



CITY OF SPARTANBURG

SOUTH CAROLINA

CITY COUNCIL AGENDA

City Council Meeting
City Council Chambers
145 West Broad Street
Spartanburg, SC 29306
Monday, July 8, 2019

- I. **Moment of Silence**
- II. **Pledge of Allegiance**
- III. **Approval of the Minutes of the June 24, 2019 City Council Meeting**
- IV. **Approval of the Agenda of the July 8, 2019 City Council Meeting**
- V. **Public Comment**
*Citizen Appearance forms are available at the door and should be submitted to the City Clerk
- VI. **Ordinance**
 - A. **Authorizing the City Manager to Execute an Agreement for the Transfer of Vacant Lots on Lawrence Johnson Sr. Lane in the Forest Park Neighborhood Located at Block Map Sheet 7-16-11, Parcel 035.16; Block Map Sheet 7-16-11, Parcel 035.17; Block Map Sheet 7-16-11, Parcel 056.00; Block Map Sheet 7-16-11, Parcel 053.00; and Block Map Sheet 7-16-11, Parcel 052.00 (First Reading)**
Presenter: Martin Livingston, Neighborhood Services Director
 - B. **To Establish the Standards for the Placement of Small Wireless Facilities in Covered Areas in the City of Spartanburg, South Carolina; and for Other Purposes (Second Reading)**
Presenter: Robert P. Coler, City Attorney
- VII. **Resolutions**
 - A. **Approving Donation of Property at 417 Ammons Road (Tax Map Parcel Number 7-5-16-071.01) and Vacant Lot at Ammons Road (Tax Map Parcel Number 7-15-16-070.00)**
Presenter: Martin Livingston, Neighborhood Services Director
- VIII. **Spartanburg Playful City USA – 3 New Parks Projects Update**
Presenters: Kim Moultrie, Parks and Recreation Director
Mitch Kennedy, Assistant City Manager

IX. Boards and Commissions Update
Presenter: Connie McIntyre, City Clerk

X. City Council Updates

XI. Executive Session

A. Executive Session Pursuant to Section 30-4-70 (a) (5) of the South Carolina Code to Discuss Matters Relating to Real Estate

Council may take action on matters discussed in Executive Session after exiting Executive Session.

XII. Adjournment

** Non-Agenda Items*

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.

**Agenda Items*

City Code Sec. 2-56. Addressing Council, Comments or Remarks to Council on Agenda Items Not Requiring Public Hearing. On agenda items not requiring a Public Hearing, please provide to the City Clerk prior to the opening of the meeting, your desire to speak on an agenda item. Remarks shall be limited to five (5) minutes and total remarks on any agenda item shall not exceed twenty (20) minutes.



**City Council Meeting
City Council Chambers
145 West Broad Street
Spartanburg, SC 29306
Monday, June 24, 2019**

**(These minutes are subject to approval at
the July 8, 2019 City Council meeting.)**

City Council met this date with the following Councilmembers present: Mayor White, Mayor pro tem Alan Jenkins, Councilmembers Erica Brown, Jerome Rice, Ruth Littlejohn, Sterling Anderson and Jamie Fulmer. City Manager Chris Story and City Attorney Robert Coler 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 June 10, 2019 City Council Meeting –**
Mayor pro Jenkins made a motion to approve the minutes as received. Councilmember Littlejohn seconded the motion, which carried unanimously 7 to 0.
- IV. Approval of the Agenda of the June 24, 2019 City Council Meeting –**
Mayor White stated that Item VI.A needed to be removed from the agenda and moved to a later date. Councilmember Rice made a motion to approve the agenda as amended. Councilmember Brown seconded the motion, which carried unanimously 7 to 0.
- V. Public Comment**
*Citizen Appearance forms are available at the door and should be submitted to the City Clerk
(1) Crystal D. Miller, 1806 Habersham Place, Spartanburg, SC, spoke regarding her concerns about 5G cell tower dangers.
- VI. Ordinances – **This item was removed from the agenda.****
 - A. To Authorize and Direct Execution and Delivery of a Quitclaim Deed From the City of Spartanburg to Omnific Spartanburg LLC for the Alleyway Located Behind Omnific Spartanburg LLC at 638 E. Main Street (First Reading)**
Presenter: Robert P. Coler, City Attorney

VII. Resolution

- A. **Authorizing the Inclusion of Certain Property in a Multi-County Industrial Park within the City Limits of the City Pursuant to Section 4-1-170 of the Code of Laws of South Carolina, 1976, As Amended**

Presenter: Chris Story, City Manager

Mr. Story presented the item to Council as follows:

“At your May 28th City Council meeting you authorized the City Manager to enter into a Development Agreement with Arlington Properties to facilitate a \$20 million investment on Parcels 7-12-01- 184.00 and 7-12-01- 183.00 located at the northeast corner of N. Church Street and Asheville Highway. A component of executing that development agreement involves passage of the attached resolution which authorizes Spartanburg County to place the property in a business park.

We recommend your approval and look forward to any questions you may have.”

Councilmember Rice made a motion to approve the resolution as presented.

Councilmember Fulmer 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 7-12-01-184.00 located on 728 North Church Street that is Currently Zoned R-15 with a Land Use Designation of Single Family Residential District, and Parcel 7-12-01-183.00 Located on “0” Asheville Highway that is Currently Zoned LOD with a Land Use Designation of Limited Office District to Zone B-3, with a Land Use Designation of General Business District in Order to Allow Proposed Owner/Developer to be Able to Develop a Class A Multifamily Community on the Two Parcels. Danny Balon, Seamon Whiteside Engineering, on Behalf of Proposed Owner/Developer Mark Stuermann, Arlington Properties, Inc. on behalf of the Property Owners (Second Reading)**

Presenter: Natalia Rosario, Planner III

Mayor pro tem Jenkins made a motion to approve the consent agenda on second reading. Councilmember Fulmer seconded the motion, which carried unanimously 7 to 0.

IX. Executive Sessions

Councilmember Brown made a motion to adjourn to Executive Session for the reasons stated. Mayor pro tem Jenkins seconded the motion, which carried unanimously 7 to 0. Council adjourned to Executive Session at 5:42 p.m.

- A. **Executive Session Pursuant to Section 3-4-40(2) Concerning a Personnel Matter Related to Annual Review of Municipal Judge**
- B. **Executive Session Pursuant to Section 30-4-70 (a) (5) of the South Carolina Code to Discuss Matters Relating to Real Estate**

Council may take action on matters discussed in Executive Session after exiting Executive Session.

Council reconvened to regular session at 7:40 p.m. Mayor White stated that discussion was held with no decisions made.

X. Resolution to Authorize the City Manager to Enter into an Employment Contract for Municipal Judge

Presenter: Chris Story, City Manager

Councilmember Brown made a motion to approve the resolution as presented. Mayor pro tem Jenkins seconded the motion, which carried unanimously 7 to 0.

XI. Ordinances

A. Ordinance to Provide for the Adoption of a City Operating Budget, Its Execution and Effect, for the Fiscal Period July 1, 2019 Through June 30, 2020 (Second Reading)

Presenter: Chris Story, City Manager

Councilmember Fulmer made a motion to approve the ordinance as presented on second reading. Councilmember Anderson seconded the motion, which carried 6 to 1. Councilmember Rice voted against the motion.

B. To Raise Revenues for the City of Spartanburg for the Fiscal Year 2019-2020 to Levy Taxes on all Real Estate and Personal Property, Except Such as is Exempted by Law, in the Corporate Limits of the City of Spartanburg for Corporate Purposes for the Fiscal Year 2019-2020 and to Provide Penalties for the Delinquent Payment of Taxes Levied and Provided for (Second Reading)

Presenter: James Kennedy, Budget Director

Councilmember Anderson made a motion to approve the ordinance as presented. Councilmember Fulmer seconded the motion, which carried 6 to 1. Councilmember Rice voted against the motion.

C. To Establish the Standards for the Placement of Small Wireless Facilities in Covered Areas in the City of Spartanburg, South Carolina; and for Other Purposes (First Reading)

Presenter: Robert P. Coler, City Attorney

Mr. Coler presented the item to Council as follows:

“Small Cell Wireless Facilities are relatively small electronic transmitters used by telecommunication providers to increase the distribution of WiFi in a particular area like downtown Spartanburg. They are intended to supplement the use of traditional cellular towers (such as the one near City Hall’s parking lot). They are generally attached to existing utility poles or mounted on top of a newly constructed pole. The newly constructed pole often resembles a traditional street lamp pole and contains a cylindrical apparatus on top to transmit WiFi. Wireless

providers, such as Verizon and AT&T, place several small cell wireless facilities in an area and they transmit wifi to one another to increase wireless service in a particular area.

The proposed ordinance is intended to create an application process for wireless providers to follow, to regulate the aesthetics of the new apparatus, and to collect fees from wireless providers. The Federal Communications Commission has already issued guidelines on the application process and fees municipalities may employ. The proposed Ordinance follows those guidelines. Furthermore, the General Assembly considered a bill last year that would provide statewide regulation of small cell wireless facilities. It failed to make it out of committee but it likely will be reconsidered again next year. This proposed Ordinance is necessary to regulate this field unless or until the General Assembly passes statewide legislation.

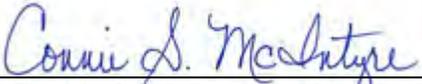
ACTION REQUESTED: Approval of the proposed Ordinance.

BUDGET & FINANCIAL DATA: No cost to City. Will generate modest amount of revenue for City.”

Councilmember Brown made a motion to approve the ordinance on first reading. Councilmember Littlejohn seconded the motion, which carried unanimously 7 to 0.

XII. Adjournment –

Mayor pro tem Jenkins made a motion to adjourn the meeting. Councilmember Rice seconded the motion, which carried unanimously 7 to 0. The meeting adjourned at 7:50 p.m.



Connie S. McIntyre, City Clerk



REQUEST FOR CITY COUNCIL ACTION

TO: Chris Story, City Manager
FROM: Martin Livingston, Neighborhood Services Director
SUBJECT: Transfer of Vacant Property on Lawrence Johnson Sr Lane
DATE: July 8, 2019

BACKGROUND:

Staff is requesting approval for the City Manager to execute documents to transfer ownership of vacant lots located on Lawrence Johnson Sr Lane in the Forest Park Neighborhood located at tax map number: 7-16-11-035.17; 7-16-11-035.16; 7-16-11-056.00; 7-16-11-053.00; and 7-16-11-052.00. The properties will be transferred to the ReGenesis Community Development Corporation (CDC) for the construction of housing for homeownership.

The City will provide closing cost assistance to the affordable buyers at 80% of Area Median Income (AMI) or less as part of the City's Homeownership Program. The purpose of this development is to convert useable City property into long term tax producing properties and to meet the City's housing objectives.

ACTION REQUESTED: Staff is requesting approval for the City Manager to transfer vacant lots on Lawrence Johnson Sr Lane in the Forest Park neighborhood located at Block Map Numbers: 7-16-11-035.17; 7-16-11-035.16; 7-16-11-056.00; 7-16-11-053.00; and 7-16-11-052.00 to the ReGenesis Community Development Corporation (CDC).

BUDGET AND FINANCIAL DATA: Not applicable.

ORDINANCE

AUTHORIZING THE CITY MANAGER
TO EXECUTE AN AGREEMENT FOR THE TRANSFER OF
VACANT LOTS ON LAWRENCE JOHNSON SR LANE IN THE FOREST PARK
NEIGHBORHOOD LOCATED AT BLOCK MAP SHEET 7-16-11, PARCEL 035.16;
BLOCK MAP SHEET 7-16-11, PARCEL 035.17; BLOCK MAP SHEET 7-16-11,
PARCEL 056.00; BLOCK MAP SHEET 7-16-11, PARCEL 053.00; AND BLOCK MAP
SHEET 7-16-11, PARCEL 052.00.

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

Section 1. Approve and authorize the City manager to transfer vacant lots on Lawrence
Johnson Sr Lane in the Forest Park neighborhood located at Block Map Numbers: 7-16-
11-035.17; 7-16-11-035.16; 7-16-11-056.00; 7-16-11-053.00; and 7-16-11-052.00.

Section 2. The City of Spartanburg entered into a development agreement with ReGenesis
Community Development Corporation (CDC) to build housing in the Forest Park
community.

Section 4. The City Manager is authorized to sign necessary documents to execute this
transaction.

Section 5. This Ordinance shall become effective upon the date of enactment.

DONE AND RATIFIED this _____ day of July, 2019.

MAYOR

ATTEST:

Connie McIntire, CITY CLERK

APPROVED AS TO FORM:

Robert P. Coler, City Attorney

___ / ___ / ___ 1st Reading

___ / ___ / ___ 2nd Reading

VI. B.

ORDINANCE

**AN ORDINANCE TO ESTABLISH THE STANDARDS FOR
THE PLACEMENT OF SMALL WIRELESS FACILITIES
IN COVERED AREAS IN THE CITY OF SPARTANBURG,
SOUTH CAROLINA; AND FOR OTHER PURPOSES**

WHEREAS, the City of Spartanburg (“City”) encourages wireless infrastructure investment and wishes to provide a fair and predictable process for the deployment of Small Wireless Facilities while managing Public Rights-of-Way in a manner that promotes the interests of the public health, safety and welfare; and,

WHEREAS, the City recognizes that Small Wireless Facilities including facilities commonly referred to as small cell and distributed antenna systems are critical to delivering wireless access to advanced technology, broadband, and 9-1-1 services to residences, businesses, and schools within the City; and,

WHEREAS, the City recognizes that Small Wireless Facilities together with high capacity transport medium such as fiber optic cabling may be effectively deployed in Public Rights-of-Way; and,

WHEREAS, this Ordinance is intended to grant municipal consent to use of Rights-of-Way and establish a standard application process to streamline the issuance of necessary permits in a manner that is not a barrier to competition, and does not unnecessarily delay the implementation and installation of Small Wireless Facilities,

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF SPARTANBURG, SOUTH CAROLINA, that the Spartanburg City Code is hereby amended to add a new Article VII to Chapter 16, Streets and Sidewalks, entitled “Standards for Placement of Small Wireless Facilities in Covered Areas,” to read as follows:

Section 1. Definitions.

“**Antenna**” means communication equipment that transmits or receives electromagnetic radio frequency signals used in the provision of Wireless Services.

“Applicable Codes” means uniform building, energy, electrical, plumbing, mechanical, gas, and fire codes in Title 6, Chapter 9 of the South Carolina Code of Laws, local amendments to those codes authorized by state law, and local codes or ordinances which impose requirements defined in Section 5 of this Ordinance including objective design and concealment standards to regulate location, context, material, color, stealth and concealment standards on a uniform and nondiscriminatory basis.

“Applicant” means any person who submits an Application to the City and is a Wireless Services Provider or a Wireless Infrastructure Provider.

“Application” means a request submitted by an Applicant for a permit to (i) Collocate Small Wireless Facilities; or, (ii) construct, install, maintain, operate, replace or modify a Utility Pole or Wireless Support Structure.

“Cable, Communications, Fiber or Electric Easement” means an easement, granted to a cable or video service provider, a communications service provider (including without limitation a telephone utility), a fiber optics cable services provider, or an electric services provider created or authorized by state law to provide such services, that runs parallel to and abuts or within a Rights-of-Way and is occupied by existing Utility Poles or Wireless Support Structures carrying electric distribution lines, wires, cable, conduit, fiber optic cable for telecommunications, cable or electric service or supporting municipal street lights, or security lights. The term Cable, Communications, Fiber or Electric Easement excludes easements for service drops or lines connecting the customer’s premises to the cable, communications, fiber or electrical provider.

“City-Owned Pole” means (i) a Utility Pole owned or operated by the City in Covered Areas, including a Utility Pole that provides lighting or traffic control functions, or other law enforcement functions, including light poles, traffic signals, and structures for signage, and (ii) a pole or similar structure owned or operated by the City in a Covered Area that supports only Wireless Facilities. The term does not include a Utility Pole owned or operated by and accounted for as an asset of a municipal electric utility.

“Collocate” means to install, mount, maintain, modify, operate, or replace one or more Wireless Facilities on, under, within, or adjacent to an existing Wireless Support Structure or Utility Pole located in Covered Areas within the jurisdiction of the City. **“Collocation”** has a corresponding meaning.

“Covered Areas” means the surface of, and the space above and below, any public “Rights-of-Way,” “ROW,” “City Rights-of-Way,” “Public Rights-of-Way,” and/or “Cable, Communications, Fiber or Electric Easement” as those terms are defined herein.

“Day” means calendar day unless the last day for the City or an Applicant to take action under this Ordinance ends on a weekend, holiday, or time when all but City emergency services are closed due to weather or some unforeseen situation.

“Decorative Pole” means a Utility Pole specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than specially designed informational or directional signage or a temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory municipal practices.

“Design District” means an area that is zoned, or otherwise designated by municipal ordinance, and for which the City maintains and enforces unique design and aesthetic standards on a uniform and nondiscriminatory basis.

“Fee” means a one-time charge.

“Historic District” means an area that is zoned or otherwise designated as a Historic District under municipal, state or federal law and for which the City maintains and enforces unique design and aesthetic standards on a uniform and nondiscriminatory basis.

“Micro Wireless Facility” means a Small Wireless Facility that meets the following qualifications: (i) is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height; and, (ii) any exterior antenna is no longer than 11 inches.

“Person” means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the City.

“Rate” means a recurring charge.

“Rights-of-Way” or “ROW” or “City Rights-of-Way” or “Public Rights-of-Way” means that area on, below, or above a public roadway, highway, street, sidewalk, alley dedicated to, managed or controlled by the City, County or the State of South Carolina, but not including a federal interstate highway, in the City.

“Small Wireless Facility” means a Wireless Facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six (6) cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of not more than six (6) cubic feet; and

(ii) all other wireless equipment associated with the facility is cumulatively no more than twenty-eight (28) cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

“Transmission Pole” means a pole or similar structure that is used in whole or in part to carry electric transmission (as opposed to distribution) lines.

“Underground District” means an area that is designated by ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing above ground structures in a Covered Area and for which the City maintains and enforces standards on a uniform and nondiscriminatory basis.

“Utility Pole” means a pole or similar structure that is used in whole or in part for the purpose of carrying electric distribution lines or cables or wires for telecommunications, cable or electric service, or for lighting, traffic control devices, traffic control or directional signage, or a similar function regardless of ownership, including City-Owned Poles. Such term shall not include structures supporting only Wireless Facilities, nor shall it include Wireless Support Structures.

“Wireless Facility” means equipment at a fixed location that enables Wireless Services between user equipment and a communications network, including: (i) equipment associated with wireless communications; (ii) radio transceivers, Antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes Small Wireless Facilities. The term does not include the structure or improvements on, under, or within which the equipment is Collocated, wireline backhaul facilities, coaxial or fiber optic cable that is between Wireless Support Structures or Utility Poles or coaxial or fiber optic cable that is otherwise not immediately adjacent to, or directly associated with, an Antenna.

“Wireless Infrastructure Provider” means any Person including a Person authorized to provide telecommunications service in the State, that builds, installs or maintains Utility Poles, wireless communication transmission equipment, Wireless Facilities or Wireless Support Structures.

“Wireless Services” means any services provided using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, delivered to the public using Wireless Facilities.

“Wireless Services Provider” means a Person who provides Wireless Services.

“Wireless Support Structure” means a freestanding structure, such as a monopole, or other existing or proposed structure, designed to support, or capable of supporting, Wireless Facilities. Such term shall not include a Utility Pole.

Section 2. Purpose and Scope.

(a) The purpose of this Ordinance is to provide policies and procedures for the placement of Small Wireless Facilities in Covered Areas within the jurisdiction of the City.

(b) It is the intent of this Ordinance to establish uniform standards including, but not limited to:

- (i) Prevention of interference with the use of streets, sidewalks, alleys, parkways, traffic light poles or other light poles, and other public ways and places;
- (ii) Prevention of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;
- (iii) Prevention of interference with other facilities and operations of facilities lawfully located in Covered Areas or public property;
- (iv) Preservation of the character of neighborhoods where facilities are installed;
- (v) Preservation of the character of historic structures, or historic neighborhoods, including but not limited to such structures or neighborhoods listed on the National Register of Historic Places or locally designated Historic Districts; and,
- (vi) Facilitation of the rapid deployment of Small Wireless Facilities to provide the citizens with the benefits of advanced Wireless Services.

Section 3. Permitted Use; Application Process and Fees.

- (a) **Permitted Use and Consent.** Collocation of a Small Wireless Facility on an existing Utility Pole or Wireless Support Structure, or a new or modified Utility Pole or Wireless Support Structure installed in a Covered Area, shall be a permitted use, except in supplemental review districts where such facilities are a conditional use, subject to administrative review, conditions and other

requirements in Section 5. In accord with Article VIII, Section 15 of the State Constitution and related municipal code and ordinance provisions, the City consents to the use of Public Rights-of-Way by permit holders acting in compliance with this Ordinance.

(b) **Permit Required.** No person shall place a Small Wireless Facility in a Covered Area without first filing a Small Wireless Facility Application and obtaining a permit, except as otherwise provided in this Ordinance.

(c) **Permit Applications.** All Small Wireless Facility Applications filed pursuant to this Ordinance shall be on a form, paper or electronic, as required by the City. The Applicant may designate portions of its Application materials that it reasonably believes contain proprietary or confidential information as “proprietary” or “confidential” by clearly marking each page of such materials accordingly, and the City shall endeavor to protect materials so designated from public disclosure to the fullest extent permitted by state law.

(d) **Application Requirements.** The Small Wireless Facility permit Application shall be made by the Applicant, or its duly authorized representative as noted in a notarized statement from a Person with the Applicant with authority to make such an authorization, and shall contain the following:

- (i) The Applicant’s name, address, telephone number and e-mail address;
- (ii) Facility owner’s name, address, telephone number and email address, if different from Applicant;
- (iii) Intended facility use: owner operated or owner leased capacity;
- (iv) The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the Applicant with respect to the filing of the Application;
- (v) A general description of the proposed scope of work for the Collocation of the Small Wireless Facility. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters, including but not limited to sub-surface utilities, likely to be affected or impacted by the work proposed;

- (vi) Identification of any consultant that is acting on behalf of the Applicant and that is authorized to speak with the City, or a designee of the City, on the area of consultation for the Applicant even if the Applicant cannot be available;
 - (vii) Verification from an appropriate representative of the Applicant that the Small Wireless Facility shall comply with all Applicable Codes;
 - (viii) Verification of payment of the annual municipal consent or administrative fee for telecommunications companies to use Public Rights-of-Ways pursuant to Section 58-9-2230;
 - (ix) Verification of local business license, if applicable;
 - (x) Evidence the Applicant is duly authorized to do business in South Carolina;
 - (xi) Evidence the Applicant has received any necessary certificate of public convenience and necessity or other required authority from the South Carolina Public Service Commission or the Federal Communications Commission or evidence that it is not required;
 - (xii) A copy of an approved South Carolina Department of Transportation encroachment permit and all documents required by SCDOT as part of the encroachment permit application, if the proposed location is within a SCDOT Right-of-Way; and,
 - (xiii) If the proposed location is outside of a SCDOT Right-of-Way, a statement that the Applicant has a lease, attachment agreement or other authorization from the owner of the Utility Pole or structure proposed for Collocation.
- (e) **Routine Maintenance and Replacement.** An Application shall not be required for:
- (i) Routine maintenance;
 - (ii) The replacement of a Small Wireless Facility with another Small Wireless Facility that is substantially similar or smaller in size, weight, and height; or
 - (iii) The installation, placement, maintenance, operation, or replacement of Micro Wireless Facilities that are strung on cables between existing Utility Poles and/or Wireless Support Structures in compliance with the National Electrical Safety Code by a Wireless Services Provider or a Wireless Infrastructure Provider that is

authorized to occupy the Public Rights-of-Way and that is remitting a consent, franchise, or administrative Fee pursuant to S.C. Code Ann. § 58-9-2230.

(f) **Information Updates.** Any amendment to information contained in a permit Application shall be submitted in writing to the City within ten (10) business days after the change necessitating the amendment.

(g) **Consolidated Application.** An Applicant seeking to Collocate multiple Small Wireless Facilities may, at the Applicant's discretion, file a consolidated Application and receive a single permit for up to twenty (20) Small Wireless Facilities. Provided, however, the City's denial of any site or sites within a single Application shall not affect other sites submitted in the same Application. The City shall grant a permit for any and all sites in a single Application that it does not deny subject to the requirements of this Section.

(h) **Application Fees.** Unless otherwise provided by law, and except as to telecommunication companies exempted pursuant to S.C. Code § 58-9-2230, all Applications for permits pursuant to this Ordinance shall be accompanied by a Fee of \$100.00 for each Small Wireless Facility, except that the Fee for Small Wireless Facilities addressed in a consolidated Application shall be \$100.00 each for the first five Small Wireless Facilities and \$50.00 for each additional Small Wireless Facility up to a maximum of twenty (20) Small Wireless Facilities.

(i) **Interference with Public Safety Equipment.** A Small Wireless Facility shall be operated and maintained in a manner that does not interfere with public safety (police, traffic control, fire and emergency services) equipment.

Section 4. Action on Permit Application.

(a) **Review of Small Wireless Facility Applications.** The City shall review the Application for a Small Wireless Facility permit for conformity with applicable requirements of this Ordinance, and shall issue a permit on nondiscriminatory terms and conditions subject to the following requirements:

- (i) Within thirty (30) days of receiving an Application, the City must determine and notify the Applicant whether the Application is complete; or if an Application is incomplete, the City must specifically identify the missing information.
- (ii) Make its final decision to approve or deny the Application within ninety (90) days of submission of a completed Application .

(iii) Notify the Applicant in writing of its final decision, and if the Application is denied, specify the basis for a denial, including citations to federal, state or local code provisions and/or statutes on which the denial was based.

(iv) Notwithstanding an initial denial, the Applicant may cure the deficiencies identified by the City and resubmit the Application within thirty (30) days of the denial, and the City shall approve or deny the revised Application within thirty (30) days of receipt of it. The subsequent review by the City shall be limited to the deficiencies cited in the original denial.

(b) **Review Deadline.** If the City fails to act on an Application within the ninety (90) day review period (or within the thirty (30) day review period for an amended Application), the Applicant may provide notice that the time period for acting has lapsed. City shall then have thirty (30) days from said notice to respond and failure to respond means the Application is then deemed approved.

(c) **Review of Eligible Facilities Requests.** Notwithstanding any other provisions of this Ordinance, the City shall approve and may not deny Applications that constitute eligible facilities requests for modification of an eligible support structure that does not substantially change the physical dimensions of such structure as provided in 47 CFR 1.40001, within sixty (60) days according to the procedures established under 47 CFR 1.40001(c).

(d) **Compensation.** Subject to the limitations set forth in Section 3(h) herein, every permit shall include as a condition the Applicant's agreement to pay such lawful franchise Fees, business license taxes, administrative Fees and consent Fees as are permitted under applicable South Carolina and federal law. The Applicant shall also pay all applicable 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.

Section 5. Requirements for Small Wireless Facilities in Covered Areas.

(a) **Administrative Review.** The City shall perform an administrative review of permit Applications including the location or installation of new, modified, or replacement Utility Poles and/or Wireless Support Structures and the attachment of Wireless Facilities and equipment on Utility Poles or Wireless Support Structures. Review factors, in addition to location, shall include the size, shape, color, texture, and materials of the structures and attachments.

(i) The City may require a proposed Wireless Facility be designed to not be significantly more readily apparent or plainly visible (to a reasonable person of ordinary sensibilities) from Covered Areas than existing utility structures, poles and equipment located within five hundred (500) linear feet on the same Covered Area as the subject Utility Pole or Wireless Support Structure.

(ii) Where Small Wireless Facilities are determined to be appropriate, the use of reasonable stealth and concealment treatments, low profile equipment and control boxes, and screening may be required to avoid significant negative impacts on the character and visual aesthetics of the area. However, such requirements may be waived by the City upon a showing that the particular location of a Small Wireless Facility does not warrant stealth or concealment treatments or imposes an excessive expense. The waiver shall be granted or denied within forty-five (45) days after the date of the request.

(iii) Supplemental review districts identified in Section 5(c) and listed in Appendix A may be subject to a higher level of review.

(b) **Maximum Size of Permitted Use.**

(i) The height of an Antenna of a Collocated Small Wireless Facility shall be limited to the greater of ten (10) feet above (a) the height of an existing or modified Utility Pole or Wireless Support Structure; or (b) the height of a new Utility Pole or Wireless Support Structure as provided in (ii) below.

(ii) The height of a new or modified Utility Pole, or Wireless Support Structure is limited to the greater of (a) the tallest Utility Pole, excluding Transmission Poles, or Wireless Support Structure located in the same Covered Area, measured from grade, in place within five hundred (500) linear feet on the same Covered Area as the subject Utility Pole or Wireless Support Structure as of the effective date of this Ordinance; or (b) in the absence of any such Utility Pole or Wireless Support Structure, either (i) forty (40) feet in any area zoned exclusively for single family residential use, unless a waiver is granted for good cause shown, or (ii) fifty (50) feet in any other area.

(iii) Collocation is not allowed on a Decorative Pole less than twenty (20) feet in height.

(c) **Supplemental Review Districts.** Collocated Small Wireless Facilities and new or modified Utility Poles or Wireless Support Structures located in supplemental review districts shall be a conditional use and subject to the design and aesthetic requirements and review processes for structures specified in this Ordinance establishing the supplemental review district(s) in addition to the requirement of this Ordinance, provided that the City will work in good faith with the Applicant to accommodate the installation of Collocated Small Wireless Facilities and new or modified Utility Poles or Wireless Support Structures in supplemental review districts to the fullest extent practicable. The City reserves its right to maintain and implement the following types of supplemental review districts.

(i) **Underground Districts.** A Wireless Services Provider or a Wireless Infrastructure Provider shall comply with nondiscriminatory requirements that prohibit electric utilities, telecommunications or cable providers from installing above-ground structures in the Covered Area in these districts. Nothing in this section shall prohibit the use or replacement of existing Utility Poles or Wireless Support Structures in Underground Districts for the Collocation of Small Wireless Facilities subject to administrative review by the zoning administrator, appropriate design and concealment and a finding that such use does not increase the height by more than three (3) feet.

(ii) **Historic and Design Districts.** As a condition for approval of new Small Wireless Facilities or new Wireless Support Structure in a Historic District or a Design District, the City may require that a Wireless Services Provider or a Wireless Infrastructure Provider comply with the design and aesthetic standards of the Historic District or Design District to minimize the impact to the aesthetics in a Historic District or on a Design District's Decorative Poles. If design and concealment treatments are determined on review by the City to be insufficient to mitigate harm to the Historic District or Design District, the Application may be denied.

This section may not be construed to limit a municipality's authority to enforce historic preservation zoning regulations consistent with the preservation of local zoning authority under 47 U.S.C. Section 332(c)(7), the requirements for facility modifications under 47 U.S.C. Section

1455(a), or the National Historic Preservation Act of 1966 (54 U.S.C. Section 300101 et seq.), and the regulations adopted to implement those laws.

(d) **Appeals, Special Exceptions and Variance Requirements.** Appeals of administrative decisions and requests for special exceptions and variances from the provisions of this Ordinance, when strict application would result in an unnecessary hardship or in the inability to deploy needed Small Wireless Facilities, shall be heard and decided by the Board of Zoning Appeals or equivalent board for architectural, design or historical district reviews. An applicant seeking a Special Exception to construct a new Decorative Pole, Utility Pole or other Wireless Support Structure to Collocate a Small Wireless Facility in an Underground District shall demonstrate, including certification through an engineer, that it has diligently attempted to locate the proposed Decorative Pole, Utility Pole, Wireless Support Structure, or Small Wireless Facility outside of the Underground District and that placement of the Decorative Pole, Utility Pole, Wireless Support Structure, or Small Wireless Facility within the Underground District is necessary to provide the needed wireless coverage or capacity, and one or more of the following conditions exist supporting a Special Exception:

(i) No existing Utility Pole or Wireless Support Structure is located within the location search radius or to the extent a Utility Pole or Wireless Support Structure is located within the search radius, such Utility Pole or Wireless Support Structure:

- a. Is not available for Collocation under commercially reasonable rates, terms, and conditions;
- b. Cannot accommodate the Collocation of the Small Wireless Facility and meet the technical requirements necessary to deliver adequate wireless service coverage or capacity; or
- c. Would require modifications exceeding the three (3) feet height limitation imposed in section 5(c)(i).

(ii) The only available option to deliver adequate wireless service coverage or capacity in the search radius requires modifications to an existing Utility Pole or Wireless Support Structure exceeding the three (3) feet height limitation imposed in section 5(c)(i) or the installation of a new Utility Pole or Wireless Support Structure for Collocation of a Small Wireless Facility, or

- (iii) The applicant has demonstrated other circumstances that, in the reasonable discretion of the Board of Zoning Appeals, warrant a special exception or variance.

The Applicant shall abide by the design, stealth and concealment treatments imposed as conditions of the special exception.

(e) **Existing Supplemental Review Districts.** Supplemental review districts approved by the City as of the effective date of this Ordinance are listed in Appendix A. The Code provisions authorizing the district, applicable design guidelines or manual, review authority and appeal jurisdiction are specified in Appendix A. Nothing in this Ordinance shall prohibit or otherwise limit the City from establishing additional supplemental review districts, provided however, that facilities and structures for which a permit was approved or deemed approved pursuant to this Ordinance prior to the establishment of the additional supplemental review district remain subject to the provisions of this Ordinance, including routine maintenance and replacement of those facilities and structures as set out in Section 3(e)(i) and (ii) of this Ordinance, and not to any provisions otherwise applicable to the additional supplemental review district. If a Wireless Services Provider or a Wireless Infrastructure Provider voluntarily replaces such facilities in a manner that does not comply with Section 3(e)(ii) of this Ordinance, or if a Wireless Services Provider or a Wireless Infrastructure Provider voluntarily relocates such facilities, such replacement or relocation is subject to the then-existing provisions and requirements of the additional supplemental review district.

(f) **Repair of Damage.** A Wireless Services Provider or a Wireless Infrastructure Provider shall repair all damage to a City Right-of-Way directly caused by the activities of the Wireless Services Provider or the Wireless Infrastructure Provider, while occupying, installing, repairing, or maintaining Wireless Facilities, Wireless Support Structures, City Utility Poles, or Utility Poles and to return the Right-of-Way to its functional equivalence before the damage. If the Wireless Services Provider or the Wireless Infrastructure Provider fails to make the repairs required by the City within forty-five (45) days after written notice, unless the City and the Wireless Services Provider or the Wireless Infrastructure Provider agree in writing to a longer time period, the City may undertake those repairs and charge the applicable party the reasonable and documented cost of the repairs. The City may maintain an action to recover the costs of the repairs.

Section 6. *Effect of Permit.*

(a) **Authority Granted: No Property Right or Other Interest Created.** A permit from the City authorizes an Applicant to undertake only certain activities in accordance with the Ordinance, and does not create a property right or grant any authority whatsoever to the Applicant to impinge upon the rights of others who may already have an interest in the Covered Area.

(b) **Duration.** Unless construction has actually begun and is diligently pursued to completion at that point, no permit for construction issued under this Ordinance shall be valid for a period longer than twelve (12) months unless both City and Applicant agree to a reasonable extension and all required Fees are paid for the term regardless of construction. The inability of the Applicant to obtain electrical power or backhaul transport services to serve the Wireless Facility such that it is operational within the twelve (12) months due to the action or inaction of third-party utility providers shall not result in the invalidity of the permit.

Section 7. *Removal, Relocation or Modification of a Small Wireless Facility in the ROW.*

(a) **Notice.** Within ninety (90) days following written notice from the City, a Wireless Services Provider or a Wireless Infrastructure Provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any Wireless Facilities or Wireless Support Structures within the Rights-of-Way whenever the City, in its reasonable discretion, has determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the Rights-of-Way.

(b) **Emergency Removal or Relocation of Facilities.** The City retains the right to cut or move any Wireless Facility or Wireless Support Structure located within its Rights-of-Way as the City, in its reasonable discretion, may determine to be necessary, appropriate, or useful in response to any public health or safety emergency. If circumstances permit, the City shall notify the Wireless Services Provider or the Wireless Infrastructure Provider and provide opportunity to move its own Wireless Facilities or Wireless Support Structure prior to the City cutting or removing a Wireless Facility or Wireless Support Structure and the City shall notify the Wireless

Services Provider or the Wireless Infrastructure Provider after cutting or removing a Wireless Facility.

(c) **Abandonment of Facilities.** Upon abandonment of a Wireless Facility or Wireless Support Structure within the City Rights-of-Way, the Wireless Services Provider or the Wireless Infrastructure Provider shall notify the City within ninety (90) days of such abandonment. Following receipt of such notice the City may direct the Wireless Services Provider or the Wireless Infrastructure Provider to remove all or any portion of the Wireless Facility or Wireless Support Structure if the City, in its sole discretion, determines that such removal will be in the best interests of the public health, safety, and welfare.

(d) **Abandonment by Inaction.** At any point when a Wireless Services Provider or a Wireless Infrastructure Provider fails to pay any required Fee, or annual payment to the City, and fails to respond within sixty (60) days to a written inquiry from the City as to whether the Wireless Services Provider or the Wireless Infrastructure Provider intends to continue to operate a Wireless Facility or Wireless Support Structure, for whatever reason, the Wireless Facility shall be deemed abandoned and the City may, at its sole option, remove all or any portion of the Wireless Facility or Wireless Support Structure, or take other action as authorized by law, including recovery of actual costs incurred in removing the Wireless Facility or Wireless Support Structure.

Section 8. *Attachment to City-Owned Utility Poles in the Covered Areas.*

(a) **Annual Rate.** The rate to place a Small Wireless Facility in Covered Areas shall be three hundred (\$300.00) dollars per year, due at the time of application and prorated for the first year and payable in advance on January 1st each year thereafter. Failure to pay annual rate by January 31st shall result in City removing all Wireless Facilities in arrears at Applicant's expense. This rate is in addition to reimbursement to the City for any expenses for make-ready work. The City reserves the right to require a pole attachment agreement to further define the terms and conditions of attachments to City-Owned Poles.

(b) **Cease Payment.** A Wireless Services Provider or a Wireless Infrastructure Provider is authorized to remove its facilities at any time from Covered Areas and cease paying the annual rate to the City as of the next due date for payment following the removal.

(c) **Make-Ready.** For City-owned Utility Poles in Covered Areas, the Applicant shall reimburse the City for expenses for any reasonable make-ready work. The City shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested Small Wireless Facility, including pole replacement if necessary, within sixty (60) days after receipt of a completed request. Make-ready work including any pole replacement shall be completed within sixty (60) days of written acceptance of the good faith estimate by the Wireless Services Provider or the Wireless Infrastructure Provider.

(d) **Municipal Utilities Excluded.** Nothing in this section shall be construed to affect the authority of a municipal electric utility to deny, limit, restrict, or determine the rates, Fees, terms, and conditions for the use of or attachment to a Utility Pole owned, or operated and accounted for as an asset of, a municipal electric utility.

Section 9. Severability.

In the event any title, subtitle, section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase, or work of this Ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining portions of the Ordinance which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this Ordinance.

Section 10. Effective Date.

This Ordinance shall take effect upon second reading.

DONE AND RATIFIED THIS ____ DAY OF _____, 2019

Junie White, Mayor

ATTEST:

City Clerk

____/____/____ First Reading

____/____/____ Second Reading

APPROVED AS TO FORM:

City Attorney



REQUEST FOR CITY COUNCIL ACTION

TO: Chris Story, City Manager

FROM: Martin Livingston, Neighborhood Services Director

SUBJECT: Donation of Property at 417 Ammons Road and vacant lot on Ammons Road

DATE: July 8, 2019

BACKGROUND:

Richard Allen Brown, the owner of property located at 417 Ammons Road and a vacant lot on Ammons Road is interested in donating the two properties located in the Park Hills community to the City of Spartanburg for the benefit of the Spartanburg Downtown Airport. The City will cover the cost of title searches and closing cost.

ACTION REQUESTED:

Approval of Resolution accepting the donation of the property from:
Richard Allen Brown, the owner of property located at 417 Ammons Road and a vacant lot at Ammons Road – Park Hills community

BUDGET & FINANCIAL DATA:

N/A.

A RESOLUTION
APPROVING DONATION OF PROPERTY AT 417 AMMONS ROAD
(TAX MAP PARCEL NUMBER 7-15-16-071.01)
AND VACANT LOT AT AMMONS ROAD (TAX MAP PARCEL NUMBER 7-15-16-070.00)

WHEREAS, the City of Spartanburg (the "City") continues its interest in supporting efforts at the Spartanburg Downtown Airport; and

WHEREAS, The owner of the properties, Richard Allen Brown, has agreed to donate the properties located at 417 Ammons Road, Tax Map Parcel Number 7-15-16-071.01 and a vacant lot on Ammons Road, Tax Map Parcel Number 7-15-16-071.00 (the "Properties"); and

WHEREAS, the City has determined that it is in the public interest to accept the donation of Tax Map Parcel Numbers 7-15-16-071.01 and 7-15-16-071.00, from Richard Allen Brown.

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

Section 1. To accept the donation of the Properties as described herein.

Section 2. Richard Allen Brown shall execute and deliver a deed, in a form approved by the City Attorney, to the City conveying the Properties described herein.

Section 3. This Resolution shall become effective upon the date of enactment.

DONE AND RATIFIED this _____ day of _____, 2019.

Junie L. White, Mayor.

ATTEST:

Connie S. McIntyre, City Clerk.

APPROVED AS TO FORM:

Robert P. Coler
City Attorney



153

150

148

146

422

819

811

809

OCTAVIA DR

151

149

147

145

417

815

801

194

196

198

200

426

803

AMMONS RD

0

805

428

KENSINGTON DR

FAIRFIELD CT

0

0



Memo to Council

TO: Chris Story, City Manager

FROM: Kim Moultrie, Parks and Recreation Director
Mitch Kennedy, Assistant City Manager

SUBJECT: Spartanburg Playful City USA – 3 new Parks Projects coming this Fall

DATE: July 3, 2019,

The spirit of partnership and collaboration continues to advance quality of life improvements in our City. Three new play space projects are scheduled to be completed by the end of October.

- The Pineview Hills Neighborhood Association submitted a grant request to the Mary Black Foundation for a new playground and park improvements in their community owned park space. The request was granted, and City staff is working closely with the neighborhood to complete this project.
- The City and its community partners have a long standing relationship with the national organization “Kaboom”, having been designated a “Playful City USA” 11 times, and was the first in the State with that designation. City staff was made aware of a “Community Build Playground” grant opportunity and identified the Beaumont Neighborhood as the designated neighborhood. The grant was awarded and staff will coordinate the planning with Kaboom, Beaumont Neighborhood Association, and community partners for a community build in October. This will be the second “Kaboom Community Playground Build” in the City.
- Several months ago the City was contacted by Spartanburg County School District 7, Meeting Street Academy, and Denny’s regarding a potential play space at Denny’s Plaza to support the recreational activities of Meeting Street Academy. The academy lacks adequate place space for students age 5-12, and often can be seen playing in the Broad Street parking lot adjacent to the school. A series of meetings amongst the partners led to a plan to construct a new playground at Denny’s Plaza on the Campus of Denny’s Corporation. The park improvement will be added to the Joint-Use Agreement between the City and School District 7, which gives public access to the space when not in use by Meeting Street Academy, or any other District 7 function. The project is scheduled to be completed in early October.

Staff would like to update City Council on some additional details of each project, and what it means to our neighborhoods, downtown, and community partners.