



CITY OF SPARTANBURG

SOUTH CAROLINA

CITY COUNCIL AGENDA

City Council Meeting
City Council Chambers
145 West Broad Street
Spartanburg, SC
Monday, October 12, 2015
5:30 p.m.

- I. **Moment of Silence**
- II. **Pledge of Allegiance**
- III. **Approval of the Minutes of the September 28, 2015 City Council Meeting**
- IV. **Approval of Agenda of the October 12, 2015 City Council Meeting**
- V. **Public Comment**
*Citizen Appearance forms are available at the door and should be submitted to the City Clerk
- VI. **Presentation of Proclamation to Security Finance**
Presenter: Mayor Junie White
- VII. **Ordinances**
 - A. **To Authorize the City to Grant to South Carolina Telecommunications Group Holdings LLC, D/B/A Spirit Communications (“Spirit Communications”), the Right, Power and Authority to Construct, Install, Maintain and Operate in the City to Render Telecommunications Service to its Customers in the Corporate Limits of the City for Such Period as Provided Herein and to Provide for the Payment of Compensation for the Use of the Streets and Public Places (First Reading)**
Presenter: Dennis Locke, Finance Director
 - B. **To Amend the Code of the City of Spartanburg 1988, Chapter 4, “Animals and Fowl” to Provide Additional Measures as Determined by the Court if a Dangerous or Vicious Animal is Determined to be a Continuing Threat of Serious Harm (First Reading)**
Presenter: Cathy McCabe, City Attorney

As required by the Americans with Disabilities Act, the City of Spartanburg will provide interpretive services for the City Council Meetings. Requests must be made to the Communications & Marketing Office (596-2020) 24 hours in advance of the meeting. This is a Public Meeting and notice of the meeting was posted with the Media 24 hours in advance according to the Freedom of Information Act.

VIII. Resolution

- A. To Determine Eligibility of 130 Magnolia Street for Special Property Tax Assessment for Rehabilitated Historic Property as Adopted by Ordinance of City Council on September 9, 2013**
Presenter: Chris Story, Assistant City Manager

IX. Other Business

- A. FY15 Year End Budget Report**
Presenter: Chris Story, Assistant City Manager

X. City Council Updates

XI. Executive Session Discussions

- A. Pursuant to Section 30-40-70 (a) (2) of the South Carolina Code to Receive Legal Advice Relating to the Oakview Condominiums Condemnation**
- B. Pursuant to Section 30-4-70 (a) (5) of the South Carolina Code to Discuss Matters Relating to Encouraging the Location of Two Businesses in the City**

XII. 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
City Council Chambers
145 West Broad Street
Spartanburg, SC
Monday, September 28, 2015
5:30 p.m.**

**(These minutes are subject to approval at the
October 12, 2015 City Council meeting.)**

City Council met this date with the following members present: Mayor Junie White, Councilmembers Jan Scalisi, Robert Reeder, Jerome Rice, Sterling Anderson, and Laura Stille. Mayor pro tem Erica Brown was out of town. 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 - recited**
- III. Approval of the Minutes of the September 14, 2015 City Council Meeting –**
Councilmember Rice made a motion to approve the minutes as received.
Councilmember Reeder seconded the motion, which carried unanimously 6 to 0.
- IV. Approval of Agenda of the September 28, 2015 City Council Meeting –**
Mayor White advised that items VI. and IX. would be postponed until another meeting.
Councilmember Stille made a motion to approve the agenda as amended.
Councilmember Scalisi seconded the motion, which carried unanimously 6 to 0.
- V. Public Comment - none**
*Citizen Appearance forms are available at the door and should be submitted to the City Clerk
- VI. Special Presentation – postponed to another meeting**
Presenter: Mayor Junie White
- VII. Spartanburg Convention and Visitors Bureau Update**
Presenter: Chris Jennings, Executive Director
Mr. Jennings updated Council on CVB activities and statistics, highlighting the better than expected success of the 2015 Panthers Training Camp.
- VIII. Presentation from Sister Cities International of Greater Spartanburg**
Presenter: Chris Story, Assistant City Manager
Bill Joslin, representing the Sister Cities International of Greater Spartanburg,

presented a proposal to Council regarding the City of Spartanburg establishing a sister city relationship with Landshut, Germany. He overviewed information about Landshut for Council and asked for approval of a Memorandum of Understanding Regarding the Intention of the City of Spartanburg, USA, to Establish a Sister City Relationship with the City of Landshut, Germany. Citizens of Landshut were in attendance.

After discussion, Councilmember Stille made a motion to approve the Memorandum of Understanding as requested. Councilmember Reeder seconded the motion, which carried unanimously 6 to 0.

IX. Public Hearing – postponed to another meeting

- A. Resolution In Support of the Issuance by the South Carolina Jobs-Economic Development Authority of its Economic Development Revenue Bond (Wofford College Project), Pursuant to the Provisions of Title 41, Chapter 43, of the Code of Laws of South Carolina 1976, as Amended, in the Aggregate Principal Amount of Not Exceeding \$45,000,000**
Presenter: Ed Memmott, City Manager

X. Consent Agenda

- A. Ordinance to Amend the City of Spartanburg, South Carolina Zoning Ordinance, by Amending Section 206, Changes to District Boundaries, Specifically Parcel #7-12-09-257.00 Located on 174 West Saint John Street at the Corner of N. Thompson Street and Stevens Street; Parcel #7-12-09-257.01 Located on 459 Stevens Street; and Parcel #7-12-13-065.00 Located on “0” Saint John Street, which are Currently Zoned R-6, with a Land Use Designation of General Residential District to Zone LOD, with a Land Use Designation of Limited Office District in Order to Utilize the Best Use of the Properties. John M. Holmes, Pit Bull Investments, LLC, Agent and Property Owner on Behalf of Pit Bull Investments, LLC, City of Spartanburg, and Cornerstone Baptist Church, Property Owners (Second Reading)**
Presenter: Chris Story, Assistant City Manager

Councilmember Reeder made a motion to approve the consent agenda as received. Councilmember Scalisi seconded the motion, which carried unanimously 6 to 0.

XI. City Council Updates –

Councilmember Stille mentioned that she had attended the Ten at the Top event on September 22 with discussion that focused on enhancing uniqueness. She also thanked the Trees Coalition for their email updates and their hard work in the community.

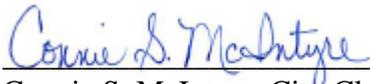
Councilmember Rice thanked Mr. Jennings from the CVB for his update and the work that they were doing in the community. He also thanked the visitors from Landshut, Germany for attending the meeting. He mentioned that the City Little League Football games had started and that there would be one televised by Charter the following Tuesday.

Councilmember Anderson shared that all was well on the Westside, mentioning that the Panthers, Wofford and USC all won their football games.

Councilmember Scalisi shared that she attended a sold out, great performance of “Mary Poppins” at the Spartanburg Little Theatre. She also attended “The Latest Thing in Spartanburg” at the auditorium and encouraged everyone to attend the next show. She mentioned that the Greek Festival was wonderful. She also mentioned that Harper Corporation had a ribbon cutting opening its headquarters in the city. She shared that she was looking forward to the International Festival in Barnet on Saturday.

Councilmember Reeder stated that he appreciated the CVB report from Chris Jennings, and he thanked the Sister City group for attending. He mentioned that the NAACP convention would be in the city the following week.

- XII. Adjournment** – *Councilmember Reeder made a motion to adjourn the meeting. Councilmember Stille seconded the motion, which carried unanimously 6 to 0. The meeting adjourned at 6:05 p.m.*



Connie S. McIntyre, City Clerk



REQUEST FOR CITY COUNCIL ACTION

TO: Ed Memmott, City Manager
FROM: Dennis R. Locke, Finance Director
SUBJECT: Franchise Agreement
DATE: October 8, 2015

BACKGROUND: Article 20 of Chapter 9 of Title 58 of the 1976 Code of Laws of South Carolina, and enacted in 1999 govern how municipalities can regulate non cable telecommunication enterprises.

ACTION REQUESTED:

Approval of Ordinance to allow Spirit Communication to have access to use the streets and public places to construct, maintain and operate its facilities for use in providing telecommunications services to its customers within City limits.

BUDGET & FINANCIAL DATA:

Ten year agreement which includes a \$1000.00 annual fee

AN ORDINANCE

TO AUTHORIZE THE CITY TO GRANT TO SOUTH CAROLINA TELECOMMUNICATIONS GROUP HOLDINGS LLC, D/B/A, SPIRIT COMMUNICATIONS (“SPIRIT COMMUNICATIONS”), THE RIGHT, POWER AND AUTHORITY TO CONSTRUCT, INSTALL, MAINTAIN AND OPERATE IN THE CITY TO RENDER TELECOMMUNICATIONS SERVICE TO ITS CUSTOMERS IN THE CORPORATE LIMITS OF THE CITY FOR SUCH PERIOD AS PROVIDED HEREIN AND TO PROVIDE FOR THE PAYMENT OF COMPENSATION FOR THE USE OF THE STREETS AND PUBLIC PLACES.

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

WHEREAS, Spirit Communications, whose address is 1500 Hampton Street, Columbia, SC 29201, has requested the consent of the City of Spartanburg to use the streets and public places of the municipality to construct, maintain and operate its facilities for use in providing telecommunications services to its customers within the municipality for its own business purposes and profit; and

WHEREAS, other telecommunications providers either have or are likely to seek a similar consent; and

WHEREAS, it is the policy of the City to permit such entry into to the corporate limits and such use of the streets and public places for the provision of telecommunication services, subject to the duty and authority of the City to manage its streets, public property and rights-of-way, and to require fair and reasonable compensation from telecommunications providers for the use thereof on a competitively neutral and nondiscriminatory basis and to publicly disclose the amount of compensation.

NOW, THEREFORE, this ordinance is as follows:

Section 1: As used in this ordinance, the word “Company” means Spirit Communications, a company organized and existing under the laws of the State of South Carolina and duly authorized to do business in South Carolina, its successors and assigns.

Section 2: As used in this ordinance, the word “Municipality” means the City of Spartanburg, South Carolina.

Section 3: As used in ordinance, the term” Telecommunications Services” has the meaning and definition given to that term by S.C. Code Ann., § 58-9-2200(1)(1999); provided, however, for purposes of this ordinance, the term “Telecommunications Services” does not include cable television. Cable television services may only be provided in the municipal limits pursuant to a separate franchise pursuant to 42 USC 542.

Section 4: The non-exclusive right, power and authority is hereby granted and vested in the Company to construct, maintain and operate in, over, under and upon the streets, alleys, bridges, rights-of-way and other public places of the City, its lines, poles, wires, cables, and other telecommunications facilities and to use those facilities to render Telecommunication Services to its customers within the corporate limits of the Municipality.

Section 5: Prior to the commencement or continuation of any construction or operation in the corporate limits of the City, the Company shall be duly authorized to do business in South Carolina and shall have received any necessary certificate of public convenience and necessity or other required authority from the South Carolina Public Service Commission or the Federal Energy Regulatory Commission. Evidence that such authority has been acquired or that it is not required will be filed with the City.

Section 6: All work upon the streets and public places of the City shall be in accordance

with all applicable standards, codes and ordinances, and will be done under the general supervision of the City. All new construction will, wherever practicable, be placed underground. Any necessary aboveground construction will, wherever practicable, utilize existing utility poles. No street, alley, bridge, right-of-way or other public place used by the Company shall be obstructed longer than necessary during its work of construction or repair, and shall be restored to the same good order and condition as when said work was commenced. No part of any street, alley, bridge, right-of-way, or other public place of the City, including any public drain, sewer, catch basin, water pipe, pavement or other public improvement, shall be damaged. However, should any such damage occur, the Company shall repair the same as promptly as possible, and, in default thereof, the City may make such repairs and charge the reasonable cost thereof to and collect the same from the Company. The Company shall save the City harmless from all liability or damage (including judgments, decrees, court costs, and defense costs) arising out of the Company's operations within the corporate limits of the City, the exercise of the privileges granted to the Company by this ordinance, or the acts or omissions of the Company's employees, contractors, or agents.

Section 7: In consideration of the grant of authority to utilize the streets and public places of the City for the provision of Telecommunication Services, and in accordance with applicable laws and ordinances, the Company shall pay such franchise fees, business license taxes and administrative fees as are presently permitted by Article 20 of Chapter 9 of Title 58 of the 1976 Code of Laws of South Carolina, and enacted in 1999, and as may be enacted and imposed by the City. The Company shall also pay all such ad valorem taxes, service fees, sales taxes or other taxes and fees as may now or hereafter be lawfully imposed on other businesses within the City. Provided, however, that in the event that Article 20 of Chapter 9 of Title 58 of the 1976 code of Laws of South Carolina, as enacted in 1999, or other laws governing franchise fees, business

license taxes and/or other fees with respect to Telecommunication Services shall be substantially modified by subsequent legislation or court decision, the provisions herein contained shall be brought into conformity with the changes in the applicable law by appropriate amendment to this ordinance. If the limitations on the amount of franchise fees, administrative fees and business license taxes on providers of Retail Telecommunications Services presently contained in said statute shall be removed or modified, City will be free, by amendment to this ordinance, to impose such fair, reasonable, competitively neutral, and non-discriminatory fees and taxes as may then be permitted by that statute or by such applicable South Carolina and federal law as may then govern.

Section 8: Except as specifically provided herein, or otherwise mandated by law, the privilege granted to the Company by this ordinance does not exempt or excuse the Company from the police power and all other municipal authority and laws including, but not limited to, those related to zoning, permitting traffic control, construction and excavation, planning, aesthetics and the environment.

Section 9: The non-exclusive franchise and consent granted by this ordinance shall be in force and effect for an initial term of ten (10) years, and shall continue in force and effect thereafter until properly terminated by either party. Either party may terminate the contract at the end of its initial ten-year term, or at any time thereafter, by giving written notice of its intention to do so no less than two (2) years before the proposed date of termination. It is understood and agreed that the decision of whether to renew or to terminate this franchise pursuant to this section shall be made by those elected officials then in office under such circumstances as may then obtain, and that the Company has no reasonable expectation of renewal or non-termination.

Section 10: This franchise and consent ordinance is subject to the constitution and laws of the State of South Carolina. In conforming this ordinance to the requirements of S.C. Code

Ann., § 58-9-2200 *et. seq.* as enacted by the General Assembly of South Carolina in 1999, City does not concede or imply that the General Assembly has the authority to restrict by general law the powers denied to the General Assembly and reserved to the municipalities of South Carolina by Article VIII Section 15 of the Constitution of South Carolina.

Section 11: This Ordinance shall become effective upon the date of enactment.

DONE AND RATIFIED this ____ day of _____, 2015.

MAYOR.

ATTEST:

CITY CLERK.

APPROVED AS TO FORM:

CITY ATTORNEY.

___/___/___ 1st Reading

___/___/___ 2nd Reading



REQUEST FOR CITY COUNCIL ACTION

TO: Ed Memmott

FROM: Cathy McCabe, City Attorney

SUBJECT: Ordinance to amend Sec. 4.28 “Dangerous or vicious animals” of the Animal Ordinance to provide additional measures as determined by the Court if the animal is considered a continuing threat of serious harm.

DATE: October 8, 2015

BACKGROUND

When a dangerous or vicious animal is a continuing threat of serious harm to citizens, it may be necessary for additional measures to be determined by the court which do not include the release of the animal to the owner. Our Municipal Court has concerns with the due process protection of owners of vicious animals as currently written. This Ordinance revises this section to provide for legal due process for the owner of a vicious animal that will meet Constitutional muster.

ACTION REQUESTED: Approval of the Ordinance to amend Sec. 4-28 of the Animal Ordinance.

BUDGET & FINANCIAL DATA: N/A.

AN ORDINANCE

TO AMEND THE CODE OF THE CITY OF SPARTANBURG 1988, CHAPTER 4, "ANIMALS AND FOWL" TO PROVIDE ADDITIONAL MEASURES AS DETERMINED BY THE COURT IF A DANGEROUS OR VICIOUS ANIMAL IS DETERMINED TO BE A CONTINUING THREAT OF SERIOUS HARM.

WHEREAS, when an animal has been determined to be a dangerous or vicious animal and is not a continuing threat of serious harm to citizens, criteria for the owner has previously been specified as to the conditions for release of the animal to the owner; and

WHEREAS, in the event the dangerous or vicious animal is a continuing threat of serious harm to citizens, it may be necessary for additional measures to be determined by the court which do not include the release of the animal to the owner.

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

Section 1. To amend the Code of Spartanburg 1988, Chapter 4, "ANIMALS AND FOWL" by deleting subsection 4-28 "Dangerous or vicious animals" in its entirety and inserting in lieu thereof the following:

CHAPTER 4

ANIMALS AND FOWL

Sec. 4.28. Dangerous or vicious animals.

- (a) No person shall own, keep, harbor or have charge of or in any way maintain within the city any animal which is vicious or dangerous as described in the definitions of this chapter, or that has attacked or injured any person or domesticated pet without intentional provocation, or in an aggressive or dangerous manner approaches any person or domesticated pet in an apparent attitude of attack, whether or not the attack is consummated or capable of being consummated. This section shall not apply to any animal that attacks any person or animal that is unlawfully upon its owner or keepers

premises.

- (b) Any person witnessing an animal attacking a human being or domesticated pet shall notify the animal services office or other law enforcement agency authorized to enforce this chapter. Whenever the animal control office has determined that an animal has bitten or attacked a person, the animal services officer shall promptly notify the Department of Health and Environmental Control (DHEC) of the bite or attack and shall cooperate with the health department in its capture, impoundment, or confinement, and the ten-day quarantine.
- (c) If the animal services officer has probable cause to believe that an animal has dangerous propensities or has attacked someone or a domesticated pet without intentional provocation, the animal services officer shall temporarily impound the animal pending trial on a violation of this ordinance. Within 48 hours, excluding weekends and holidays, the animal service officer must seek a determination of probable cause in the form of a judgment order from the court for the impoundment of the animal.
- (d) All animals deemed vicious and/or dangerous will be registered at the office of animal services.
- (e) If the owner or keeper cannot immediately be identified or found, the animal services officer shall leave written notice in a conspicuous place about the premises as to the conditions of the impoundment, where the animal is being held, and the officer who impounded the animal.
- (f) Upon final determination of guilt of the owner or keeper by the court or if the owner or keeper pleads guilty or no contest to this code section, the animal services officer may release the animal for humane destruction if so ordered by the court that the dangerous animal represents a continuing threat of serious harm to human beings or domestic animals. If the court determines that the animal was vicious and dangerous in the particular incident, but does not pose a continuing threat to human beings or domestic animals, the animal may be released to the owner provided it is confined to the owner or keeper's premises in a securely enclosed fence or locked pen, kept indoors, or a combination of these confinements. The fenced area, locked pen, or premise must be clearly posted giving notice that a dangerous animal is kept on the property. The fenced area, locked pen, or premise must be designed to prevent the entry of the general public, including children, and to prevent the escape or release of the animal. The fenced area or pen must have all sides six (6) feet high or a secure top. If the fenced area or pen does not have a

secure bottom, the sides must be embedded into the ground at least one (1) foot deep. In addition, a proof of liability insurance or surety bond of at least \$50,000 insuring or securing the owner for personal injuries inflicted by the dangerous animal. Failure to comply within three (3) days shall be cause for the temporary impoundment of the animal pending a show cause hearing.

- (g) This section does not apply to licensed security companies on patrol in a confined area or animals used for law enforcement purposes by law enforcement officers.
- (h) Nothing in this chapter shall be construed to prevent the immediate destruction by an animal services officer or a police officer of any aggressive or dangerous animal when less drastic methods are not available or effective and when an animal services officer, a police officer or the animal's owner is unable to promptly and effectively restrain or control the animal so that it might be impounded.

Section 2. This Ordinance shall become effective upon the date of enactment.

DONE AND RATIFIED this _____ day of _____, 2015.

MAYOR.

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

___/___/___ 1st Reading

___/___/___ 2nd Reading



REQUEST FOR COUNCIL ACTION

TO: Spartanburg City Council

FROM: Chris Story, Assistant City Manager

SUBJECT: Eligibility of 130 Magnolia Street for Special Assessment for Rehabilitated Historic Property

DATE: October 6, 2015

In 2013 City Council established by ordinance a mechanism, consistent with state code, which allows City Council to provide an advantaged property tax treatment for eligible historic properties when those properties are significantly rehabilitated according to historic standards.

Magnolia 130 Associates Inc. recently acquired 130 Magnolia Street, a long dormant property within the Morgan Square Historic District. This property had been vacant for some time and the boarded front façade has been detracted from the development potential of the area for years. The new owners have begun the renovation and restoration of the property. The work is being conducted under the supervision of the SC State Office of Historic Preservation ensuring that work is conducted according to appropriate preservation standards.

Magnolia 130 Associates will be investing over \$500,000 in the property. No specific use or tenant is identified at this time. However, we are confident that project will be a significant positive contribution to downtown.

The special assessment would relieve the owners of a portion of the additional property tax liability created by the acquisition and historic-standard renovation of the property for five years.

Staff recommends approval of the attached resolution.

We welcome any questions you may have.

RESOLUTION

TO DETERMINE ELIGIBILITY OF 130 MAGNOLIA STREET FOR SPECIAL PROPERTY TAX ASSESSMENT FOR REHABILITATED HISTORIC PROPERTY AS ADOPTED BY ORDINANCE OF CITY COUNCIL ON SEPTEMBER 9, 2013.

WHEREAS, City Council of the City of Spartanburg, South Carolina (the “City”), adopted an ordinance on September 9, 2013, providing for Special Property Tax Assessment for Rehabilitated Historic Properties and establishing processes and standards for eligibility; and

WHEREAS, the ordinance requires that the City Council determine by resolution the eligibility of individual projects for the Special Assessment; and

WHEREAS, 130 Magnolia Street is an eligible structure and the renovations are being constructed in accordance to historic standards under the supervision of the SC State Office of Historic Preservation.

NOW, THEREFORE, BE IT RESOLVED By the Mayor and Members of Council of the City of Spartanburg, in Council assembled:

Section 1. City Council has determined that 130 Magnolia Street is eligible to pursue the special tax assessment in accordance with Chapter 18, Article III of the Code of the City of Spartanburg.

Section 2. The Clerk shall provide written notice to the City of Spartanburg Architectural Design and Historic Review Board and the County Assessor of the adoption of this Resolution

Section 3. This Resolution shall become effective immediately upon its enactment.

DONE AND RATIFIED this _____ day of _____, 2015.

Junie L. White, Mayor.

ATTEST:

Connie S. McIntyre, City Clerk.