REGULAR MONTHLY MEETING OF BERKELEY COUNTY COUNCIL

July 28, 2003

The **REGULAR MONTHLY MEETING OF BERKELEY COUNTY COUNCIL** was held on Monday, July 28, 2003, 7:01 p.m., in the Assembly Room, Berkeley County Office Building, 223 N. Live Oak Drive, Moncks Corner, South Carolina.

PRESENT: Mr. James H. Rozier, Jr., Supervisor-Chairman; Mr. William E. Crosby, Council Member District No. 3 and Vice Chairman of County Council; Mr. Milton Farley, Council Member District No. 1; Ms. Judith K. Spooner, Council Member District No. 2; Mr. Charles E. Davis, Council Member District No. 4; Mr. Dennis L. Fish, Council Member District No. 5; Mrs. Judy C. Mims, Council Member District No. 6; Mr. Caldwell Pinckney, Jr., Council Member District No. 7; Mr. Steve C. Davis, Councilmember District No. 8; Mr. D. Mark Stokes, County Attorney, and Ms. Barbara B. Austin, Clerk of County Council.

Pursuant to the Freedom of Information Act, notice of the meeting date, time, place and agenda was posted on the bulletin board at the entrance of the County Office Building, 223 N. Live Oak Drive, Moncks Corner, South Carolina and the Berkeley County Library, and mailed to the newspaper, radio stations, television stations, concerned citizens and posted electronically.

Chairman Rozier called the meeting to order. Councilmember Spooner gave the invocation and Councilmember Crosby led in the Pledge of Allegiance to the Flag of the United States of America.

APPROVAL OF MINUTES:

Chairman Rozier asked for approval of the following minutes: Special Council Meeting June 9; Public Hearing – Sale of Bonneau Property June 9; Public Hearings: Bills No. 03-23, 03-24, 03-25, 03-26, 03-27, 03-28, 03-29 and Resolution authorizing the purchase of the K-Mart building, Resolution authorizing reimbursement to Cty. for costs of acquisition of land, etc. prior to issuance of tax-exempt bonds, Bills No. 03-11, 03-20, 03-21, 03-22 and 03-30 and Regular Council meeting all held on June 16, 2003.

It was moved by Councilmember Crosby and seconded by Councilmember Spooner to approve the minutes as presented. The motion passed by unanimous voice vote of Council.

PUBLIC DISCUSSION:

Jean Mills, 1204 Waterside Blvd., (Pimlico) addressed Council and expressed concerns in regard to Pimlico Civic Club having fund balance in excess of $28,000 and stated that money should stay in the Pimlico Special Tax District. All residents should have an opportunity to vote on the use of any large amounts of monies being used for whatever purpose. She further suggested that the STD fee should be reduced.

Diane Dixon, 1612 Windsor Ln., (Pimlico) read the following into the record:

To: Berkeley County Council Members *July 28, 2003*
From: Concerned Residents of Pimlico

Mrs. Spooner has not been open with information pertaining to the issues, which over 200 Pimlico residents brought to the councils attention back in May. As of today, our community knows nothing more than when the Pimlico Special Tax District problems were presented to County Council in May.

Please do not pass the proposed Pimlico Special Tax District budget until information has been released to yourselves and Pimlico residents. This money is collected from us, and we should have a say in how it is used. Mrs. Spooner has shown she does not desire to truly represent our neighborhood as a whole. Here are issues, which no information has been forthcoming:

1) The Pimlico Civic Club now holds $26,000 of accumulated Special Tax District money, when will this money be returned to the Special Tax District? The Civic Club never should have been given this money and only paid members of the Civic Club can vote on its use.

2) The Special Tax District continues to write checks for contracts the Civic Club is currently signing. At last weeks Pimlico Special Tax District meeting, it was stated that they had wrote a check for $2,000 for a fence. The Civic Club had signed that contract after the Special Tax District issues were brought to County Councils attention. We were told that only "emergency" items were to be paid for until The Special Tax District issues were settled. Why has Mrs. Spooner allowed this to continue?

3) On July 7, a special meeting for the Pimlico Tax District was held at the Community Center in Pimlico. Mrs. Spooner was present. Everyone who attended the meeting was told they would have to exit the building until she and the assistant Attorney could speak with the Special Tax District committee about changes. We waited for almost two hours before we were told we could enter the building. As we were instructed at that time, we could ask questions but all issues were still being worked on. Upon several questions from myself and other neighbors pertaining to the $26,000 the Civic Club is holding and their future use of Special Tax District funds, Mrs. Spooner abruptly told me to quit asking the same question. If we had been given clear answers, obviously the question would not have been repeated.

4) On July 22, a Special Tax District meeting was held. One of the items on the agenda was to fill a vacancy. Three people sought nomination for that position. Two people were not members of the Civic Club, one person was. The Civic Club member was chosen to be recommended to fill the vacancy. The Special Tax District President stated, "To report from our executive session, we met on the matter of appointment of a person for commissioner, and committee voted to send the name of Monroe Richardson to county council as replacement and the rationale behind that was of the three people who submitted their names, Monroe has served on the commission before and County Council said that they would want someone who has been on it before in the replacement position., " Since the previous members have not known the correct procedures and guidelines to follow, obviously with the problems our neighborhood now faces, why would there be such a statement made? We do not believe County Council (meaning all Council District representatives) made this statement. We would like a true "fair" nomination procedure.

Council Members, we ask your assistance at this time. As you can see, there has been no positive changes made to address the problems of our Special Tax District Funds. The fact is the funds have not been utilized correctly in the past. We are disappointed that Mrs. Spooner has shown that she does not want us to know what changes are being made. She has shown this by having closed meetings and not concisely answering questions we have asked. Mrs. Spooner was appointed to our district due to district lines being re-drawn. We did not elect her to represent us. Until we can elect our district representative, we ask all of you to assist our neighborhood. Thank you.

Chairman Rozier asked if all of the 200 citizens that signed the petition had the opportunity to read the letter before it was presented to Council?

Ms. Dixon stated, "No Sir, not all of them have read it."

Councilmember Spooner stated she has been accused of not doing things and has been told she shouldn't do certain things. "I am really confused as to what my part should be here." There were two (2) meetings with the County Attorney in Executive Session. Included were Mr. Larry Singer representing the citizens at large, Mr. Ed Rodgers representing the Civic Club and Ms. Ellen Green representing the STD.

Ms. Dixon also thinks the STD fees should be reduced or eliminate the STD completely, due to the excess funds in both the Civic Club ($28,000) and STD ($55,000).

Councilmember Spooner stated the money was for Capital Improvements.

Ms. Dixon explained nothing was being done with the money. She stated there are roads that need paving, the entrance way is crumbling down and lakesides are "so horrendous that you cannot walk or fish around them. Something is obliviously wrong. The money is to maintain and improve the neighborhood."

Councilmember Spooner stated the STD was voted on by the citizens and is composed of five (5) representatives to make decisions in regard to the money. They have a Public Hearing, just as done on County Council, and then the five (5) member board makes decisions. Having input from the Public does not mean the board must make changes. "I have tried to stay out of the politics of it. I have tried to do what is legal and what is right."

Mr. D. Mark Stokes, County Attorney, addressed the nomination process for the STD. The by-law depicts how nominees are to be submitted to Council. The nomination process under the Rules of Council does not preclude Council from nominating an individual to the board; it is just a suggestive measure. There were some suggested changes made to the by-laws of the Pimlico STD. (*A copy, of the bylaws*, *is attached hereto and by this reference is made a part hereof.)*

Councilmember Steve Davis asked if the money being given to the Pimlico Civic Club was going to stop?

Mr. Stokes indicated that it would not according to the proposed budget and suggested by-laws.

Mr. Larry Singer, 1806 Mallard Cr., (Pimlico) stated that he does not agree with any personal attacks and was not present for that reason. He would like a referendum on major expenditures, i.e, a large building or expansion of the present facility, written into the by-laws where the residents of the STD must vote on the issue. He indicated that most residents do not attend the STD meetings.

Councilmember Spooner stated she would not have a problem with that change being made to the by-laws. The Resolution can be held until next month and address that issue.

Ms. Annel Wade, representing C&S Residential Care Facility (RCF), addressed Council regarding the facility being in violation of DHEC water system regulations. She solicited County Council's support in reference to this issue.

Chairman Rozier explained that he was in contact with Force & Assoc., Lexington, South Carolina. They are the company that DHEC has contacted to help C&S RCF. Chairman Rozier is in the process of providing information for Force & Assoc. to attempt to reach a solution for C&S RCF.

Chairman Rozier stated an Executive Session was needed to discuss matters relating to the proposed location, expansion, or the provision of services encouraging location or expansion of industries or other businesses in the area served by the county; or discussions of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property, the receipt of legal advice where the legal advice relates to a pending, threatened, or potential claim or other matters covered by the attorney-client privilege, settlement of legal claims, or the position of the County in other adversary situations involving the assertion against the County of a claim.

It was moved by Councilmember Fish and seconded by Councilmember Spooner to enter into Executive Session. The motion passed by unanimous voice vote of Council.

Berkeley County Council entered into Executive Session at 7:54 p.m. and returned at 8:53 p.m.

Mr. Stokes reported that Berkeley County Council went into Executive Session to discuss matters as stated in the motion. No formal action was taken.

Ms. Betsey Fleming, Gibbs Museum of Arts Director, Re: Introduction to the Gibbs.

Ms. Fleming will attend the September meeting of Berkeley County Council.

THIRD READING:

"**BILL NO. 02-78**, AN **ORDINANCE** AUTHORIZING THE ISSUANCE OF NOT EXCEEDING $35,850,000 PRINCIPAL AMOUNT **BERKELEY COUNTY, SOUTH CAROLINA POLLUTION CONTROL FACILITIES REFUNDING REVENUE BONDS** (SOUTH CAROLINA GENERATING COMPANY, INC. PROJECT), PURSUANT TO CHAPTER 3, TITLE 48, VOLUME 16, CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED; FOR THE PURPOSE OF REFUNDING THE OUTSTANDING PRINCIPAL AMOUNT OF $35,850,000 PRINCIPAL AMOUNT BERKELEY COUNTY, SOUTH CAROLINA, POLLUTION CONTROL FACILITIES REVENUE REFUNDING BONDS (SOUTH CAROLINA ELECTRIC & GAS COMPANY PROJECT), SERIES 1984; THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT, A BOND TRUST INDENTURE, A PURCHASE CONTRACT, A LETTER OF REPRESENTATION, A TAX

COMPLIANCE AGREEMENT AND OTHER DOCUMENTS RELATED THERETO IN CONNECTION THEREWITH; APPROVING THE EXECUTION AND DISTRIBUTION OF AN OFFICIAL STATEMENT; AUTHORIZING THE PROPER OFFICERS TO DO ALL THINGS NECESSARY OR ADVISABLE IN CONNECTION WITH THE FOREGOING; AND OTHER MATTERS INCIDENTAL THERETO."

Chairman Rozier explained that this does not obligate Berkeley County to any costs or responsibility.

It was moved by Councilmember Spooner and seconded by Councilmember Crosby to approve **Bill No. 02-78 for Third and Final Reading**. The motion passed by unanimous voice vote of Council. *(A copy of Ordinance No. 03-07-40 is attached to these minutes.)*

"BILL NO. 03-25, AN **ORDINANCE** PROVIDING FOR THE FISCAL YEAR BEGINNING JULY 1, 2003, AND ENDING JUNE 30, 2004, FOR THE **PIMLICO SPECIAL TAX DISTRICT OPERATIONAL BUDGET**; AND TO PROVIDE FOR THE EXPENDITURES OF THE REVENUES RECEIVED BY THE PIMLICO SPECIAL TAX DISTRICT DURING THE FISCAL YEAR."

This item was held until August.

"**BILL NO. 03-31,** AN **ORDINANCE** TO MODIFY THE OFFICIAL ZONING AND DEVELOPMENT STANDARDS MAP OF BERKELEY COUNTY, SOUTH CAROLINA, IN REGARDS TO RECLASSIFICATION OF APPROVED USES FOR TMS #233-04-00-017." *(Marksberry)*

It was moved by Councilmember Spooner and seconded by Councilmember Crosby to approve **Bill No. 03-31 for Third and Final Reading**. The motion passed by unanimous voice vote of Council. *(A copy of Ordinance No. 03-07-41 is attached to theses minutes.)*

"BILL NO. 03-32, AN **ORDINANCE** TO PROVIDE FOR THE ISSUANCE AND SALE OF **GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS OF 2003** OF BERKELEY COUNTY, SOUTH CAROLINA IN THE PRINCIPAL AMOUNT OF NOT EXCEEDING TWENTY-FIVE MILLION DOLLARS ($25,000,000); TO PRESCRIBE THE PURPOSES FOR WHICH THE PROCEEDS SHALL BE EXPENDED; TO PROVIDE FOR THE PAYMENT THEREOF; AND OTHER MATTERS RELATING THERETO."

It was moved by Councilmember Crosby and seconded by Councilmember Crosby Spooner to approve **Bill No. 03-32 for Third and Final Reading**. The motion passed by unanimous voice vote of Council. *(A copy of Ordinance No. 03-07-42 is attached to theses minutes.)*

Berkeley County Council Rules allows all bills to be given second reading by one motion as a collective group. Any member may object to a particular bill and it shall be separated from the collective group and handled by a separate motion.

SECOND READING:

"BILL NO. 03-33, AN **ORDINANCE** TO MODIFY THE OFFICIAL ZONING AND DEVELOPMENT STANDARDS MAP OF BERKELEY COUNTY, SOUTH CAROLINA, IN REGARDS TO RECLASSIFICATION OF APPROVED USES FOR TMS #211-00-02-018." *(Weatherton)*

"BILL NO. 03-34, AN **ORDINANCE** TO MODIFY THE OFFICIAL ZONING AND DEVELOPMENT STANDARDS MAP OF BERKELEY COUNTY, SOUTH CAROLINA, IN REGARDS TO RECLASSIFICATION OF APPROVED USES FOR TMS #232-00-02-137." *(Harold Tyner Development Corp.)*

"BILL NO. 03-35, AN **ORDINANCE** TO MODIFY THE OFFICIAL ZONING AND DEVELOPMENT STANDARDS MAP OF BERKELEY COUNTY, SOUTH CAROLINA, IN REGARDS TO RECLASSIFICATION OF APPROVED USES FOR TMS #232-00-02-136." *(Hensley)*

"BILL NO. 03-36, AN **ORDINANCE** TO MODIFY THE OFFICIAL ZONING AND DEVELOPMENT STANDARDS MAP OF BERKELEY COUNTY, SOUTH CAROLINA, IN REGARDS TO RECLASSIFICATION OF APPROVED USES FOR TMS #141-12-00-008." *(Daniels)*

"BILL NO. 03-37, AN **ORDINANCE** TO MODIFY THE OFFICIAL ZONING AND DEVELOPMENT STANDARDS MAP OF BERKELEY COUNTY, SOUTH CAROLINA, IN REGARDS TO RECLASSIFICATION OF APPROVED USES FOR TMS #194-00-02-052." *(Polite)*

"BILL NO. 03-38, AN **ORDINANCE** TO MODIFY THE OFFICIAL ZONING AND DEVELOPMENT STANDARDS MAP OF BERKELEY COUNTY, SOUTH CAROLINA, IN REGARDS TO RECLASSIFICATION OF APPROVED USES FOR TMS #036-00-04-007." *(Turner)*

"BILL NO. 03-39, AN **ORDINANCE** TO MODIFY THE OFFICIAL ZONING AND DEVELOPMENT STANDARDS MAP OF BERKELEY COUNTY, SOUTH CAROLINA, IN REGARDS TO RECLASSIFICATION OF APPROVED USES FOR TMS #075-00-00-048." *(Casselman)*

"BILL NO. 03-42, AN **ORDINANCE** FOR THE PURPOSE OF ESTABLISHING THE **BERKELEY TECHNOLOGY DEVELOPMENT CORPORATION**, STATING ITS PURPOSES AND APPOINTING THE MEMBERS TO THE BOARD OF DIRECTORS OF THE BERKELEY TECHNOLOGY DEVELOPMENT CORPORATION."

It was moved by Councilmember Spooner and seconded by Councilmember Crosby to approve **Bills No. 03-33, 03-34, 03-35, 03-36, 03-37, 03-38, 03-39 and 03-42 for Second Reading**. The motion passed by unanimous voice vote of Council.

FIRST READING:

"BILL NO. 03-43, AN **ORDINANC**E AUTHORIZING THE ACCEPTANCE OF THE TRANSFER OF AUTHORITY FOR CONDUCTING MUNICIPAL ELECTIONS IN THE TOWN OF ST. STEPHEN TO THE BERKELEY COUNTY VOTER REGISTRATION AND ELECTION COMMISSION; TO DEFINE THE POWERS, DUTIES AND RESPONSIBILITIES ASSUMED BY THE BERKELEY COUNTY VOTER REGISTRATION COMMISSION FOR THE CONDUCT OF MUNICIPAL ELECTIONS IN THE TOWN OF ST. STEPHEN; TO PROVIDE FOR THE REIMBURSEMENT OF ALL COSTS AND EXPENSES INCURRED BY THE BERKELEY COUNTY VOTER REGISTRATION AND ELECTION COMMISSION IN THE CONDUCT OF SUCH MUNICIPAL ELECTIONS; AND TO PROVIDE FOR OTHER MATTERS RELATING THERETO."

"BILL NO. 03-44, AN **ORDINANCE** TO MODIFY THE OFFICIAL ZONING AND DEVELOPMENT STANDARDS MAP OF BERKELEY COUNTY, SOUTH CAROLINA, IN REGARDS TO RECLASSIFICATION OF APPROVED USES FOR TMS #232-00-02-136." *(Hensley)*

"**BILL NO. 03-45,** AN **ORDINANCE** TO MODIFY THE OFFICIAL ZONING AND DEVELOPMENT STANDARDS MAP OF BERKELEY COUNTY, SOUTH CAROLINA, IN REGARDS TO RECLASSIFICATION OF APPROVED USES FOR TMS #142-04-02-032." *(Marion)*

"BILL NO. 03-46, AN **ORDINANCE** APPROVING THE ACCEPTANCE OF A MEDIUM OF PAYMENT FOR PROPERTY TAXES AND THE IMPOSITION OF A UNIFORM SERVICE CHARGE AS A CONDITION THEREOF PURSUANT TO SOUTH CAROLINA CODE OF LAWS SECTION 12-45-90."

"BILL NO. 03-47, AN **ORDINANCE** TO AMEND ORDINANCE NUMBER 03-06-35, **SANGAREE SPECIAL TAX DISTRICT OPERATIONAL BUDGET, 2003-2004**, AND TO REDUCE THE MILLAGE ASSESSED IN THE TAX DISTRICT."

"BILL NO. 03-48, AN **ORDINANCE** AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF TAX AGREEMENT AND CERTAIN INSTRUMENTS RELATING THERETO BY AND BETWEEN BERKELEY COUNTY AND **MARINE BARGE COMPANY, LLC** WHEREBY, BERKELEY COUNTY WILL ENTER INTO A FEE-IN-LIEU OF TAXES ARRANGEMENT WITH MARINE BARGE COMPANY, LLC; PROVIDING FOR PAYMENT BY MARINE BARGE COMPANY,

LLC OF CERTAIN FEES IN LIEU OF AD VALOREM TAXES; AND OTHER MATTERS RELATING THERETO."

RESOLUTIONS:

"**RESOLUTION** PROVIDING FOR THE TRANSFER OF FUNDS IN THE 2003-2004 BERKELEY COUNTY BUDGET FOR COUNTY PURPOSES OTHER THAN AS SPECIFIED IN SAID BUDGET."

It was moved by Councilmember Crosby and seconded by Councilmember Fish to adopt the Resolution as presented. The motion passed by unanimous voice vote of Council. *(A copy of Resolution No. R 03-35 is attached to these minutes)*

"RESOLUTION AUTHORIZING A GRANT APPLICATION ON BEHALF OF SPIERS LANDING."

It was moved by Councilmember Pinckney and seconded by Councilmember Steve Davis to adopt the Resolution as presented. The motion passed by unanimous voice vote of Council. *(A copy of Resolution No. R 03-36 is attached to these minutes.)*

"RESOLUTION AUTHORIZING AN AMENDMENT TO THE PIMLICO SPECIAL TAX DISTRICT BY LAWS."

This Resolution was held until August.

"RESOLUTION APPROVING FINANCING TERMS FOR VARIOUS EQUIPMENT LEASE PURCHASES NOT TO EXCEED FOUR (4) YEARS."

It was moved by Councilmember Crosby and seconded by Councilmember Farley to adopt the Resolution as presented. The motion passed by unanimous voice vote of Council. *(Resolution No. R 03-37 is attached to these minutes)*

"RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDUCEMENT AGREEMENT BY AND BETWEEN BERKELEY COUNTY, SOUTH CAROLINA AND **MARINE BARGE COMPANY, LLC** WHEREBY, BERKELEY COUNTY WILL ENTER INTO A FEE-IN-LIEU OF TAXES ARRANGEMENT WITH MARINE BARGE COMPANY, LLC; AND OTHER MATTERS RELATING THERETO."

It was moved by Councilmember Crosby and seconded by Councilmember Fish to adopt the Resolution as presented. The motion passed by unanimous voice vote of Council. *(A copy of Resolution No. R 03-38 is attached to theses minutes.)*

REPORTS FROM STANDING COMMITTEES:

COMMITTEE ON FINANCE, Councilmember Dennis Fish, Chairman.

Councilmember Fish reported the Committee met on July 21, 2003. Many of the items had been taken care of on tonight's agenda.

Upon recommendation of the Committee Councilmember Fish moved to authorize the **Berkeley County Supervisor to negotiate with the Masonic Lodge in regards to the parking lot** and present a recommendation to Council. *NO SECOND REQUIRED.* The motion passed by unanimous voice vote of Council.

COMMITTEE ON LAND USE, Councilmember Milton Farley, Chairman

Councilmember Farley reported the Committee met on July 21, 2003. Many of the matters before the Committee had been taken care of on tonight's agenda.

Upon recommendation of the Committee Councilmember Farley moved to deny the request by **Patty Smith**, Lazy Hill and New Oak Road, Moncks Corner, TMS #196-00-01-044, (2.02 acres), **from R-1R Single Family Rural Residential District, to R-1, Single Family Residential District**. Council District No. 6. *NO SECOND REQUIRED*. The motion passed by unanimous voice vote of Council.

COMMITTEE ON PUBLIC WORKS AND PURCHASING, Councilmember Caldwell Pinckney, Jr. Chairman.

Councilmember Pinckney reported the Committee met on July 21, 2003. Many of the matters were taken care of on tonight's agenda

Upon recommendation of the Committee Councilmember Pinckney moved to award the contract for the **Berkeley County Airport runway rejuvenation project to Hasco, Inc. in the amount of $43,946.00**. *NO SECOND REQUIRED*. The motion passed by unanimous voice vote of Council.

Upon recommendation of the Committee Councilmember Pinckney moved to award the **Municipal Lease Purchase Financing contract to SunTrust Leasing Corporation with an annual percentage rate of 2.21%.** *NO SECOND REQUIRED*. The motion passed by unanimous voice vote of Council.

COMMITTEE ON JUSTICE AND PUBLIC SAFETY, Councilmember Judy C. Mims, Chairman.

Councilmember Mims reported the Committee met on July 14, 2003. All matters before the Committee were taken care of on tonight's agenda.

COMMITTEE ON WATER AND SANITATION, Councilmember Steve C. Davis, Chairman.

Councilmember Steve Davis reported the Committee met on July 14, 2003.

Upon recommendation of the Committee Councilmember Steve Davis moved to approve the sale of the **Oakley Plantation House to Dr. Keith B. Flynn for $1.00**. *NO SECOND REQUIRED.* The motion passed by unanimous voice vote of Council.

There was no report for the **COMMITTEE ON PLANNING AND DEVELOPMENT**, Councilmember Charles E. Davis, Chairman.

COMMITTEE ON COMMUNITY SERVICES, Councilmember Judith K. Spooner, Chairman.

Councilmember Spooner reported the Committee on Community Services met on July 14th and 21st and stated two matters before the Committee were taken care of on tonight's agenda and two matters were held until next month.

There was no report for the **COMMITTEE ON HUMAN SERVICES**, Councilmember William E. Crosby, Chairman.

NOMINATIONS FOR MEMBERSHIP ON BOARDS, COMMISSIONS, ETC.

It was moved by Councilmember Crosby to nominate Ms. Jackie Doffin Shelton to the Accommodations Tax Advisory Committee.

It was moved by Councilmember Fish to nominate Ms. LeAnn Junkins to the Berkeley County Mental Health Board, District #5, and Mr. Mark Blevins to the Tall Pines Special Tax District.

It was moved by Councilmember Farley to nominate Mr. Mike Tucker to the Board of Zoning and Appeals.

It was moved by Chairman Rozier to nominate Mr. Tony Owens, Mr. Robert Newton, and Mr. Radford Bates for reappointment to the Tax Assessment Review Board.

The motions passed by unanimous voice vote of Council.

There was no **CORRESPONDENCE**.

UNFINISHED BUSINESS:

"**RESOLUTION** AFFECTING THE PAYMENT OF CERTAIN WATER IMPACT FEES TO THE BERKELEY COUNTY WATER AND SANITATION AUTHORITY."

Chairman Rozier's recommendation that the impact fee area which were already surveyed for water remain at $350.00 provided that homeowners make application by December 15, 2003.

It was moved by Councilmember Pinckney and seconded by Councilmember Crosby to approve the Resolution as presented. The motion passed by unanimous voice vote of Council.

WATER SERVICE TO C&S RESIDENTIAL CARE FACILITY.

Chairman Rozier indicated that he would work with Force & Associates to find a solution to the problem.

NEW BUSINESS:

CONSIDERATION OF LEGAL FEES AND COSTS IN THE MATTER OF CHARLES E. DAVIS V. BERKELEY COUNTY.

Mr. Stokes addressed Council and requested funds to be transferred from Contingency to pay legal fees in the amount of $14,434.77. This involved representation in defense of the matter of Davis v. Berkeley County, Case No. 2002-CP-08-1255.

Councilmember Spooner stated she would move to approve the transfer of funds from Contingency on the basis that Berkeley County counter sue for the legal fees. "I don't think the taxes payers should have to pay for this."

Chairman Rozier stated the legal fees totaled $23,123.77. Berkeley County has already paid $8,688.95; the remaining balance is $14,434.77.

It was moved by Councilmember Spooner and seconded by Councilmember Crosby to **transfer $14,434.77 from contingency to the Legal Department for legal fees from Davis v. Berkeley County, Case No. 2002-CP-08-1255 and to pursue recovery of the fees by way of a counter suit.**

Councilmember Steve Davis asked Councilmember Spooner what her basis was for a counter suit?

Councilmember Spooner explained that she considered it a frivolous lawsuit and she does not think that taxpayers should have to pay the bill.

Chairman Rozier stated in support of Councilmember Spooner that he had a letter from Goodstein Law Firm recommending a counter suit.

Councilmember Mims stated she would like to ask a question.

Chairman Rozier interjected that he would like to caution Councilmember Mims again that the County Attorney recommended that she not discuss or vote on this matter. Also, that he would have to read into the record why that was recommended.

Councilmember Mims stated she had every right to vote. Councilmember Mims asked Mr. Stokes "When we hired you Mark, didn't you say that you did legal work and we would not have to hire people to go into court?"

Mr. D. Mark Stokes stated that was correct in a normal situation, but in this case he had a conflict of interest because he was a witness in the case and litigation. Therefore was prohibited by ethics of the practice of law to participate as counsel when he was a witness to the case.

Chairman Rozier stated that County Council approved the hiring of Goodstein Law Firm.

Councilmember Charles Davis asked when that happened?

Chairman Rozier with legal advice and with contractual arrangements with lawyers, it happened in Executive Session as allowed by law. He asked the County Attorney if he was correct?

Mr. D. Mark Stokes stated that was correct.

Councilmember Fish explained that his concern was that the recommendation was from an attorney who could gain from the counter suit. He feels this could go on forever. "If he takes that case on, how will we know that we will be successful without spending another $40,000?"

Chairman Rozier indicated that he could read the letter from Goodstein Law Firm into the record. He does not feel that anyone can determine if you can win a lawsuit.

Councilmember Fish stated it was not necessary to read the letter into the record.

Councilmember Farley asked for the letter to be read into the record.

The letter was read as follows:

GOODSTEIN LAW FIRM, LLC
138 WEST RICHARDSON AVENUE
SUMMERVILLE. SOUTH CAROLINA 29483
July 28, 2003

Mr. James Rozier
Berkeley County Supervisor
223 North Live Oak Drive
Moncks Comer, SC 29461

Re: Davis v. Berkeley County

Attorney-Client Privileged Information

Dear Jim,

Since the depositions on May 6. Charlie Davis has expressed a desire to withdraw from his action against Berkeley County. While this is good news, I believe that we can take this further and recover, from Mr. Davis, Berkeley County's costs and legal fees which have incurred in defending against his action. We would need to do this by bringing an action for Frivolous Civil Proceedings. I will explain further.

According to South Carolina statute 15-30-10, "Any person who takes part in the procurement, initiation, continuation, or defense of any civil proceeding is subject to being assessed for payment of full or a portion of the attorney's fees and court costs of the other party if: (1) he does so primarily for a purpose other than that of securing the proper discovery, joinder of parties, or adjudication of the claim upon which the proceedings are based; and (2) the proceedings have terminated in favor of the person seeking an assessment of the fees and costs." SC statute 15-36-30 also states that when these requirements are met, that an aggrieved person is entitled to recover his attorney's fees and court costs reasonably incurred in litigating the proceedings.

If we show evidence that there is a termination of the proceedings in the County's favor, and that Mr. Davis did not have a proper purpose in bringing this action in the first place, then the County may be entitled to recover its costs. The Plaintiff has taken a voluntary non-suit which I believe is a termination of the proceedings in the County's favor. Beyond that, I believe we can also show that Mr. Davis did not have what the statutes define as a "proper purpose" in bringing the action against the County.

A, "proper purpose" is supported by factors stated in SC statute 15-36-20. "Any person who takes part in the procurement, initiation, continuation, or defense of civil proceedings must be considered to have acted to secure a proper purpose. . . if he reasonably believes in the existence of the facts upon which his claim is based and (1) reasonably believes that under those facts his claim may be valid under the existing or developing law; or (2) relies upon the advice of counsel, sought in good faith and given after full disclosure of all facts within his knowledge and information which may be relevant to the cause of action; or (3) believes, as an attorney of record, in good faith that his procurement, initiation, continuation, or defense of a civil cause is not intended to merely harass or injure the other party."

In order for Charlie Davis to have had a proper purpose, he must have reasonably believed in the existence of the facts on which his claim was based, and reasonably believed that under those facts, his claim may be valid under existing or developing law.Since he sued for failure to provide information under a FOIA request, but has never made a FOIA request and has himself insisted again and again that his request was that of a council member and therefore not a FOIA request, then it was probably not reasonable for him to think that the facts supported his claim. Apparently Davis did not understand that he was negating his own claim by insisting he was making his request as a council member. But the question is whether it would be reasonable for someone to think that the facts supported his claim. I would think that it is unreasonable. In the alternative, one

can show proper purpose by relying on the advice on counsel, sought in good faith, and after full disclosure of all facts within his knowledge and information, which may be relevant to the cause of action. It seems because of the way the documents came out piecemeal during the deposition that Mr. Davis had not shared everything with his lawyer. This would also work against him in showing a proper purpose.

It is my belief that we have the elements of a suit against Mr. Davis for Frivolous Civil Proceedings. The burden of proof will be on us to show 1) that he initiated/continued the proceedings against you then the County; 2) the proceedings terminated in the County's favor, 3) Mr. Davis did not have a proper purpose in bringing or maintaining his action against the County, and finally 4) the amount the County incurred in attorney's fees and court costs. We should not have any trouble establishing all these elements. The proceedings have been drafted and we will proceed as soon as I have confirmation from you.

With kind regards, I am,

Very truly yours,
Arnold S. Goodstein
GOODSTEIN LAW FIRM, LLC

ASG:khl

Councilmember Pinckney stated that the letter does not state unequivocally the law suit would be won by the County. "I am of the opinion that, rather than spend additional money, that we cut our loses and move on."

Councilmember Fish agreed with Councilmember Pinckney in that regard, and further stated a concern that the County would be setting a precedent that citizens would be counter sued for bringing suit against the County when they are unsuccessful in obtaining information. When they are requesting information from the County and do not know proper procedure nor do they get sound advice to obtain that information. "I am not aware in this Country that the loser pays. I am against this."

Councilmember Steve Davis indicated that there are situations where the Court does provide for recovery. He noted with interest that Councilmember Charles Davis did rely on the advice of Counsel. "We must give that some tremendous amount of validity. A lawyer told him that the facts were such that he needed to file a lawsuit." And continued there should be a dialogue on County Council that information should be made available to Council Members when requested.

Chairman Rozier stated he appreciated Councilmember Steve Davis' statements. Although, Councilmember Charles Davis' suit was for not answering a Freedom of Information request, when no member of Berkeley County Staff received a Freedom of Information request from Councilmember Charles Davis. "That is absolute fact from the deposition that that never happened."

Councilmember Mims: "What it all boils down to is that he was not given information. Why was he not given that information?"

Chairman Rozier indicated that he was going to read into the record why Councilmember Mims should not be involved with this discussion.

Chairman Rozier explained the following is from a sworn deposition that Councilmember Charles Davis gave at the Goodstein Law Firm:

Q: How much of your attorney fees been to this date in this matter? You've sued us and I ask you that question because you've asked for your costs and attorney's fees in this action; therefore, I'm entitled to know it.
A: I put $5,000 retainer down
Q: Have you paid anything in costs besides those attorney's fees?
A: Only put a $5,000 retainer down.
Q: Where did those funds come from?
A: From the private sector, some of my own money.
Q: So they're not your funds?
A: Some of them are.
Q: How much are your funds and how much are from the private sector?
A: I think $4,000 from the private sector.
Q: Have you got a list of who contributed to that?
A: I think I do.
A: Actually I think $2,500 is mine.
Q: Wait a minute it was $1,000, now it's $2,500 is yours.
A: It's been almost a year.
Q: You got an account set up for this?
A: No, sir.
Q: The money you got, to finance this lawsuit, did it go in your personal checking account or did it go directly to the law firm?
A: Directly to the law firm.
Q: Who gave you the money or who gave the money to the law firm?
A: Judy Mims.
Q: How much did Judy give?
A: I think a thousand dollars.
Q: All right. Who else?
A: Fire departments contributed some.
Q: Did it come in the form of check or cash?
A: I don't remember.
Q: Which Fire Departments?
A: I don't remember which ones.
Q: What people, I'm more interested in the people than I am where they work?
A: I don't remember at the time.
Q: Do you have a list?
A: I don't have a list 'cause I don't know who they were.
A: I think Bob Ashby was a contributor.
Q: Bob Ashby, now, who was he?
A: Somebody that writes for the Berkeley Independent.

Q: Any elected officials give you any money?
A: Just Ms. Mims.
Q: Ms. Mims, all we got is you that gave a thousand or $2500, Ms. Mims gave a thousand and the law firm got five grand so I'm missing some.
A: Bob Ashby.
Q: How much did he give you?
A: He might have give a thousand.
Q: Who kept a list of this?
A: I don't know if anybody did other than taking they money and giving it to the law firm.
(Recess)
Q: Did you remember anybody else?
A: I put up 2,500, I think Judy Mims collected the rest.
Q: So you don't have any names other than …
A: Yeah, I know Ashby did.
Q: Where can we get the list of that?
A: Judy Mims might have it.

Chairman Rozier asked if there was any further discussion. There being none he called for the vote.

Role call vote:

Councilmember Farley	"Aye"
Councilmember Spooner	"Aye"
Councilmember Crosby	"Aye"
Councilmember Charles Davis	"Nay"

Chairman Rozier asked Councilmember Charles Davis if he was going to vote?

Councilmember Charles Davis responded that he had voted every other time it was addressed this past year. "I think the precedent has been set. I'm a Councilmember and that is how I have acted the whole time."

Chairman Rozier asked the County Attorney if he would like to make a recommendation or not?

Mr. D. Mark Stokes recommended that Councilmember Charles Davis not cast a vote because he has a financial interest in the matter.

Councilmember Fish	"Nay"
Councilmember Mims	"Nay"
Councilmember Pinckney	"Nay"
Councilmember Steve Davis	"Nay"

The vote was five (5) "Nays" and three (3) "Ayes". The motion failed.

It was moved by Councilmember Fish and seconded by Councilmember Steve Davis to **transfer $14,434.77 from Contingency to pay the legal costs of Davis v. Berkeley County**.

Chairman Rozier: "I am going to say one time. That's $23,123.72 that tax payers of Berkeley County are paying for a lawsuit that was a lawsuit for something that was never requested."

Role Call Vote:

Councilmember Farley	"Nay"
Councilmember Spooner	"Nay"
Councilmember Crosby	"Nay"
Councilmember Charles Davis	"Aye"
Councilmember Fish	"Aye"
Councilmember Mims	"Aye"
Councilmember Pinckney	"Aye"
Councilmember Steve Davis	"Aye"

The vote was Five (5) "Ayes" and three (3) "Nays". The motion passed by majority voice vote of Council.

Councilmember Spooner: "I have to stress that all of this information was made available to Mr. Davis. All he had to do was come and read it."

ANNOUNCEMENTS

The **AUGUST 2003, Regular Meeting** of **Berkeley County Council** will be held on **MONDAY AUGUST 25TH 2003,** in **THE ASSEMBLY ROOM, 223 NORTH LIVE OAK DRIVE, MONCKS CORNER, S. C**., at **7:00 P.M.**

It was moved by Councilmember Crosby to adjourn.

Councilmember Mims stated, "No, New Business had not been completed."

Councilmember Spooner stated there was a motion to adjourn.

Chairman Rozier explained that a motion to adjourn was not debatable. When a motion to adjourn is made an immediate vote must be taken. That is Roberts Rules of Order.

Role Call Vote:

Councilmember Farley	"Aye"

Councilmember Spooner	"Aye"
Councilmember Crosby	"Aye"
Councilmember Charles Davis	"Nay"
Councilmember Fish	"Aye"
Councilmember Mims	"Nay"
Councilmember Pinckney	"Nay"
Councilmember Steve Davis	"Nay"

A tie vote of four (4) "Ayes" and four (4) "Nays" was broken with Chairman Rozier voting "Aye". The motion passed by majority voice vote of Council.

The meeting was adjourned at 9:35 p.m.

PUBLIC DISCUSSION:

Randy McGinnis, 1010 Red Pines Road, Ladson addressed Council regarding an ongoing flooding problem due to a run-off problem from County Property. "I have been unsuccessful in receiving anything but lip service. Every time it rains my back yard becomes a river from the run-off coming from the County ditch. Through the years I have had the County Engineer, Official from Roads and Bridges, Codes Enforcement Officers and even the County Supervisor, Mr. Rozier, has come out to my house to see the ongoing problem. It is the government's responsibility to handle the problems that it is causing. There are times when my attached garage is flooded. I have had to take precautions to make sure that the water does not come over my patio and into my family room. Last week I could not believe it when I read in the Post & Courier that the county did have a policy that allowed residents to pay for the County to complete projects of this nature when private contractors are not available. I found it interesting that Mr. Rozier discontinued the policy last Thursday after public inquires brought attention to it. I am disappointed that after all these Elected Officials and County employees visited my property and saw this problem, that no one, not one of them mentioned that it was an option for me to pay the County to repair this problem. If it is a choice for the residents to pay for the County to handle matters such as this, I would have appreciated that information. However, after reading about this in the newspapers three questions come to my mind: 1) How can an Elected Official approve such a policy behind closed doors and without the knowledge of several members of this Council; 2) How do these individuals who sign up and pay for these projects find out about this unannounced and unwritten policy; 3) If the Post and Courier had not released this information how would the public have known that such a service was available from the County government when it appears that some elected officials and county employees were totally unaware of this policy in the first place? I ask the members of this Council to examine this policy and take a look into who was permitted to participate in this program and how they found out about it. Also, why such a program was not approved in open and public forum."

Chairman Rozier: "Let me answer a couple questions and I have suggested to Mr. Pinckney that if this is to be discussed further it should be on his agenda because he has the Public Works agenda. First of all, the practice was an administrative decision that I made,

good or bad I made the decision. Council did not make the decision. As far as Councilmembers not being made aware of it, and it being made behind closed doors, it was not made behind closed doors, I made the decision as an administrative decision. I make decisions regularly as administrative decisions. I did not ask Council to make this decision. As far as your property, yes we have been out there on a number of occasions, and as you know and we have told you, we cannot solve your problem. If you can find an engineer that tells us how to solve your problem and if it is being caused by a County condition, we will be happy to solve it. We do not know how to solve your problem."

Mr. McGinnis: "Clint was just out there about a month and a half ago and he did have a solution, and he turned it over to the Codes Enforcement. All I have gotten is lip service and nothing has been done. Especially with all the rain we have been getting, this is a ongoing thing with getting up in the middle of the night to make sure that water isn't coming into my house."

Chairman Rozier: "No question and I feel for you. If there is a solution that we can fix and if it is a County caused problem, then I will be happy to work on it. In the past I have heard there is no solution; that your house is at the bottom of the hill."

Mr. McGinnis: "No it is not."

Chairman Rozier: "Well, I will be happy to look into it."

Councilmember Crosby: "Is there a ditch that is overflowing onto your property?"

Mr. McGinnis: "Yes, there is a house between my house and the ditch. There is a four (4) foot wall on the ditch until you get to the part that I am talking about."

Councilmember Crosby explained it is often caused by pipes being too small to accommodate the run-off; therefore, causes the water to back up onto citizens'; property. "It's not the citizens' fault; it is the water and drainage system that the County and the State has to maintain. You are absolutely right. I feel for you. It looks like some body would be giving you some help. My opinion it is a County or State problem if it is coming from a ditch and backing up into your yard."

Councilmember Spooner asked Mr. McGinnis when the County was last contacted on this issue? "And as far as the problem solving for the public not being known, I thought it was announced at community meetings in District 7."

Chairman Rozier: "I call it an administrative decision and not a policy, but I have stopped it, and if it starts again, and I still think it's legal for it to be done. If it starts again it will be because this Council votes for it to be done. It helps people."

Mr. McGinnis stated he had brought 35 yards of dirt onto his property. "The County says they can not come on private property to correct the problem. I will pay for it. Then we look in the paper and we see that the County does do that!"

Mr. Bill Cahill, 1075 French Quarter Creek, Huger, addressd County Council stating they had organized a Homeowners Association. The Sheriff's Department, Sheriff Dewitt and officer Bagget, have addressed some issues regarding drug use and speeding in the area. Other concerns are: abandoned cars with no tags, unkept/unclear lots, unfit structures, operating a business without a license, blocked waterway navigation in the French Quarter Creek area, structures without permits over waterways. Household garbage is being burned within 10 feet of the French Quarter Creek area. "These are some areas that we would like to have resolved and would like to have your support across the board in making sure that these things do happen."

Chairman Rozier asked if the abandoned cars and unclean lots had been called into the Codes Enforcement staff and how long ago that took place?

Mr. Cahill indicated it had been approximately 6-9 months ago.

Chairman Rozier stated he would check on the zoning violations, but Berkeley County does not have a business license. "I have been wanting one for a long time." The "blocking Navigation" is not regulated by Berkeley County. He directed Mr. Cahill to speak with Mr. Robert Metts regarding the violations.

Mr. Cahill explained that they have had problems with the ditches and paving of the roads in the French Quarter Creek area since Berkeley County Water and Sanitation ran sewer & water to the area. During rainstorms the water runs over the roads. The community was told that roads would be repaved after the installation of sewer and water. The last information they received was the roads were not going to be repaved due to lack of funds.

Chairman Rozier indicated that he would check on the roads and ditches.

Mr. Dennis Hill, 1442 Lebanon Road, Ridgeville addressed Council in regard to a project that the County was paid to do in his area. The work to be completed was on Cane Creek Road on Hwy. 311. Mr. Hill distributed to the Councilmembers a letter from Berkeley County Roads and Bridges Department. ***(A copy of the letter is attached hereto and by this reference is made a part hereof.)*** Mr. Hill stated the work was to be completed in July. He wanted to know if the work was going to be done or not? "If not I have lost opportunities to get a contract."

Chairman Rozier: "Part of the deal was that we were not going to do it if you could get it done someplace else. If Mr. Pinckney decides to put it on his agenda then we can discuss this and maybe some decisions will be made to continue it. I thought it was a good idea at the time, and still think it is a good idea; if people can't get the work done."

Mr. Hill: "It was not a matter if I could have gotten someone else to do it. I could have gotten only half of the roadwork did for the price that I was quoted here."

Chairman Rozier: "Then we shouldn't be doing the work; part of my direction to my folks if it can be found someplace else, we shouldn't be doing it. If it couldn't be found someplace else then it could be considered and a price can be given."

Mr. Hill: "How many people in Berkeley County haul rock for a living? I am not debating whether it is legal or illegal. If that letter is not good then here are the people of Cane Creek to tell."

Chairman Rozier: "When I make an administrative decision that does not seem to be appreciated, I change that decision, and I changed this decision. I thought it was the right thing to do; still think it wasn't a bad thing to do. I got a clear indication that there was some real concern on County Council about this activity taking place."

Chairman Rozier: "Right now I am not following this process any longer. If Council makes the decision to do this we will continue to do it; if they don't we won't."

Councilmember Fish asked if Mr. Hill knew what it would cost if he went to an outside bid?

Mr. Hill indicated that it would probably be twice as much. "Mr. Fish, let me tell you this, if I have to pay twice as much, I can only do half the road. If Berkeley County can't deliver I am going to have to shop until I drop, because I am not going to be pulling the extra $3600 out of my pocket to do the other half of the road."

Mr. Phillip Ford, 8800 Northpark Blvd., Charleston, representing the Charleston – Trident Homebuilders Association. Mr. Ford addressed Council regarding the recently adopted sewer and water reservation capacity fees and impact fees. They would like to sit down with the County to resolve some of their issues. For instance, the members of the association were under the belief that an entire project would be subject to the old sewer and water reservation capacity fees. Now there is a limit of 250 lots anything above that would be subject to the new fee. Also, there is a concern there are some projects they feel should not be funded by the impact fees. Another concern is that the fees are to be paid upfront, where as before, they were spread between the developer and the builder. The carry over from this could cause an increase in the price of housing. What they would like to see done is the fees to be paid at use. They also feel that the amendment to the impact fees should be across the board and not just the residents that were surveyed. The Association would like to have some help from Council to get these issues resolved.

Chairman Rozier stated he would appoint a committee of three (3) people on Council to meet with the Association and Berkeley County Water and Sanitation to work on the issues.

S/Barbara B. Austin
Clerk of Council

August 25, 2003
Date Approved

The **REGULAR MONTHLY MEETING OF BERKELEY COUNTY COUNCIL** to be held on **Monday July 28, 2003,** is scheduled to begin at 7:00 P.M., in the **ASSEMBLY ROOM, BERKELEY COUNTY OFFICE BUILDING, 223 NORTH LIVE OAK DRIVE, MONCKS CORNER, S. C.**

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

APPROVAL OF MINUTES:

Special Council Meeting	June 9, 2003
Public Hearing (Sale of Bonneau Property)	June 9, 2003
Public Hearing Bill Numbered: 03-23 (BCW&SA Budget)	June 16, 2003
Public Hearings Bills Numbered: 03-24, 03-25, 03-26, 03-27, 03-28 (Special Tax District Budgets)	June 16, 2003
Public Hearing Bill Numbered: 03-29 (Berkeley Cty. Budget)	June 16, 2003
Public Hearing: Resolution authorizing purchase of property known as the K-Mart building; authorizing County Supervisor to execute necessary Documents to effect transfer of property.	June 16, 2003
Public Hearing: Resolution authorizing reimbursement to Cty. for costs of acquisition of land, etc. prior to issuance of tax-exempt bonds.	June 16, 2003
Public Hearings Bills Numbered: 03-11, 03-20, 03-21, 03-22, and 03-30	June 16, 2003
Regular Council Meeting	June 16, 2003

PUBLIC DISCUSSION - Request to be heard must be made prior to Call to Order and comments must be limited to Agenda items being considered for final action.

EXECUTIVE SESSION to discuss matters relating to the proposed location, expansion, or the provision of services encouraging location or expansion of industries or other businesses in the area served by the county; or discussions of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property, the receipt of legal advice where the legal advice relates to a pending, threatened, or potential claim or other matters covered by the attorney-client privilege, settlement of legal claims, or the position of the County in other adversary situations involving the assertion against the County of a claim.

MS. BETSEY FLEMING, GIBBS MUSEUM OF ARTS DIRECTOR, Re: Introduction to the Gibbs.

THIRD READING:

1. Bill No. 02-78, An **Ordinance** authorizing the issuance of not exceeding $35,850,000 principal amount **Berkeley County, South Carolina Pollution Control Facilities Refunding Revenue Bonds** (South Carolina Generating Company, Inc. project), pursuant to Chapter 3, Title 48, volume 16, Code of Laws of South Carolina 1976, as amended; for the purpose of refunding the outstanding principal amount of $35,850,000 principal amount Berkeley County, South Carolina, Pollution Control Facilities Revenue Refunding Bonds (South Carolina Electric & Gas Company Project), Series 1984; the execution and delivery of a Loan Agreement, a Bond Trust Indenture, a Purchase Contract, a Letter of Representation, a Tax Compliance Agreement and other Documents related thereto in connection therewith; approving the execution and distribution of an official statement; authorizing the proper officers to do all things necessary or advisable in connection with the foregoing; and other matters incidental thereto.
[Recommended by Committee on Finance]

2. Bill No. 03-25, An **Ordinance** providing for the fiscal year beginning July 1, 2003, and ending June 30, 2004, for the **Pimlico Special Tax District operational budget**; and to provide for the expenditures of the revenues received by the Pimlico Special Tax District during the fiscal year.
[Recommended by Committee on Finance]

3. Bill No. 03-31, an **Ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re **James Marksberry**, 922 College Park Road, Summerville, TMS #233-04-00-017, (1 acre) **from R-1, Single Family Residential to GC, General Commercial District**. Council District No. 4.
[Recommended by Committee on Land Use]

4. Bill No. 03-32, an **Ordinance** to provide for the issuance and sale of **General Obligation Refunding and Improvement Bonds of 2003** of Berkeley County, South Carolina in the principal amount of not exceeding twenty-five million dollars ($25,000,000); to prescribe the purposes for which the proceeds shall be expended; to provide for the payment thereof; and other matters relating thereto.
[Recommended by Committee on Finance]

Berkeley County Council Rules allows all bills to be given second reading by one motion as a collective group. Any member may object to a particular bill and it shall be separated from the collective group and handled by a separate motion.

SECOND READING:

1. Bill No. 03-33, an **Ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re **Douglas Weatherton**, 3027 Old Highway 52, Moncks Corner, TMS #211-00-02-018, (1 acre portion, 3 acres total), **from HI,**

Heavy Industrial District, to R-2 Mobile Homes Residential District. Council District No. 3.
[Recommended by Committee on Land Use]

2. **Bill No. 03-34,** an **Ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **Harold Tyner Development Corp**, Sangaree Parkway, Summerville, TMS #232-00-02-137, (1.65 acres), **from R-1, Single Family Residential District, to R-4, Multi Family District.** Council District No. 4.
[Recommended by Committee on Land Use]

3. **Bill No. 03-35,** an **Ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **Dean Hensley**, Day Road, Summerville, TMS #232-00-02-136, (11.517 acre portion, 13.924 acres total) **from LI, Light Industrial District, to GC, General Commercial District.** Council District No. 4**.**
[Recommended by Committee on Land Use]

4. **Bill No. 03-36,** an **Ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **Derrick Daniels**, 902 Whitesville Road, Moncks Corner, TMS #141-12-00-008, (1.58 acres), **from GC, General Commercial District, to F-1, Agricultural District**. Council District No. 6.
[Recommended by Committee on Land Use}

5. **Bill No. 03-37,** an **Ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **Thelma Polite**, 1425 Leisure Drive, Summerville, TMS #194-00-02-052, (.16 acre portion, 1 acre total), **from F-1, Agriculture District, to RNC, Rural and Neighbor Commercial District**. Council District 7.
[Recommended by Committee on Land Use]

6. **Bill No. 03-38,** an **Ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **David Turner, Jr.,** 2769 Harristown Road, St. Stephen, TMS #036-00-04-007, (.11 acre portion, 2.52 acres total), **from F-1, Agricultural District, to RNC, Rural and Neighborhood Commercial District**. Council District No. 8.
[Recommended by Committee on Land Use]

7. **Bill No. 03-39,** an **Ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **Nancelle Casselman**, 7761 Highway 41, Jamestown, TMS #075-00-00-048, (1.5 acre portion, 3.18 acres total), **from F-1, Agricultural District, to GC, General Commercial District**. Council District No. 8.
[Recommended by Committee on Land Use]

8. **Bill No. 03-42,** An **Ordinance** for the purpose of establishing the **Berkeley Technology Development Corporation**, stating its purposes and appointing the members to the Board of Directors of the Berkeley Technology Development Corporation.
[Recommended by Committee on Finance]

FIRST READING:

1. **Bill No. 03-43**, **A**n **Ordinanc**e authorizing the acceptance of the transfer of authority for conducting municipal elections in the Town of St. Stephen to the Berkeley County Voter Registration and Election Commission; to define the powers, duties and responsibilities assumed by the Berkeley County Voter Registration Commission for the conduct of Municipal Elections in the Town of St. Stephen; to provide for the reimbursement of all costs and expenses incurred by the Berkeley County Voter Registration and Election Commission in the conduct of such Municipal Elections; and to provide for other matters relating thereto.
[Recommended by Committee on Community Services]

2. **Bill No. 03-44**, An **Ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **Dean Hensley,** Day Road, Summerville, TMS # 232-00-02-136, (2.41 acres portion, 13.924 acres total), **from LI, Light Industrial, to GC, General Commercial District.** Council District No. 4.
[Recommended by Committee on Land Use]

3. **Bill No. 03-45**, An **Ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **Frederick Marion**, Mitten Lane, Moncks Corner, TMS #142-04-02-032, (.13 acre portion, .64 acre total), **from F-1, Agricultural District, to RNC, Rural and Neighborhood Commercial District**. Council District No. 8.
[Recommended by Committee on Land Use]

4. **Bill No. 03-46**, an **Ordinance** approving the acceptance of a medium of payment for property taxes and the imposition of a uniform service charge as a condition thereof pursuant to South Carolina Code of Laws Section 12-45-90.
[Recommended by Committee on Finance]

5. **Bill No. 03-47,** an **Ordinance** to amend Ordinance Number 03-06-35, **Sangaree Special Tax District Operational Budget, 2003-2004**, and to reduce the millage assessed in the tax district.
[Recommended by Committee on Finance]

6. **Bill No. 03-48,** an **Ordinance** authorizing the execution and delivery of a Fee-In-Lieu of Tax Agreement and certain instruments relating thereto by and between Berkeley County and **Marine Barge Company, LLC** whereby, Berkeley County will enter into a Fee-In-Lieu of taxes arrangement with Marine Barge Company, LLC; providing for payment by Marine Barge Company, LLC of certain fees in lieu of Ad Valorem Taxes; and other matters relating thereto.
[Recommended by Committee on Finance]

RESOLUTIONS:

1. **RESOLUTION** providing for the Transfer of Funds in the 2003-2004 Berkeley County Budget for County Purposes other than as specified in said Budget.
[Recommended by Committee on Finance]

2. **RESOLUTION** authorizing a grant application on behalf of Spiers Landing.
[Recommended by Committee on Community Services]

3. **RESOLUTION** authorizing an amendment to the Pimlico Special Tax District By Laws.
[Recommended by Committee on Finance]

4. **RESOLUTION** approving Financing terms for various equipment lease purchases not to exceed four (4) years.
[Recommended by Committee on Public Works & Purchasing]

5. **RESOLUTION** authorizing the execution and delivery of an inducement agreement by and between Berkeley County, South Carolina and **Marine Barge Company, LLC** whereby, Berkeley County will enter into a Fee-in-Lieu of taxes arrangement with Marine Barge Company, LLC; and other matters relating thereto.
[Recommended by Committee on Finance]

REPORTS FROM STANDING COMMITTEES:

1. **Committee on Finance.**
Councilmember, Mr. Dennis L. Fish, Chairman.
a. Masonic lodge rent

2. **Committee on Land Use.**
Councilmember, Mr. Milton Farley, Chairman.
Recommendation to deny:
Request by **Patty Smith**, Lazy Hill and New Oak Road, Moncks Corner, TMS #196-00-01-044, (2.02 acres), **from R-1R Single Family Rural Residential District, to R-1, Single Family Residential District**. Council District No. 6.

3. **Committee on Public Works and Purchasing**.
Councilmember, Caldwell Pinckney, Jr., Chairman.
Bids and Recommendations:
a. Runway rejuvenation project
. b. Municipal lease purchasing financing.

4. **Committee on Justice and Public Safety.**

Councilmember, Mrs. Judy C. Mims, Chairman

5. Committee on Water and Sanitation.
Councilmember, Mr. Steve C. Davis, Chairman.
a. Oakley Plantation House

6. Committee on Planning and Development.
Councilmember, Mr. Charles E. Davis, Chairman.

7 Committee on Community Services.
Councilmember, Mrs. Judith K. Spooner, Chairman.

8. Committee on Human Services.
Councilmember, Mr. William E. Crosby, Chairman.

NOMINATIONS FOR MEMBERSHIP ON BOARDS, COMMISSIONS, ETC.

ACCOMMODATIONS TAX ADVISORY COMMITTEE
BCD COUNCIL OF GOVERNMENTS
BERKELEY-CHARLESTON-DORCHESTER – RTMA
CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS
HOUSING BOARD OF ADJUSTMENTS AND APPEALS
LIBRARY BOARD
MENTAL HEALTH BOARD
SANTEE COOPER COUNTIES PROMOTION COMMISSION
SPIERS LANDING COMMISSION
TALL PINES SPECIAL TAX DISTRICT
TAX ASSESSMENT REVIEW BOARD
TRIDENT WORKFORCE INVESTMENT BOARD
WATER AND SANITATION APPEALS BOARD

CORRESPONDENCE

UNFINISHED BUSINESS

RESOLUTION affecting the payment of certain water impact fees to the Berkeley County Water and Sanitation Authority.

Water Service to C & S Residential Care Facility.

NEW BUSINESS

Consideration of legal fees and costs in the matter of Charles E. Davis v Berkeley County**.**

ANNOUNCEMENTS

The **AUGUST 2003, Regular Meeting** of **Berkeley County Council** will be held on **MONDAY AUGUST 25TH 2003,** in **THE ASSEMBLY ROOM, 223 NORTH LIVE OAK DRIVE, MONCKS CORNER, S. C**., at **7:00 P.M.**

ADJOURNMENT

EXECUTION OF DOCUMENTS BY COUNCIL

PUBLIC DISCUSSION

July 23, 2003
S/Barbara B. Austin
Clerk of County Council