



CITY OF SPARTANBURG

SOUTH CAROLINA

CITY COUNCIL AGENDA

**City Council Meeting
City Council Chambers
145 West Broad Street
Spartanburg, SC
Monday, November 12, 2012**

- I. Moment of Silence**
- II. Pledge of Allegiance**
- III. Approval of Minutes of the October 22, 2012 City Council Meeting**
- IV. Approval of Agenda of the November 12, 2012 City Council Meeting**
- V. Public Comment**
*Citizen Appearance forms are available at the door and should be submitted to the City Clerk
- VI. Bicycle and Pedestrian Committee Update**
Presenter: Laura Ringo, Executive Director
Gary Purington, Committee Member
- VII. Ordinance**
 - A. To Amend the Business License Provisions for Insurance Companies (First Reading)**
Presenter: Dennis Locke, Finance Director
- VIII. Resolution**
 - A. Authorizing Certain Amendments to the Articles of Incorporation and the Bylaws of Spartanburg Public Facilities Corporation; Providing for the Appointment of the Members of the Board of Directors of Spartanburg Public Facilities Corporation; and other Matters Relating Thereto**
Presenter: Ed Memmott, City Manager
- IX. Consent Agenda**
 - A. Ordinance Accepting the Property Owned by Achilles W. & Constantin W. Vaseliades, and being located at 212 Winfield Drive, and that portion of Winfield Drive abutting said property, as a part and parcel of the City of Spartanburg and Declaring said Property Annexed to and a part and Parcel of the City of Spartanburg, said parcel to be Zoned R-15, Single Family Residential upon Annexation (Second Reading)**
Presenter: Joshua T. Henderson, Planning Coordinator

- B. To Amend Chapter 8, Garbage and Trash, to Reflect Current Language by Replacing the Word “Sanitation” with the Words “Solid Waste,” by Replacing the Words “Self-Loading Equipment,” and “Garbage Containers” with the Words “Bulk Containers,; and to Make Other Changes to Reflect Current Practices (Second Reading)
Presenter: Ed Memmott, City Manager**
- X. Ordinances – Second Reading**
- A. Ordinance to Amend the Code of the City of Spartanburg 1988, Chapter 6, “Elections,” Article II, “Districts,” Section 6-21 so as to Provide for Amendments to the District Lines by Reason of the 2010 Census (Second Reading)
Presenter: Ed Memmott, City Manager**
- B. Ordinance to Amend the City of Spartanburg, South Carolina Zoning Ordinance, by Amending Section 206, Changes to District Boundaries, Specifically Parcel 7-13-01-032.00, Located on 1585 East Main Street, which is Currently Zoned LOD, Limited Office District to Zone B-1, Neighborhood Shopping District; and Providing for Severability and an Effective Date. Bill Akkary and His Agent, Craig Jacobs of Spencer Hines Properties, on Behalf of National Bank of SC, Owner. The Purpose for the Zone Change Application is to allow the Property to be Sold for Use as a Restaurant (Second Reading)
Presenter: Joshua Henderson, Planning Coordinator**
- XI. Other Business**
- A. MWBE Annual Summary Report
Presenter: Jackie Wood, MWBE Coordinator**
- B. Discussion of the Swim Center
Presenter: Ed Memmott, City Manager**
- XII. City Council Updates**
- XIII. Executive Session to Receive Legal Advice Regarding a Contractual Matter**
- XIV. Adjournment**

** City Code Sec. 2-57. Citizen Appearance. Any citizen of the City of Spartanburg may speak at a regular meeting on any matter pertaining to City Services and operations germane to items within the purview and authority of City Council, except personnel matters, by signing a Citizen’s Appearance form prior to the meeting stating the subject and purpose for speaking. No item considered by Council within the past twelve (12) months may be added as an agenda item other than by decision of City Council. The forms may be obtained from the Clerk and maintained by the same. Each person who gives notice may speak at the designated time and will be limited to a two (2) minute presentation.*



**City Council Meeting
County Council Chambers
366 South Church Street
Spartanburg, SC
Monday, October 22, 2012**

**(These minutes are subject to approval at the
November 12, 2012 City Council meeting.)**

City Council met this date with the following members present: Mayor Junie White, Mayor pro tem Cate Ryba, Councilmembers Linda Dogan, Jerome Rice, Robert Reeder, Sterling Anderson, and Jan Scalisi. City Manager Ed Memmott and City Attorney Cathy McCabe were also in attendance. Notice of the meeting was posted with the Media 24 hours in advance according to the Freedom of Information Act. All City Council meetings are recorded for a complete transcript.

- I. Moment of Silence - observed**
- II. Pledge of Allegiance –** Girl Scouts from Troop 13, Central United Methodist Church, Ballenger and Madison Cooksey lead everyone in the Pledge of Allegiance.
- III. Approval of Minutes of the October 8, 2012 City Council Meeting –**
*Councilmember Dogan made a motion to approve the minutes as received.
Councilmember Scalisi seconded the motion, which carried unanimously 7 to 0.*
- IV. Approval of Agenda of the October 22, 2012 City Council Meeting –**
*Mayor pro tem Ryba made a motion to approve the agenda as received.
Councilmember Dogan seconded the motion, which carried unanimously 7 to 0.*
- V. Public Comment - none**
*Citizen Appearance forms are available at the door and should be submitted to the City Clerk
- VI. Ordinance**
 - A. Ordinance Accepting the Property Owned by Achilles W. & Constantin W. Vaseliades, and being located at 212 Winfield Drive, and that portion of Winfield Drive abutting said property, as a part and parcel of the City of Spartanburg and Declaring said Property Annexed to and a part and Parcel of the City of Spartanburg, said parcel to be Zoned R-15, Single Family Residential upon Annexation (First Reading)**
Presenter: Joshua T. Henderson, Planning Coordinator
Mr. Henderson presented the item to City Council as follows:
“Staff received a request from Achilles W. & Constantin W. Vaseliades, owners of 212 Winfield Drive for annexation of the property into the City of Spartanburg. Because the property will be zoned R-15, Single Family Residential upon

Annexation, there is no need to obtain zoning designation by the Planning Commission.

Additionally, said parcel is located in the Hillbrook Forest Subdivision. However, since it is not contiguous to properties already annexed (Hillbrook Phase I, Phase II, and Phase III), but is contiguous to the City limits, the property owner has submitted an annexation petition under the 100 percent Petition and Ordinance method.

Staff recommends that the City Council take the following actions:

- a) Approve the annexation of 212 Winfield Drive (TMS7-10-13-026.00).
- b) Designate the zoning for this property as R-15 (Single Family Residential) upon annexation.

BUDGET AND FINANCE DATA: The parcel will generate property tax after annexation. Additional service costs will be minimal.”

Councilmember Scalisi made a motion to approve the annexation request as presented on first reading. Councilmember Rice seconded the motion, which carried unanimously 7 to 0.

VII. Other Business

A. Approval to Purchase Crime Analyst/GIS Software Upgrade

Presenter: Major Steve Lamb, Public Safety Department

Major Lamb presented the item to City Council as follows:

“During the early 90’s, law enforcement agencies began geographically tracking criminal activity. This new concept utilized a system called GIS (Geographic Information System). This process allowed law enforcement agencies to plot criminal activity on mapping software. This new program gave officers the ability to visually see crime data displayed on a topographic map and possibly predict future criminal activity. This system also allowed officers to view crime analyst statistics and share this with the community they serve. Over time, these law enforcement GIS systems have evolved to capture data that is necessary for implementation of “intelligent lead policing” models. This concept uses advanced GIS software to analyze millions of pieces of data and arrange useful real-time information for officers in the field.

The Public Safety Department began its Crime Analyst/GIS program in the early 1990’s. In the beginning, our agency formed a partnership with Bradshaw Consulting Services Inc. They are a leading Law Enforcement GIS developer and have provided advanced software and technical support to our agency for over a decade. Our GIS program quickly moved to a fulltime civilian position and has had countless success stories. However, because of the massive amounts of data and the rapid advancements in technology, our GIS system needs a software upgrade and additional data storage devices. This upgrade will move from one department computer to every department computer having access to our GIS/Crime Analyst tools. This will allow officers in the field to research and receive real-time crime data. This improvement will also allow citizens the ability to research accurate crime data through our website.

For several months, the department has worked with Bradshaw Consulting Services to develop a systems upgrade plan. The current system will need several large software enhancements as well as two new data storage devices.

<u>Company</u>	<u>Price</u>
Bradshaw Consulting (sole Source)	\$28,629
Dell (State Contract)	\$13,284
Total	\$41,913

The Public Safety Department requests approval to purchase a Crime Analyst/ GIS Software Upgrade and enhancements from Bradshaw Consulting Services Inc.

BUDGET & FINANCIAL DATA: This project will be funded through the 2009 Recovery Act JAG Program. (MG0135). After one year, the City of Spartanburg will be responsible for an annual maintenance fee of approximately \$11,788.”

Councilmember Dogan made a motion to approve the award of bid to Bradshaw Consulting in the amount of \$28,629 and Dell in the amount of \$13,284 for the Crime Analyst/GIS Software Upgrade as requested. Councilmember Reeder seconded the motion, which carried unanimously 7 to 0.

B. Approval of 2013 City Council Meeting Schedule

Presenter: Connie McIntyre, City Clerk

Ms. McIntyre presented the item to City Council as follows:

“City Council establishes the meeting schedule for the upcoming year near the end of each calendar year.

Staff requests approval of the 2013 City Council meeting schedule.”

Ms. McIntyre noted that there would be only one council meeting in March due to a conflict with the National League of Cities Congressional Cities Conference, and three meetings in April to compensate for that. She also mentioned that the second meeting in May would be on Tuesday due to the Memorial Day holiday.

Mayor pro tem Ryba made a motion to approve the 2013 City Council calendar as requested. Councilmember Dogan seconded the motion, which carried unanimously 7 to 0.

VIII. Consent Agenda

- A. Ordinance to Amend the City of Spartanburg, South Carolina Zoning Ordinance, by Amending Section 206, Changes to District Boundaries, Specifically Parcels #7-12-02-096.00, 049.00, 048.00, and 079.00; 7-08-14-038.00, 7-12-01-327.00, and 7-12-02-050.00; as well as, Cleaning Up the Zoning of Twelve (12) parcels on #7-12-02-310.00 – Located on Evins Street, Jefferson Street, McDowell Street, Cummings Street (School), North Church Street, Swain Street, Littlejohn Court, Edgewood Avenue, Simmons Alley, and Charlevoix Street which are Currently Zoned R-6 (General Residential District), B-3 (General Business District), LOD (Limited Office District), R-8 (General Residential District), and B-1 (Neighborhood Shopping District) to Zone GID (General Institutional District). Woody Willard, Willard, Inc.,**

on Behalf of Jason H. Burr, Associate Vice President of Facilities & Capital Projects, Wofford College, Owner (Second Reading)

Presenter: Joshua T. Henderson, Planning Coordinator

Councilmember Dogan made a motion to approve the consent agenda on second reading. Councilmember Reeder seconded the motion, which carried unanimously 7 to 0.”

IX. Public Hearings

A. Ordinance to Amend the Code of the City of Spartanburg 1988, Chapter 6, “Elections,” Article II, “Districts,” Section 6-21 so as to Provide for Amendments to the District Lines by Reason of the 2010 Census (First Reading)

Presenter: Ed Memmott, City Manager

Mr. Memmott presented the item to City Council as follows:

“Council has been briefed on the need to approve Council voting districts based on the 2010 Census. The State Budget and Control Board – Office of Research and Statistics has provided technical assistance to the City in this matter and has developed 5 sample redistricting plans for Council’s consideration.

Staff is requesting the following actions by Council:

1. Adoption of 2012 redistricting plan criteria as recommended by the State Budget and Control Board. These criteria include (a) adherence to the 1965 Voting Rights Act as amended and controlling court decisions; (b) ensure that parts of districts established are contiguous; (c) respect Communities of Interest; (d) attempt to maintain constituent consistency; (e) solicit public input; (f) avoid splitting voting precincts if possible.
2. Adoption of Council Redistricting public hearing procedures. Staff is recommending the following procedures: (a) a 60 minute time limit for the public hearing; (b) a 5 minute time limit for each speaker; (c) require each speaker to provide their name and address; (d) provide additional time for individual speaker by majority vote of Council; (e) designate the City Clerk serves as time keeper; (f) designate the City Clerk to advise the Mayor when either the 5 minute or 60 minute time limit has expired; (g) stipulate that no attempt will be made to respond to any question during the public hearing; (h) stipulate that the 60 minute hearing time limit may be extended by a majority vote of Council.
3. Receive report and overview of the sample plans from Mr. Bowers.
4. Conduct public hearing.
5. Select a Council redistricting plan and give first reading approval of an Ordinance to establish the 2012 Council districts.”

***Mayor White** called for a motion to accept the 2012 redistricting plan criteria as recommended by the State Budget and Control Board. Councilmember Scalisi made the motion, Councilmember Anderson seconded the motion, which carried unanimously 7 to 0.*

***Mayor White** called for a motion to adopt the suggested redistricting public hearing procedures. Councilmember Dogan made the motion, Councilmember Rice seconded the motion, which carried unanimously 7 to 0.*

Mr. Memmott introduced Bobby Bowers, with the State Budget and Control Board – Office of Research and Statistics for an explanation of the various suggested redistricting plans. Mr. Bowers explained the process required by the Department of Justice after each census in redrawing district lines to maintain the required criteria. He reviewed five different plans of redrawn city council districts for council’s consideration and vote.

Mayor White opened the Public Hearing, reviewing the rules with the attendees.

- 1. Linda Bilanchone, 182 West Hampton Heights,** stated that she would speak in favor of Plan 4, which would keep her neighborhood as a unified geographic area for the most part.
- 2. Jessie Ruth Littlejohn, President of the South Converse Neighborhood Association, 284 Marion Avenue,** stated she would be in favor of Plan 3 since it would have less negative impact on both neighborhoods.
- 3. David Stokes, 203 W. Hampton Avenue,** stated that both he and his wife would be in favor of Plan 4 or 5, which they felt would be in Hampton Heights best interest to keep the neighborhood mostly intact and would maintain the local historic district that is overlaid in that neighborhood.
- 4. Brenda Lee Price, 291 Alexander Avenue,** stated she was in favor of the Plan 3 that kept South Church Street intact.
- 5. Phillip Stone, 246 S. Spring Street,** stated that from the perspective of maintaining neighborhood integrity he would support Plan 4 as it would bring the Local Historic Hampton Heights Neighborhood and the potentially historic South Converse Neighborhood together.
- 6. Harold Mitchell, 412 Shaw Avenue,** stated that he supported Plan 3.
- 7. Tammy Stokes, 203 W. Hampton Avenue,** asked that Council seek to do whatever was necessary to keep the neighborhoods together.

Councilmember Dogan made a motion to close the public hearing. Mayor pro tem Ryba seconded the motion, which carried unanimously 7 to 0.

Discussion was held among council regarding the various plans.

Councilmember Rice made a motion to accept Plan 3 as proposed by Mr. Bowers. Councilmember Reeder seconded the motion.

Mayor White called for the vote. The vote was 4 to 3 in favor of redistricting Plan 3. Councilmembers Rice, Dogan, Reeder and Mayor White voted in favor of redistricting Plan 3. Councilmembers Scalisi, Ryba and Anderson voted against redistricting Plan 3.

- B. Appeal of Planning Commission’s Denial to Amend the Zoning Ordinance of the City of Spartanburg, South Carolina and Comprehensive Plan Land Use Element, by Amending Section 206, Changes to District Boundaries, Specifically Parcel #7-13-01-032.00 – Located on 1585 East Main Street, Which is Currently Zoned LOD with a Land Use Designation of Neighborhood Shopping District; and Providing for Severability and an Effective Date (First Reading)**

Presenters: Joshua T. Henderson, Planning Coordinator
Cathy H. McCabe, City Attorney

Koger Bradford, Esquire, Representing the Property Owner

Attorney Koger Bradford, representing NBSC, presented testimony in favor of the rezoning and requesting that council overturn the Planning Commission's denial of the rezoning request. He called witnesses Fred Willis, City Executive for NBSC, Craig Jacobs of Spencer Hines Properties, representing the potential buyer Bill Akkary, and Bill Akkary, the potential buyer who presented the aforementioned testimony.

Mayor White opened the Public Hearing.

Lisa Allen, 1020 Eastwood Drive, came forward to speak against the rezoning.

Jack Lawrence, Riverview Drive, came forward to speak against the rezoning.

Eddie Payne, 1025 Eastwood Drive, came forward to speak against the rezoning.

Frank Hall, 228 Roberts Meadow, spoke in favor of the rezoning.

Scott Talley, does not live in the City, but has a business in the City, spoke against the rezoning.

Chris Thompson, landscape architect who owns a business in downtown Spartanburg, and creator of the proposed landscape plan for the proposed buyer of the property, spoke in favor of the rezoning.

Robbie Romeiser, 200 Lakewood Drive, spoke in favor of the rezoning.

David Strickland, 324 Rainbow Circle, Inman, SC, real estate agent for Spencer Hines Realty, spoke in favor of the rezoning.

Mr. Bradford thanked Council for hearing the request of the current owner and the proposed purchaser.

Scott Harris, listing agent for the property, spoke in favor of the rezoning.

Councilmember Dogan made a motion to close the Public Hearing.

Councilmember Reeder seconded the motion, which carried unanimously 7 to 0.

Councilmember Dogan made a motion to "appeal the Planning Commission's decision and rezone this on first reading". Councilmember Reeder seconded the motion.

Councilmember Scalisi expressed her opinion on the issue, suggesting that a compromise might still be possible.

Mayor pro tem Ryba agreed that the parties were very close to a compromise.

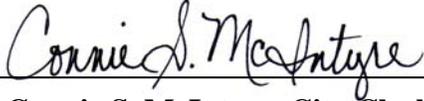
Councilmember Anderson stated that he had a similar issue in his district and the parties came together and reached a compromise. He stated that there were a lot or other options on the table before coming before Council and that Council had no choice but to make a decision.

Councilmember Reeder stated that he was sorry that the parties could not come to an agreement even with the proposed buyer offering numerous buffers and other options.

Mayor White called for the vote. The vote was 6 to 1 with Councilmember Scalisi voting against the motion.

X. City Council Updates – postponed due to the late hour.

XI. Adjournment – *Councilmember Dogan made a motion to adjourn the meeting. Mayor pro tem Ryba seconded the motion, which carried unanimously 7 to 0 and the meeting adjourned at 8:39 p.m.*

A handwritten signature in cursive script that reads "Connie S. McIntyre". The signature is written in black ink and is positioned above a horizontal line.

Connie S. McIntyre, City Clerk



REQUEST FOR COUNCIL ACTION

TO: Ed Memmott, City Manager

FROM: Dennis R. Locke, Finance Director

SUBJECT: Amendment of Business License Ordinance Provisions
For Insurance Companies

DATE: November 7, 2012

BACKGROUND:

As a result of legislation passed in the 2012 session of the South Carolina General Assembly, all cities must immediately amend their business license ordinance for insurance companies and non-admitted insurance brokers. Cities must also renew their agreement with the Municipal Association of South Carolina to collect these taxes on their behalf.

The state legislation was necessary and supported by cities and towns because of a recent change in federal law known as the “Dodd-Frank” Act. Within the Act is a provision, The Non-admitted and Reinsurance Reform Act of 2012, which states that the “placement of non-admitted insurance is subject to the statutory and regulatory requirements solely of the insured’s home state. “It goes further to state only the “home state” may require the payment of premium tax for non-admitted insurance.

In response to this change in federal law, on June 29, 2012, Governor Nikki Haley signed into law legislation that designates a single tax rate of 6 percent for the broker’s premium tax in South Carolina. The new state law fully complies with the new federal regulations while preserving the designation and collection of a 4 percent state tax and a 2 percent municipal broker’s premium tax. The law further states that a municipality may not impose any additional license fee or tax based upon a percentage of premium.

ACTION REQUESTED: In order to comply with state law, MASC has provided us an amendment to our Business License Ordinance that must be approved as it is currently written.

BUDGET & FINANCIAL DATA: According to MASC there is the potential to lose a small amount of revenue due to those changes.

AN ORDINANCE
Amending the Business License Ordinance
Provisions for Insurance Companies

WHEREAS, the South Carolina General Assembly, in order to ensure consistency with the federal Non-admitted and Reinsurance Reform Act of 2010 ("NRRRA"), ratified an act (Rat# 283) on June 28, 2012, amending S. C. Code §§ 38-7-160 and 38-45-10 through 38-45-195; and

WHEREAS, the act establishes a blended broker's premium tax rate of 6 percent comprised of a 4 percent state broker's premium tax and a 2 percent municipal broker's premium tax; and

WHEREAS, the act states a municipality may not impose on brokers of non-admitted insurance in South Carolina an additional license fee or tax based upon a percentage of premiums; and

WHEREAS, the act authorizes the Municipal Association of South Carolina to act as the municipal agent for purposes of distributing to municipalities the municipal brokers tax collected by the South Carolina Department of Insurance; and

WHEREAS, it is necessary to amend the Business License Ordinance to conform to the State law as amended;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City/Town of Spartanburg, that the Business License Ordinance is amended by changing the provisions for insurance companies as follows:

SECTION 1.

SIC NAICS
CODE or CODE

63 5241 Insurance Companies: Except as to fire insurance, "gross premiums" means gross premiums written for policies for property or a risk located within the municipality. In addition, "gross premiums" shall include premiums written for policies that are sold, solicited, negotiated, taken, transmitted, received, delivered, applied for, produced or serviced by (1) the insurance company's office located in the municipality, (2) the insurance company's employee conducting business within the municipality, or (3) the office of the insurance company's licensed or appointed producer (agent) conducting business within the municipality, regardless of where the property or risk is located, provided no tax has been paid to another municipality in which the property or risk is located based on the same premium.

Solicitation for insurance, receiving or transmitting an application or policy, examination of a risk, collection or transmitting of a premium, adjusting a claim, delivering a benefit, or doing any act in connection with a policy or claim shall constitute conducting business within the municipality, regardless of whether or not an office is maintained in the municipality.

As to fire insurance, "gross premiums" means gross premiums (1) collected in the municipality, and/or (2) realized from risks located within the limits of the municipality.

Gross premiums shall include all business conducted in the prior calendar year.

Gross premiums shall include new and renewal business without deductions for any dividend, credit, return premiums or deposit.

Declining rates shall not apply.

631-632	52411	<u>Life, Health and Accident</u>	0.75% of Gross Premiums
633-635	524126	<u>Fire and Casualty</u>	2% of Gross Premiums
636	524127	<u>Title Insurance</u>	2% of Gross Premiums

SECTION 2.

Notwithstanding any other provisions of this ordinance, license taxes for insurance companies shall be payable on or before May 31 in each year without penalty. The penalty for delinquent payments shall be 5% of the tax due per month, or portion thereof, after the due date until paid.

SECTION 3.

Any exemptions in the business license ordinance for income from business in interstate commerce are hereby repealed. Gross income from interstate commerce shall be included in the gross income for every business subject to a business license tax.

SECTION 4.

Pursuant to S.C. Code Ann. §§ 38-45-10 and 38-45-60, the Municipal Association of South Carolina is designated the municipal agent for purposes of administration of the municipal broker's premium tax. The agreement with the Association for administration and collection of current and delinquent license taxes from insurance companies as authorized by S.C. Code § 5-7-300 and administration of the municipal broker's premium tax in the form attached hereto is approved, and the Mayor is authorized to execute it.

All ordinances in conflict with this ordinance are hereby repealed.

This ordinance shall be effective on the date of final reading.

Mayor

ATTEST:

Clerk

First reading: _____

Final reading: _____



REQUEST FOR COUNCIL ACTION

TO: Mayor and Members of City Council

FROM: Ed Memmott, City Manager

SUBJECT: Resolution to Amend the Articles of Incorporation and Bylaws of the Spartanburg Public Facilities Corporation

DATE: November 7, 2012

BACKGROUND:

In January 2011, City Council approved a Development Agreement between the City and Spartanburg Community College (“SCC”) for the Evans Building project. SCC has purchased the former Evans High School Building from Spartanburg County and is renovating the building for its use. Staff believes the Evans Building project is another momentum builder for our downtown. The SCC facility will bring two year associate degree and four year college transfer students to the City. In addition to its regular course offerings, numerous non-credit and certificate courses will be offered from this location. Most importantly, the SCC project will provide convenient access to City residents who want to take advantage of the educational and job training opportunities. Mr. Samuel Hook, Director of the SCC Foundation, will attend the November 12 Council meeting and update Council in more detail on the status of this project.

SCC is pursuing a financing structure for this project that is similar to the financing structure the City utilized for the CC Woodson Community Center, Saint John Street Garage, and the Downtown Airport terminal to take advantage of the federal New Markets Tax Credit (“NMTC”) program. While use of the NMTC program offers significant financial advantages, the legal and financing structure required to comply with various program requirements can get very complicated. In this instance, the financing structure would benefit from the participation of an independent nonprofit organization which is not affiliated with other entities involved in the project.

The Spartanburg Public Facilities Corporation (“SPFC”) is a nonprofit corporation that was established by the City to solely assist with financing of the conference center at the Marriott Hotel. After review, the City’s bond counsel (McNair Firm) determined that the SPFC could participate and facilitate SCC’s financing provided that certain amendments of the SPFC’s Articles of Incorporation and Bylaws were approved.

If approved by Council, the Resolution would:

1. Allow the Articles of Incorporation to be amended to make clear that the corporation can undertake broader activities than just assisting with the financing of the conference center at Renaissance Park;

2. Allow the bylaws to be updated to permit the same, as well as reflect that the office of Deputy City Manager doesn't exist anymore (and accordingly isn't an ex-officio member of the Board of Directors); and
3. Authorize the City Manager to undertake any other actions on behalf of the City, as sole member of the corporation, to advance the purposes of the Resolution.

The SPFC's participation in the SCC project financing would not extend any financial risk to either the City or the SPFC.

ACTION REQUESTED:

Council approval of the Resolution to make amendments to the SPFC Articles of Incorporation and Bylaws.

BUDGET AND FINANCE DATA: N/A

RESOLUTION NO. ____

CITY OF SPARTANBURG, SOUTH CAROLINA

AUTHORIZING CERTAIN AMENDMENTS TO THE ARTICLES OF INCORPORATION AND THE BYLAWS OF SPARTANBURG PUBLIC FACILITIES CORPORATION; PROVIDING FOR THE APPOINTMENT OF THE MEMBERS OF THE BOARD OF DIRECTORS OF SPARTANBURG PUBLIC FACILITIES CORPORATION; AND OTHER MATTERS RELATING THERETO.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SPARTANBURG, SOUTH CAROLINA, IN COUNCIL ASSEMBLED, AS FOLLOWS:

WHEREAS, the City of Spartanburg, South Carolina (the “City”), is an incorporated municipality located in Spartanburg County, and as such has all powers granted to municipalities by the Constitution and general laws of the State; and

WHEREAS, Spartanburg Public Facilities Corporation (the “Corporation”) is a South Carolina non profit corporation established under Title 33, Chapter 31 of the South Carolina Code of Laws (the “Act”); and

WHEREAS, the City is the sole member of the Corporation; and

WHEREAS, the Corporation’s Articles of Incorporation provide, among other things, that (i) the City Council of the City shall appoint all of the directors of the Corporation, and shall have the power at any time to remove a director and to appoint a successor; and (ii) no amendment shall be made to the Articles of Incorporation without the approval of the City Council of the City; and

WHEREAS, the City has determined that it is in the best interest of the City and the Corporation to: (i) consent to and approve certain amendments to the Corporation’s Articles of Incorporation; (ii) consent to and approve certain amendments to the Bylaws of the Corporation; and (iii) provide for the appointment of the directors of the Corporation in accordance with the amended Bylaws of the Corporation.

Section 1. Amendment to Articles of Incorporation. The City Council of the City hereby authorizes the Corporation to prepare and file an amendment to the Articles of Incorporation of the Corporation in substantially the form attached hereto as Exhibit A.

Section 2. Amendment to Bylaws. The City Council of the City hereby consents to and authorizes the amendments to the Bylaws of the Corporation, such amendments to be in substantially the form attached hereto as Exhibit B.

Section 3. Appointment of Directors. The City Council of the City hereby approves the appointment of directors of the Corporation in accordance with the amended Bylaws of the Corporation.

Section 4. Authorization. The City Manager, for and on behalf of the City, is fully empowered and authorized to take such further actions and to execute and deliver such additional documents as may be necessary to effect the actions contemplated by this Resolution, and the actions of the City Manager in executing and delivering any necessary documents, in such form as the City Manager shall approve, is hereby fully authorized. Further, to the extent the provisions of the Act, the Articles of Incorporation of the Corporation or the Bylaws of the Corporation require any action, consent or approval by the City as the member of the Corporation, such action, consent or approval by the City Manager shall be deemed to constitute the action, consent or approval by the City as sole member of the Corporation.

Section 5. Effective Date of Resolution. This Resolution shall take effect and be in full force from and after its adoption.

[Execution Page Follows]

Adopted by the City Council of the City of Spartanburg, South Carolina, this 12th day of November, 2012.

CITY OF SPARTANBURG, SOUTH CAROLINA

Mayor

(SEAL)

ATTEST:

Clerk

Exhibit A

Form of Articles of Amendment

STATE OF SOUTH CAROLINA
SECRETARY OF STATE

NONPROFIT CORPORATION
ARTICLES OF AMENDMENT

TYPE OR PRINT CLEARLY WITH BLACK INK

Pursuant to the provisions of Section 33-31-1005 of the 1976 South Carolina Code of Laws, as amended, the applicant delivers to the Secretary of State these articles of amendment.

1. The name of the nonprofit corporation is Spartanburg Public Facilities Corporation
(Must match name on record with Secretary of State's Office)

2. Date incorporated May 6, 2002
(Must match date on record with Secretary of State's Office)

3 On November 13, 2012, the following amendment was adopted, _____
(Date the amendment was decided upon)

See Exhibit A attached hereto and incorporated herein, by reference.

4. [] By checking this paragraph #4 the applicant represents that (a) approval of the amendment by the members was not required, (b) the amendment was approved by a sufficient vote of the board or directors or the incorporators. (Do not check this paragraph #4 if member vote was required or if the required vote of directors or incorporators was not obtained.)

5. If the approval of the members was required to adopt the amendment(s), provide the following information:

(a) Designation (Classes of Membership) one class

(b) Number of memberships outstanding one

(c) Number of votes entitled to be cast by each class entitled to vote separately on the amendment ONE

(d) Number of votes of each class indisputably voting on the amendment one

(e) Complete one of the following as appropriate

(i) Total number of votes cast for and against the amendment by each class entitled to vote separately
1 vote in favor of the amendment, and 0 votes against, by the single member of the single class entitled to vote

(ii) Total number of undisputed votes cast for the amendment by each class which was sufficient for approval for that class

Spartanburg Public Facilities Corporation
Name of Corporation

6. By checking this paragraph #6 the applicant represents that approval of the amendment by some person or persons other than the members, the board, or the incorporators is required pursuant to Section 33-31-1030 of the 1976 South Carolina Code of Laws, as amended, and that the approval was obtained. (Do not mark paragraph #6 if either of these statements is not true.)
7. If the amendment provides for an exchange, reclassification, or cancellation of memberships, provisions for implementing the amendment must be set forth here if provisions are not contained in the amendment itself _____

8. If this corporation is converting from either a public benefit or religious corporation into a mutual benefit corporation, mark this paragraph #8 which certifies that a notice, including a copy of the proposed amendment, was delivered to the South Carolina Attorney General at least twenty days before the consummation of the amendment.

Spartanburg Public Facilities Corporation
Name of Corporation

November 13, 2012

Date

Signature of Officer

Ed Memmott

Type or Print Name

President

Position of Officer

FILING INSTRUCTIONS

1. Two copies of this form must be submitted for filing.
2. Filing fee of \$10.00 payable to the Secretary of State
3. A self addressed stamped return envelope.
4. If the space in this form is insufficient, please attach additional sheets containing a reference to the appropriate paragraph in this form, or prepare this using a computer disk which will allow for expansion of space on the form.

Mail to: Secretary of State
Attn: Corporations
1205 Pendleton St, Suite 525
Columbia, SC 29201

Exhibit A

Amendment to Articles of Incorporation
Spartanburg Public Facilities Corporation

Exhibit B to the Articles of Incorporation of Spartanburg Public Facilities Corporation is amended to replace item (a)(2)(E) therein with the following:

(E) To carry on or engage in any other activity which the Corporation may deem proper or convenient, provided, however, that the Corporation shall at all times be operated as a nonprofit corporation as provided in the South Carolina Nonprofit Corporation Act of 1994.

Exhibit B

Form of Amendment to Bylaws

AMENDMENT TO BYLAWS
OF
SPARTANBURG PUBLIC FACILITIES CORPORATION
(AMENDMENT EFFECTIVE NOVEMBER 13, 2012)

The Bylaws of Spartanburg Public Facilities Corporation are hereby amended as follows:

1. Article III, Section 1 of the Bylaws is amended by replacing the second paragraph therein to provide:

The Corporation is formed to assist its Members (hereinafter defined in Article IV, Section 1) by, among other activities, undertaking certain obligations with respect to the acquisition of real and/or personal property and the design, construction, operation and financing of a conference center and related improvements, and other projects (including but not limited to road, water and sewer infrastructure) in the City (the "Projects").

2. Article III, Section 2 of the Bylaws is amended by replacing the first sentence of the first paragraph therein to provide:

The Corporation is organized and shall operate exclusively as a nonprofit corporation to assist and support the City as may be permitted by applicable law (the "Purposes") by, among other activities, assisting in the acquisition, design, construction, operation and financing of the Projects and performing essential governmental functions within the meaning of Section 115 of the Internal Revenue Code.

3. Article VII, Section 2 of the Bylaws is amended by replacing the first two sentences of such section with the following:

The Board of Directors shall consist of the following three (3) officers of the City: City Manager, Assistant City Manager, and Finance Manager, or the equivalents thereof. The City Manager shall serve ex officio as Chairperson of the Board, and the Assistant City Manager shall serve ex officio as Vice-Chairperson of the Board. The Chairperson, or, in his or her absence, the Vice-Chairperson, shall preside over all meetings of the Board.

4. Article VIII, Section 3 of the Bylaws is amended by replacing such section with the following:

Section 3. Appointment of Officers. The following officers of the City shall serve ex officio as the following officers of the Corporation:

<u>City Office</u>	<u>Corporation Office</u>
City Manager	President
Assistant City Manager	Vice-President
Finance Manager	Secretary and Treasurer

I Certify that this Amendment to the Bylaws of the Corporation were duly adopted by the Board of Directors of the Corporation on November 13, 2012.

Secretary
November 13, 2012

AN ORDINANCE

TO AMEND THE CODE OF THE CITY OF SPARTANBURG 1988, CHAPTER 6, "ELECTIONS," ARTICLE II, "DISTRICTS," SECTION 6-21 SO AS TO PROVIDE FOR AMENDMENTS TO THE DISTRICT LINES BY REASON OF THE 2010 CENSUS.

BE IT ORDAINED by the Mayor and Members of Council of the City of Spartanburg, South Carolina, in Council assembled:

Section 1. To amend Chapter 6, "ELECTIONS," ARTICLE II, "DISTRICTS," Section 6-21, "Created; described" by deleting subsection (b) in its entirety and inserting in lieu thereof the following:

Sec. 6-21. Created; depicted.

(b) The districts are identified on the map labeled "City of Spartanburg Plan 3" with an accompanying statistical table showing the apportionment of population attached hereto.

Section 2. This Ordinance shall become effective upon the passage after second reading by Council and on receipt of written notice by the Justice Department of the United States of America not to challenge the ordinance.

DONE AND RATIFIED this _____ day of _____, 2012.

MAYOR

ATTEST:

CITY CLERK

____/____/____ 1st Reading

____/____/____ 2nd Reading

APPROVED AS TO FORM:

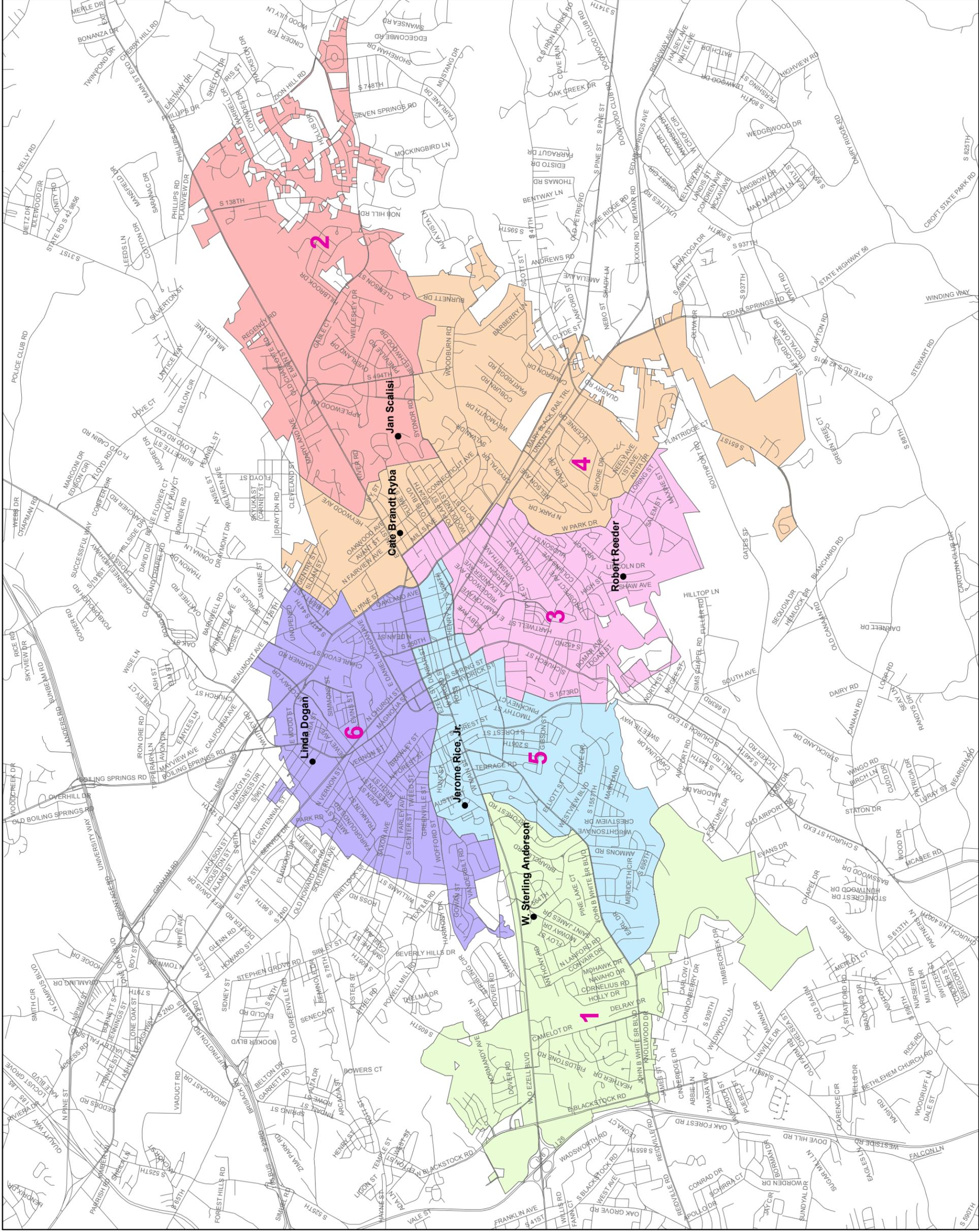
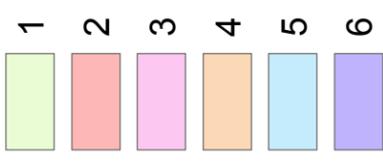
CITY ATTORNEY

City of Spartanburg Plan 3

• CC

— Roads

Districts



City of Spartanburg Plan 3 Statistics

District	Pop	Dev.	%Dev.	NH_WHT	%NH_WHT	NH_BLK	%NH_BLK	VAP	NHWVAP	%NHWVAP	NHBVAP	%NHBVAP	AllOth	AllOthVAP
1	6,192	23	0.37%	2,779	44.88%	2,639	42.62%	4,798	2,380	49.60%	1,877	39.12%	774	541
2	6,246	77	1.25%	4,508	72.17%	1,432	22.93%	4,984	3,782	75.88%	988	19.82%	306	214
3	6,156	-13	-0.21%	1,331	21.62%	4,565	74.16%	4,547	1,096	24.10%	3,279	72.11%	260	172
4	6,162	-7	-0.11%	4,617	74.93%	1,190	19.31%	4,795	3,774	78.71%	784	16.35%	355	237
5	6,114	-55	-0.89%	933	15.26%	4,875	79.74%	4,286	811	18.92%	3,299	76.97%	306	176
6	6,143	-26	-0.42%	2,099	34.17%	3,695	60.15%	4,890	1,974	40.37%	2,678	54.76%	349	238
Total	37,013			16,267		18,396		28,300	13,817		12,905		2350	1578

AN ORDINANCE

ORDINANCE TO AMEND THE CITY OF SPARTANBURG, SOUTH CAROLINA ZONING ORDINANCE AND COMPREHENSIVE PLAN LAND USE ELEMENT, BY AMENDING SECTION 206, CHANGES TO DISTRICT BOUNDARIES, SPECIFICALLY PARCEL #7-13-01-032.00 – LOCATED ON 1585 EAST MAIN STREET, WHICH IS CURRENTLY ZONED LOD WITH A LAND USE DESIGNATION OF LIMITED OFFICE DISTRICT TO ZONE B-1 WITH A LAND USE DESIGNATION OF NEIGHBORHOOD SHOPPING DISTRICT; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Spartanburg now finds that, upon further review, it is in the public interest that the land use designation for the parcel identified on the Official Zoning Map of the City of Spartanburg, South Carolina, dated August 6, 1973, as amended, by changing the zone of Lot 032.00 as shown on Spartanburg County Block Map Sheet 7-13-01, from LOD, Limited Office District to B-1, Neighborhood Shopping District; and

WHEREAS, this zoning change would be compatible with surrounding land uses and neighborhood character, would not be detrimental to the public health, safety and welfare, and, further, would be in conformance with the Comprehensive Plan; and

WHEREAS, the Planning Commission held a public hearing on August 16, 2012, at which time a presentation was made by staff and an opportunity was given for the public to comment on the rezoning request; and

WHEREAS, the Planning Commission, after consideration of the staff report, public comments, and the criteria set forth in Section 605 of the Zoning Ordinance, subsequently voted at that meeting to recommend to City Council that the rezoning request be denied. City Staff received a written request dated August 21, 2012, from the petitioner, Bill Akkary, and agent, Craig Jacobs of Spencer Hines Properties, on behalf of property owner National Bank of SC to City Council asking for a new public hearing.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Members of Council of the City of Spartanburg, South Carolina, in Council assembled:

Section 1. Amendment. That the official zoning map of the City of Spartanburg, as referenced by Section 206 of the Zoning Ordinance, be, and the same hereby amended as follows:

- The Lot currently identified as 032.00 on Spartanburg County Block Map Sheet 7-13-01, shall be now designated as B-1, Neighborhood Shopping District.

Section 2. Severability. If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. Effective Date. This Ordinance shall be effective upon its adoption by the City Council of the City of Spartanburg, South Carolina.

DONE AND RATIFIED THIS _____ DAY OF _____, 2012.

Junie L. White, Mayor

ATTEST:

Connie S. McIntyre, City Clerk

APPROVED AS TO FORM:

Cathy H. McCabe, City Attorney

___/___/___ (First Reading)

___/___/___ (Second Reading)



CITY COUNCIL AGENDA – SUMMARY REPORT

TO: Ed Memmott, City Manager

FROM: Jackie Wood, MWBE Coordinator

SUBJECT: Minority & Women Business Enterprise (MWBE) Program Update

DATE: November 7, 2012

BACKGROUND:

Staff would like to present its annual report on the accomplishments of the Minority & Women Business Enterprise (MWBE) Program. We are encouraged with overall results of the program.



MEMORANDUM

TO: Mayor and Members of City Council

FROM: Ed Memmott, City Manager

SUBJECT: Swim Center

DATE: November 6, 2012

At the November 12 City Council Meeting, staff will make a report on the Swim Center. This report will review facility use, operating costs, and estimated repair costs. Staff will also review cost savings options and alternatives to fund capital repairs.

If the Swim Center is to remain open, Council should expect that it will be necessary to spend approximately \$2.0 million for major system (roof, HVAC, building envelope, filtration) replacement over the next several years. Adding the capital costs to existing annual operating expenses, Council should expect that the City will spend approximately \$650,000 annually on the Swim Center for at least the next 10 years.

Spending \$650,000 annually on one recreational facility is a significant financial commitment in the context of the City's budget. There are many worthy new programs, projects, and/or service enhancements that could be funded if the Swim Center was closed. Staff will be asking Council to confirm that the Swim Center is highest priority for the expenditure of those funds prior to undertaking a multiyear commitment to repair the facility.