend approval of the agreement with The Retrofit Companies for the collection and recycling of E-Waste in the Landfill Planning Area.**

**D. Roll Call: Resolution Appointing an Acting City Manager for the City of Spencer, Iowa;**

Enclosed in your packet is a Resolution confirming Brian Weuve as the Interim City Manager and setting the compensation for taking on those duties during this period. The change in compensation will be retroactive to May 29<sup>th</sup> since that is when a new period started.

**This was discussed at the May 23<sup>rd</sup> Finance and Personnel Committee meeting and the Committee recommends approval.**

**E. Roll Call: Resolution Awarding Contract for 2017 Manhole Rehabilitation Project (quotes received 6/2/17);**

As part of the CIP, Public Works has had money identified annually for Manhole Rehabilitation throughout town. In the past, Public Works would use that money to work on manholes as time allowed throughout the year. Over time, this has increased the number of manholes that need repairs. This year, it was discussed to identify manholes

that are need of repairs and combine them into a single project that we would take bids on. The manholes that are included in this project are located in various parts of the city. Bids will be received on Friday afternoon and staff will have a recommendation at the meeting Monday night.

**F. Roll Call: Resolution Awarding & Approving Contract for 2017 Intake Replacement Project (quotes received 5/12/2017);**

The City took bids on May 12<sup>th</sup> for the intake replacement project. Similar to the manhole repairs discussed above, Public Works has tried to perform the work in-house over the years as time and funds allowed. It was decided that a formal project for intake replacement be added to the CIP list each year to ensure that we could proceed with replacing the storm intakes. The ability to have a formal replacement plan and project is a direct result of the \$.10 per gallon increase in fuel taxes. The City received two bids for the project with the low bidder being BD Construction.

**I would recommend that the project be awarded to BD Construction and that the attached contract be approved.**

**G. Motion: Accept Spencer's Riverfront Plan, as prepared and presented by RDG Planning & Design;**

At the last Council meeting RDG was here and presented the Riverfront Plan that was a community effort over the past several months. The Plan itself will fulfill a Council goal that was established during the last Goal Setting session. The motion before you at this meeting will be to accept the final plan as presented, similar to what the Council does when accepting the annual audit. By accepting the plan, it does not commit the City to any further action in implementing the Plan but acknowledges that the Plan was presented to the Council. The next steps will include the Council, Park Board and community groups discussing the projects suggested and to determine the priorities for implementation.

**I would recommend approval for accepting the Plan as presented by RDG.**

**H. Motion: Approve EMS Program Agreement for E-Waste with the Department of Natural Resources;**

Enclosed in your packet is an agreement with the DNR for funding related to the implementation of the OCC Cardboard and E-waste disposal ban at the Landfill. Each year the City, through the EMS program at the Landfill, is entitled to grant money to assist with project implementation. This year staff decided to utilize our grant funds to assist the other entities in the Planning Area acquire equipment and materials needed to implement our OCC Cardboard and E-waste materials disposal ban. Each entity was asked what equipment was needed and this was submitted on behalf of the Landfill to the DNR. The total cost of this project was approximately \$100,000.00 with the DNR picking up the tab for \$24,900.00. The City will utilize Landfill set aside funds to

supplement what the grant does not pay for.

**I would recommend approval of the funding agreement with the DNR.**

**I. Roll Call: Resolution Authorizing the Establishment of One Additional Full-Time Police Dispatcher to Replace Two Part-Time Dispatchers;**

Prior to Bob leaving, he discussed with the Council the possibility of eliminating the two part-time dispatch positions and replacing it with one full-time dispatcher. At that time the Council was in general agreement that the change should be made, subject to the Communication Board giving its approval. The Communication Center Board met on May 25<sup>th</sup> to review and discuss this change in personnel and approved of the change from two part-time to one full-time. The Resolution included in your packet would change the City's pay matrix to reflect the change in authorized positions for the Communication Center.

**I would recommend approval of the Resolution.**

**J. Motion: Approve Project Sub-award Agreement with Iowa Homeland Security and Emergency Management Department for Backup Generator Project;**

The past few meetings the Council has taken various actions regarding this grant application for the installation of five emergency generators located at lift stations. The action before you at this meeting would approve the funding agreement between the City and the State of Iowa. The City will be responsible for 15% of the project cost, state 10% and the federal government will cover 75%. There will be one more agreement to cover the final generator at a future meeting. The City's contribution is not less than \$36,322.00.

**I would recommend approval of the project agreement.**

**K. Motion: Consideration for Adopting Additional Temporary Use Consumer Fireworks Sales Rules.**

Included in your packet are some possible rules for the Council to consider adopting in relation to the sale of consumer fireworks. Don has suggested these for consideration by the Council. Staff has reviewed the proposed rules and has some comments to offer:

1) As far as the prohibition on sales in the CBD (Central Business District), Kirby is currently unaware of any building that would meet the regulations contained in the NFPA rules. As far as the City is aware, none of the buildings downtown contain a sprinkler system or heat sensor system. The fact that these two requirements are missing from buildings would offer protection against the selling of fireworks downtown. The only location in the CBD that could reasonably accommodate the sales of fireworks would be a temporary tent in the Hy-Vee parking lot.

2) According to conversations Kirby has had with potential sellers, federal law already requires that no one under the age of 18 be allowed to sell fireworks.

3) It may be hard to enforce the regulations of location as the City is not aware of all child care facilities, if in-home daycare would fall under the definition of child daycare center. The majority of the other locations listed fall in zoning classes that do not allow retail sales currently.

4) Kirby already attaches to temporary use permit holders that they must follow sign regulations and all other applicable local, state, and federal laws.

5) The addition of signage informing customers that the Use of consumer fireworks is prohibited in Spencer is reasonable and should be expected.

At this point in time, Don has asked that the consideration of these rules be placed on the agenda for Monday night. I would see that the Council has three options before it:

1) Adopt the proposed rules as presented, (could contain minor tweaks)

2) Adopt some, but not all of the proposed rules, or

3) Adopt a "wait and see" approach to any additional regulations. Since the current sales period approved by the State has officially begun, it might be prudent to see how this first sales period goes and if there are any major issues noted, implement additional regulations on the sale of fireworks for future periods.

**I would recommend option #3, the "Wait and See" approach. The reason for this recommendation is that we would be implementing these after potential sellers have already submitted their application for a Temporary Use Permit and at the time of application were unaware that these regulations may be imposed. It also gives the City the opportunity to observe how this initial sales period goes to see if additional regulations are warranted.**

## **6. Department Head Reports:**

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

**7. Engineer's Report:**

**8. City Manager's Report:**

**9. Mayor's Report:** Iowa League of Cities Meeting in Davenport September 27-29, 2017  
(registration is now open)

**10. Council/Comm. Reports:** Public Works Committee, June 19, 2017 at 5:15 o'clock P.M.

Finance & Personnel Committee, June 12, 2017 at 5:15 o'clock  
P.M.

**11. City Clerk's Report:**

-Bills and Claims

-Funds Transfers

**12. Other Business/Opportunity to Address the Council;**

**13. Adjourn**