

April 22, 2003

COUNCIL CHAMBER

Regular meeting.

The seventy-sixth meeting of the City Council of Charleston was held this date convening at 5:00 p.m. in City Hall.

A notice of this meeting and an agenda were mailed to the news media April 18, 2003 and appeared in The Post and Courier April 20, 2003 and is made available on the City's website.

PRESENT

The Honorable Joseph P. Riley, Jr., Mayor; Councilmembers Fishburne, Morinelli, Lewis, Campbell, Gallant, Gilliard, Evans, Tinkler, Shirley, Bleecker, and George --- 12. Mayor Riley noted that Councilmember Waring was absent because of the death of his granddaughter.

The meeting was opened with prayer by Councilmember Gilliard.

Councilmember Gilliard led City Council in the Pledge of Allegiance.

Council first considered the presentation of the Joseph Moore Athletic Foundation Award, which had been requested by Councilmember Gilliard. Mayor Riley commented that Mr. Moore had been a much-revered coach at Burke High School. He noted that Mr. Moore had died a number of years ago.

The Mayor invited Mrs. Joseph Moore, representing the Joseph Moore Athletic Foundation, her daughter Sharon Reid, Mr. Moore's sister Jo Ethel Taylor along with Leroy Connor, Alvin Green and Arthur Lawrence to join him on the dais for the presentation.

Mr. Connor expressed his appreciation to this governing body for allowing the foundation the opportunity to present these scholarships in the name of Joseph Moore. He commented that Arthur Lawrence was present as a representative of Concerned Citizens for Youth Development at the City Gym.

He said that he would also be presenting a scholarship in the name of former City Councilmember Arthur Christopher who had been a member of the organization. Mayor Riley added that Mr. Christopher had been a quarterback at Burke High School.

Mr. Connor applauded the efforts of the Concerned Citizens organization with the scholarship fund. He then presented a check to Mr. Lawrence for the Arthur Christopher Scholarship Fund in the name of Joseph Moore. A round of applause followed the presentation.

He then invited Major John Dunmyer, III to join him at the podium for the presentation of the second scholarship. He said that one of the goals of the scholarship fund has been to enhance the education of children in Charleston County schools. He spoke of the work and the efforts of many retired people over the years.

Mr. Connor presented a check on behalf of the Joseph Moore Athletic Foundation Award to Major Dunmyer for the Voorhees alumni to go for material and books for students at Voorhees. There was another round of applause following this presentation.

Mayor Riley thanked the representatives of the Joseph Moore Athletic Foundation for the wonderful job they have been doing in keeping the memory of a great man alive in our community and for doing it in such a wonderful way to enhance the quality of life for the Charleston community.

Next, Council considered the Proclamation recognizing Landscape Architecture Week, which had been requested by Amanda Barton, Project Manager in the City's Department of Parks. The Mayor invited Bill Eubanks, Trustee, David Lycke, Past President and Regan Contois, President-elect of the American Society of Landscape Architects, and Ms. Barton to join him at the podium.

The Mayor expressed his profound appreciation and understanding of the critically important role that the landscape architecture profession plays in the enhancement of the beauty and quality of life of our community. He noted that many distinguished architects work for the City including Director of Parks Steve Livingston and his marvelous staff.

Continuing, he said that the profession of landscape architecture is more than the designing of enhancements to the landscape. He spoke of the education and all the components of it within the environment. He commented that the profession had exhibited its profound skills in this community and it helps us to see the larger picture. He talked about the creation of a planned and organized landscape built, or to be built, in a manner that enhances the human experience. Mayor Riley thanked all of the wonderful landscape architects that work with the City daily. He noted that he might speak briefly about one aspect of this later in this meeting.

Mayor Riley then issued the Proclamation declaring the week of April 19-27, 2003 as Landscape Architecture week, signed it and presented it. An extended round of applause followed the presentation.

A gentleman thanked the Mayor and Council for recognizing the landscape architecture profession in this way and also for sharing in the celebration this week. He noted that the Mayor had already made the point that the City has many landscape architects on staff. He commented that the City should be very proud of them.

He went on to recognize the Mayor as an honorary member and certainly the catalyst of many of the wonderful projects that landscape architects get to work on here in the City. There was another round of applause.

Mayor Riley took this opportunity to let everyone know that Broad Street would not be closed until 7:00 p.m. and towing would be deferred until 7:30 p.m. Signs on the parking meters indicated the street would be closed at 6:00 p.m. for continuing roadwork. He assured everyone if Council's business could not be concluded by that time they would stand in recess so everyone could move his/her car.

Continuing, the Mayor noted that, while on the subject of landscape architecture, he had the pleasure of walking the wonderful, new and now open section of the City's Riverwalk in front of the Dockside along with some of the City staff and some representatives of the media. He invited everyone to go there and said that "it is absolutely extraordinary." He described it as the work of great landscape architects, Steve Livingston, his staff and Sasaki and Associates. The Mayor remarked that this is "a part of the City's expressed vision and plan, which is proceeding apace to eventually allow you to negotiate the Peninsula from Charlotte Street on the east on the water's edge with very few interruptions all the way around up through Brittlebank Park to the baseball park."

The Mayor said that it had been possible to open this section because the National Park Service was nearing completion of their additional park work. He commented that the additional park work had occurred because of the wonderful circumstance of the park service acquiring additional land where there was going to be a restaurant and extending Liberty Square. He spoke

of the beautiful Septima Clark Fountain and said that it had been turned on. He noted the formal dedication of it would take place on June 14, 2003.

He referred to this day as a glorious day and said "the ability to move from one point to another safely is absolutely extraordinary." He spoke with pride saying that there might not be another example in this country of a substantial private building and private occupation for the water's edge where a city working with a private owner was able to figure out an acceptable mechanism to allow public access in front of it. He said if there were other examples of this there would be very few.

Mayor Riley remarked that so often once that is created as a private zone the public forever loses the opportunity to negotiate in front of it. He spoke of the wonderful happenings that will only increase. He referred to the IMAX, Fountain Walk, the South Carolina Aquarium, the military museum, the Fort Sumter Tour Boat facility, the beautiful green spaces, the Septima Clark Fountain and described walking in front of the Dockside to the Charleston Maritime Center. He said that it is extraordinary.

The Mayor commented that it was most appropriate that it had opened during Landscape Architecture Week. He then urged everyone to see this fabulous addition to the City's Riverwalk.

Council then considered a public hearing called for by the following advertisement which appeared in The Post and Courier on March 23, 2003 and in The Chronicle on March 26, 2003:

PUBLIC HEARING

The public is hereby advised that on Tuesday, April 22, 2003, beginning at 5:00 p.m. the City Council of Charleston will continue the public hearing initially commenced on November 26, 2002 and continued on December 17, 2002, January 28, 2003, February 25, 2003 and March 25, 2003. The public hearing will be held at City Hall, 80 Broad Street and will concern the amendments to the Century V City Plan to provide for updated population estimates, and information and recommendations concerning capital improvements and the implementation of impact fees. A copy of the Century V City Plan and the proposed amendments is available for public inspection at the Planning and Neighborhoods Department, 75 Calhoun Street, Third Floor.

Interested persons are invited to attend the hearing and express their views. Extended presentations should be made in writing.

VANESSA TURNER-MAYBANK

Clerk of Council

This matter had been before Council for public hearing previously to consider amendments to the Century V City Plan to provide for updated population estimates, and information and recommendations concerning capital improvements and the implementation of impact fees.

Director of Planning and Neighborhoods Tim Keane reported that Council would be considering second reading of two bills. He noted that one of the bills would amend Part 3, Section E, Municipal Services and facilities, of the Charleston Century V City Plan. This bill had received first reading at the April 8, 2003 Council meeting.

He further explained that the other bill before Council for second reading would provide for the implementation of impact fees. This bill had received first reading at Council's March 25, 2003 meeting.

Mr. Keane noted that Council had adopted a Resolution in August 2002, which asked staff to analyze the potential for imposing impact fees for public safety and environmental services. He said that the original proposal had been brought to Council on November 26, 2002. He commented that some objections had been raised at that time and subsequently City staff amended the proposal to address the concerns that had been raised.

He stated that the amended proposal was before Council at this meeting and the Planning Commission had recommended approval at their February 2003 meeting. He said that this amended proposal had been presented to Council on March 25, 2003 and they had embraced it at that time.

Mr. Keane said the matter was before Council and staff was recommending giving second and final reading to the two bills. He mentioned that a team of City staff had worked on this proposal including Chief Financial Officer Steve Bedard, Director of Public Service Laura Cabiness, Director of Fleet Management Mike Metzler, Fire Chief Rusty Thomas, the Capital Projects team in the Department of Parks and Frances Cantwell, Esq. He said there had been lots of meetings and lots of work involved in this.

He commented that staff felt that the proposal before Council had addressed many of the concerns that had been expressed during the process of drafting the bills. He noted there continued to be some objections. He then referred to the matter of the capital improvements plan. He said that Ms. Cantwell had explained at the March 25, 2003 Council meeting that a conscious and legally appropriate decision had been made to amend the City's Century V Plan to incorporate the capital planning element and impact fee proposal. He stated that the City Plan was designed for this purpose and recommended that the City approach this particular proposal in this manner.

Continuing, Mr. Keane said there had also been a request to calculate the garbage truck fee and the public safety fee based on the total number of dwelling units in the City at the end of the planning period, which will be 2015. He noted that the public safety fee is calculated that way, but the garbage truck fee is not calculated that way. He commented that staff felt this was appropriate because these services are provided in two very different ways. He noted that the City has multiple public safety stations located around the City that serve large geographic areas from those locations.

He further explained that in the case of garbage trucks the City operates from a single yard that travels to each individual customer for every service call. He said the garbage truck fee had been calculated specifically based upon the projected number of additional units the City will have between the time that the bill is ratified and the planning year 2015. He said that staff felt that would be appropriate.

Mr. Keane said that his third point pertained to the inclusion of a credit applied to repaying the debt incurred for those existing stations, i.e. fire stations. He said that this had been considered when the proposal had been to charge the fee based on service areas in the City. Now, he said having changed the proposal and applying the fee Citywide, staff felt that would not be necessary.

He referred to Page 52 of the City Plan amendment pertaining to the section on credit. He noted that this section included information that it might be necessary and appropriate with certain impact fees that the City apply a credit for certain things. While this section had been included in the plan, Mr. Keane said that staff was not recommending it for these particular fees at this time.

Mr. Keane restated that the proposal before Council provided for impact fees to pay for garbage trucks at the cost of \$82.00 per customer. He said the fee for fire stations and the apparatus to occupy those stations would be \$79.00 per residential dwelling unit and four cents (\$.04) per square foot for nonresidential development. Both staff and the Planning Commission recommended approval of the bills.

When Councilmember Gilliard asked how many new garbage trucks had been projected, Mr. Keane responded that it was included in the proposal and the number would be seven new trucks based on the new customers.

Council briefly discussed how much time to allow for each side to address Council on this public hearing matter. At the Mayor's suggestion, Council agreed by unanimous consent to allow 10 minutes, if needed, for each side to address this issue.

The Mayor invited comments from the public on this matter. The following persons addressed City Council:

1) Ruthie Smythe, 9 Broad Street and representing the Charleston Trident Association of Realtors, had sent a letter regarding concerns about the calculations for garbage trucks. She felt that this should be calculated on the total service units.

2) Phillip Ford, Executive Vice-president of the Charleston Trident Home Builders Association (CTHBA), referred to a letter that had been distributed to Council. A copy of the subject letter is on file in the office of the Clerk of Council in the meeting folder of this date. Mr. Ford expressed concern about different elements. He felt that everyone should take one more stab at working out the differences with the capital improvement plan as well as several other elements. He asked Council to delay action on this matter for another two weeks to give one more chance to iron out some of the differences.

3) Susan Smythe, Esq., representing the developers of Daniel Island and the owners of Cainhoy Plantation, said that she had no objections to the capital improvements plan. She felt there should be more information presented to City Council and to the public. She stated that the statute specifically requires looking at the existing fire departments, how they have been financed and existing garbage trucks and how they have been financed and to then delineate options.

She commented that the information was important not just because the statute mandates it, but it is also essential to determine whether the proposed impact fee would in fact be fair and equitable.

Ms. Smythe referred to Page 62 and said that her interpretation differed from Mr. Keane's interpretation. She read from a document and said that she did not read it as saying that possibly in the future a credit will be given. She read it as saying that a credit would be given for fire stations. She felt that this issue went to the information that Council should have before considering the advisability of an impact fee and the amount of the impact fee. She said that a credit should be given so that a newcomer would not be paying for existing fire stations, existing garbage trucks plus a new impact fee for new fire stations and new garbage trucks.

She said that there were conflicts between what was in the City Plan and what was in the bill given that these two documents together would create the impact fee ordinance.

Ms. Smythe then stated that her third issue pertained to the numbers that should be divided into the cost of garbage trucks. She did not feel there was any difference in the analysis between fire stations and the garbage trucks. She said that they are all Citywide services and none of them

could be segregated and promised that the only new garbage trucks would be given to the newcomers. She expressed the belief that the number should be 63 divided into the cost, not 50.

4) Marc Knapp, West Ashley resident, said that he had originally opposed impact fees but he had warmed up to them. He commented that the more he thinks about them the more he worries about fiscal responsibility. He said that he was concerned that Council would be allowing that income stream that would normally be financing this equipment to be basically diverted elsewhere. He commented that the only saving grace was that this would be a one-time charge. He felt there had been a lack of vision about road improvements and he said that this would have been the perfect opportunity to use the impact fees to solve the traffic problems, which he said is the one thing that this City does not put any money in. He referred to the Department of Traffic and Transportation as a three-ring circus. He stated that he has no respect for those people because he sees the way the traffic lights work in the City. He felt that Council should look at this thing a little bit more and include some transportation improvements in it. He said that a traffic circle at Bees Ferry Road and Glenn McConnell Parkway would be real nice. No one else indicated a desire to speak for or against this matter. The Mayor declared this public hearing concluded.

Mr. Keane rose to respond to Susan Smythe's remarks regarding the paragraph on Page 62 of the plan. He commented that he had noted in his opening remarks that a provision had been drafted originally when a public safety fee had been proposed based on service areas. He said there had been some concern about the credit that would be necessary as a result of that. He stated that the version in Council's packets on March 25th and in tonight's packets actually eliminated that provision.

He referred Council to Page 62 in their agenda packets and said that the change had occurred when the proposal went from service areas to Citywide for public safety fees.

When Councilmember Lewis asked about waiting two weeks, Mr. Keane replied that he understood the request for more time to try to come to some consensus, but he was convinced that no further agreement would be reached over those final little points. He felt very comfortable with the proposal before Council and preferred not to delay this matter. He noted the amount of work that had gone into working with the people who had raised objections and said that some pretty drastic changes had been made as a result of that. He did not think that an agreement could be reached over the three things that had been mentioned and asked Council to go forward with the vote.

Councilmember Shirley moved to defer this matter two weeks. Councilmember Fishburne seconded the motion.

Councilmember Shirley stated his belief that Mr. Keane was probably correct but he had received a letter from the homebuilders' association. He expressed confidence that staff had bent over backwards in this matter, but he did not feel it would be unreasonable to give one more shot at this.

Councilmember Fishburne commented that he had spoken with Phillip Ford and Frances Cantwell between meetings, but he had not been able to reach the Board of Realtors or Susan Smythe. He said this was an important issue and delaying action for two weeks might avoid some litigation in the future. He stated that was his reason for seconding the motion and that was why he would be voting to defer.

Councilmember Morinelli asked if traffic and transportation issues had been considered. Mr. Keane responded that the potential for impact fees in the future for traffic and transportation and other capital facilities in the City had been discussed. He said the recommendation before Council addressed the two most essential public services that the City provides. He said that staff was prepared with the analysis to move forward on these but that would not preclude others in the future.

Councilmember Morinelli then asked if it would be possible to add on to this. Mr. Keane replied affirmatively and said that it would be necessary to go through the same process of analysis and presentation to Council to adopt new fees.

Councilmember George clarified that the debate pertained to the motion to defer. He noted that this issue had been before Council a number of times and recalled that this began at a Council retreat at Middleton Plantation about three years ago. He had some concerns about structural flaws with respect to potential litigation. However, he said the City's legal staff was comfortable with the current structure and the manner in which they addressed the fire station credits due to outstanding bonds and what number to use as the denominator for the trucks. He said it could be put off again, but he felt there would be a few letters from a couple of other groups raising other issues and this could go on and on.

He expressed his understanding that this would be a large pill for some people to swallow. He said that Charleston is one of the last municipalities in this area to charge these kinds of impact fees. He felt that the bill should get second and third readings at this meeting and said that a decision should be made. He commented that he would be voting not to defer.

Councilmember Campbell said that he would support the motion to defer so that Mr. Keane could sit down with those who had raised objections. He noted that these fees would be with us for a very long time and he wanted to be sure that it was done right. He stated that he definitely supports impact fees, not only in these areas. He pledged that in two weeks he would vote affirmatively for the impact fees, but he said he would support the motion to defer because he felt this should be right.

Councilmember Tinkler said he had expressed concern at the previous Council meeting about questions that Ms. Smythe had raised in her letter. He said that he is aware that the legislature does not always make things exceedingly clear when it passes a statute. He expressed the belief that the City's legal counsel, when it comes to divining the intent of the legislature, is as good as any in this state. He had discussed this issue with Frances Cantwell and Susan Smythe and said that he felt that the City might have to agree to disagree. He did not believe that another two weeks would be helpful and stated that he favored going forward on this matter. He then stated his opposition to the motion to defer.

Mayor Riley agreed that the City should go forward. He said that staff had done a great job as everyone had expected, but he added that this had really been hard work. He spoke of the analytical, legal, planning, communicative and listening work that had gone into this. He expressed the belief that this was the best and that additional time would not change that. He commented that this was very important to all of our citizens and taxpayers. He noted that this would allow for some future expenses of City government that are directly related to growth not to be the responsibility of the taxpayers as a whole, but rather to be the responsibility of the entities that are causing the need for the improved or additional public services and facilities. He referred to this as a positive shift in favor of the taxpayers and said that he hoped it would get

final approval at this meeting. He commended all who had worked on this and City Council for their support.

Councilmember Tinkler referred to a recent property tax forum. He said that Mayor Riley had given a presentation and several members of Council had been present. Councilmember Tinkler said that he felt that the most important point that had come out of the Mayor's presentation had been that the City has been engaged over the last decade in property tax relief.

Continuing, he noted that the graph had shown that two-thirds of the City's budget in 1989 came from property tax. By 1999 he said the graph had dropped down so that one-third of the City's operating budget came from property taxes. Councilmember Tinkler said that this City had worked hard in attempting to diversify the sources of revenue. He commented that impact fees would be another way to do this because it would take the burden off the taxpayer and the property taxpayer. He felt that this would provide a real tax relief benefit to the citizens of Charleston. He stated his belief that this matter had been thoroughly discussed, examined meticulously by staff and legal counsel. He said that it was time to pass this tonight.

Councilmember Gallant said that he wanted a better understanding of the affordable housing element and commented that he did not know if that information had been given to him. He referred to information on Page 62 and said that he just really wanted to understand that particular information.

Mr. Keane responded that state law is very specific about what qualifies for the affordable housing exemption from impact fees. He said that it is housing for those that are making 80 percent or less of median income. He commented further that the exemption was included in the proposal before Council. He stated if Council adopted the proposal before them, the exemption was included. Mr. Keane remarked that staff had tried to estimate the number of units that would be expected over a planning period up to the year 2015 that would fall below that 80 percent cost.

Councilmember Gallant asked if this would apply to Daniel Island and Cainhoy. Mr. Keane replied that it would apply anywhere in the City.

When Councilmember Gilliard asked what difference delaying the matter would make, Mr. Keane replied two weeks less time of collecting and two weeks less to have that source of revenue.

There were no further questions or comments of Council.

The motion to defer failed in a vote of 4-9 with Councilmembers Fishburne, Campbell, Gilliard and Shirley voting aye.

Councilmember Shirley stated his support for the bills. He explained that he had intended to support this all along. He said that he wanted to make it clear that he felt the request to defer the matter had been reasonable, but he also wanted to state that he would be voting affirmatively. On motion of Councilmember Lewis, the two (2) bills received second reading. They passed second reading on motion of Councilmember Bleecker and third reading on motion of Councilmember George. On the further motion of Councilmember Lewis, the rules were suspended and the bills were immediately ratified as:

RATIFICATION NUMBER

2003-37

AN ORDINANCE TO AMEND PART 3, SECTION E, MUNICIPAL SERVICES AND FACILITIES, OF THE CHARLESTON CENTURY V CITY PLAN TO INCLUDE

PROVISIONS PERTAINING TO CAPITAL IMPROVEMENTS PLANNING TO INCLUDE UPDATED POPULATION ESTIMATES AND AN ANALYSIS OF CITY SERVICES AND FACILITIES AND THE USE OF IMPACT FEES AS A MEANS OF FUNDING CAPITAL IMPROVEMENTS NECESSITATED BY NEW GROWTH AND DEVELOPMENT. BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. Findings. By resolution dated August 13, 2002, City Council resolved to undertake an analysis of whether impact fees could be a viable means of funding capital improvements necessitated by new growth and development, and referred the matter to the Planning Commission for review, study and recommendation. The Planning Commission, with assistance from the departments of Planning and Neighborhoods, Fire, Police, Public Service, Budget, Finance and Revenue Collections and Corporation Counsel has undertaken the appropriate review and study and has recommended amendments to the Charleston Century V City Plan to reflect current population estimates and to provide for a mechanism and means of imposing impact fees to fund certain capital improvements necessitated by new growth and development. City Council has considered the recommendation of the Planning Commission, as well as the study performed by it and staff, and the analysis included therein, and has determined that the same are sound and consistent with the provisions of S.C. Code § 6-1-910, et seq. (Supp. 2001), the South Carolina Development Impact Fee Act, particularly § 6-1-960 thereof, and that the amendment to the Charleston Century V City Plan to include a plan for capital improvements and funding through the use of impact fees should be made.

Section 2. The Charleston Century V City Plan is hereby amended by adding to Part 3, Section E thereof provisions relating to Capital Improvement Planning, Land Use Assumptions and Growth and Demand Projections and a new subsection E-1. Impact Fees, said amendments being attached to this Ordinance as pages 46 through 65 on the attached Exhibit A (Refer to original ordinance for attachments.) and incorporated herein by reference.

Section 3. This Ordinance shall become effective upon ratification.

RATIFICATION NUMBER

2003-38

AN ORDINANCE TO PROVIDE FOR IMPACT FEES IN THE CITY BY ADDING SECTION 2-271 TO THE CODE OF THE CITY OF CHARLESTON. **(AS AMENDED)** BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. The Code of the City of Charleston is hereby amended by adding thereto Sec. 2-271, which shall read as follows:

Sec.2-271. Impact Fees.

(1) Findings. S.C. Code § 6-1-910, et seq (Supp. 2001), the South Carolina Development Impact Fee Act (Act), authorizes the imposition of impact fees to fund the cost of system improvements to public facilities that are necessitated by new growth and development. The Act requires, as a condition precedent to the imposition of impact fees, that the city must have in place a comprehensive plan as set forth in Chapter 29 of Title 6 of the South Carolina Code and otherwise comply with the Act. The city has adopted a comprehensive plan in accordance with Chapter 29 or Title 6 of the South Carolina Code, and in accordance with the Act, has made

available to the planning commission assistance to enable it to study and review the issue of impact fees. The planning commission has recommended that impact fees be imposed to fund certain capital improvements that are necessitated by new growth and development, and city council deems it in the interest of the public that such recommendation be adopted and enacted as law.

(2) Impact fees are hereby imposed in the city to fund the share of capital improvements necessitated by new growth and development as follows:

(i) Definitions.

(a) "Affordable housing" means housing affordable to families whose incomes do not exceed eighty percent of the median income for the service area or areas within the jurisdiction of the city.

(b) "Building permit" means a permit issued for construction on or development of land.

(c) "Capital improvements" means improvements with a useful life of five years or more, by new construction or other action, which increase or increased the service capacity of a public facility.

(d) "Developer" means an individual or corporation, partnership, or other entity undertaking development.

(e) "Development" means construction or installation of a new building or structure, or a change in use of a building or structure, any of which creates additional demand and need for public facilities designated to be funded, in whole or in part, by impact fees. A building or structure shall include, but not be limited to, modular buildings and manufactured housing.

"Development" does not include alterations made to existing single-family homes. (f)

"Development approval" means a document that authorizes the commencement of a development.

(g) "Environmental services impact fee" means a payment of money imposed as a condition of development approval to pay a proportionate share of system improvements to environmental facilities attributable to the applicable development. The term does not include:

1. a charge or fee to pay the administrative, plan review, or inspection costs associated with permits required for development;

2. amounts collected from a developer in a transaction in which the city has incurred expenses in constructing capital improvements for the development if the owner or developer has agreed to be financially responsible for the construction or installation of the capital improvements;

3. fees authorized by Article 3, of Chapter 1 of Title 6 of the South Carolina State Code of Laws.

(j) "Feepayer" means the individual or legal entity that pays or is required to pay an impact fee.

(k) "Incidental benefits" are benefits which accrue to a property as a secondary result or as a minor consequence of the provision of public facilities to another property.

(l) "Land use assumptions" means the description of a service area and projections of land uses, densities, intensities, and population in the service area over at least a ten-year period. (m)

"Level of service" means a measure of the relationship between service capacity and service demand for public facilities.

- (n) "Project" means a particular development on an identified parcel of land.
- (o) "Proportionate share" means that portion of the system improvement costs determined pursuant to Section 6-1-990 of the South Carolina Code of Laws that reasonably relate to the service demands and needs of the project.
- (p) "Public facilities" means public safety facilities, including law enforcement and fire stations, and capital equipment and vehicles having an individual unit price in excess of \$100,000 used in the delivery of public safety services and the collection and disposal of solid waste.
- (q) "Public safety impact fee" means a payment of money imposed as a condition of development approval to pay a proportionate share of system improvements to public safety facilities attributable to the development. The term does not include:
 - 1. a charge or fee to pay the administrative, plan review, or inspection costs associated with permits required for development;
 - 2. amounts collected from a developer in a transaction in which the city has incurred expenses in constructing capital improvements for development if the owner of developer has agreed to be financially responsible for the construction or installation of the capital improvements;
 - 3. fees authorized by Article 3 of Chapter 1 of Title 6 of the South Carolina Code of Laws.
- (r) "Service area" means the defined geographic area(s) specified in Part 3, Section E-1 of the Charleston Century V City Plan.
- (s) "Service unit" means the standardized measure of consumption, use, generation or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a particular category of capital improvements.
- (t) "System improvements" mean capital improvements to public facilities that are designed to provide service to a service area.
- (u) "System improvement costs" mean costs incurred for construction or reconstruction of system improvements, including design, acquisition, engineering, and other costs attributable to the improvements, and also including the cost of providing additional public facilities needed to serve new growth and development. System improvement costs do not include:
 - 1. construction, acquisition, or expansion of public facilities other than capital improvements identified in the Charleston Century V City Plan;
 - 2. repair, operation, or maintenance of existing or new capital improvements;
 - 3. upgrading, updating, expanding, or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental, or regulatory standards;
 - 4. upgrading, updating, expanding, or replacing existing capital improvements to provide better service to existing development;
 - 5. governmental administrative and operating costs; or
 - 6. principal payments and interest or other finance charges on bonds or other indebtedness except financial obligations issued by or on behalf of the city to finance capital improvements identified in the Charleston Century V City Plan.
- (ii) Affordable Housing.

(a) The City has prepared a report that estimates the effect of recovering capital costs through impact fees on the availability of affordable housing within the city, and incorporated it in Part 3, Section E-1 of the Charleston Century V City Plan.

(iii) Annual Report and Termination of Fees. The city shall prepare and publish an annual report describing the amount of impact fees collected, appropriated or spent during the preceding year. The impact fees provided for herein shall terminate when sufficient funds to pay for the system improvements identified in Part 3, Section E-1 of the Charleston Century V City Plan to be paid for through the use of impact fees have been collected or December 31, 2015, whichever shall first occur.

(iv) Impact fees.

(a) An environmental service impact fee is set at \$82 per residential dwelling unit, and \$82 per city container used by nonresidential development. The fee shall be adjusted on an annual basis through the year 2015 based on the Consumer Price Index.

The fee was calculated using the whole of the city as the service area, maintaining the current, acceptable level of service of once a week pickup over four days, the number of units served by an average truck route, the estimated number of users to be added to the system through the year 2015 and the number and costs of new trucks that will be needed to serve those units. Cost estimates were based on city departmental experience.

The improvements to be purchased with the environmental impact fees are seven trucks, to be acquired as the number of new units necessitating an additional route come on line, anticipated to be one truck in 2004, one truck in 2005, one truck in 2006, one truck in 2008, one truck in 2010, one truck in 2012 and one truck in 2014.

(b) A public safety impact fee is set at \$79, per dwelling unit and \$.04 per square foot of nonresidential development. The fee shall be adjusted on an annual basis through the year 2015 based on the Consumer Price Index. Cost estimates were based on city departmental experience. The fees were calculated using the whole of the city as the service area, maintaining the current, acceptable level of service of one equipped fire station within five miles of a potential call and one police substation per 20,000 people or per geographically distinct area of the city. Applying these criteria to anticipated growth through the year 2015 demonstrated that new public safety facilities to serve the growth would be required. The type and amount of growth was estimated on the basis of land use assumptions, including zoning, building permit and census data. The cost of public safety facilities and equipment was apportioned between residential (62%) and nonresidential (38%), based on departmental experience as to the source and frequency of service calls. A cost per dwelling unit was derived by dividing 62% of the costs of facility improvements by the estimated number of residential units to be in the city through the year 2015. A cost per square foot of nonresidential development was derived by dividing 38% of the costs of facility improvements by the estimated number of nonresidential square footage to be in the city through the year 2015.

System improvements to be made with the public safety impact fees are a fire station and police team station for the Bees Ferry area, and a pumper truck and a ladder truck, with an estimated completion date of 2006; a fire station and police team station for the Daniel Island area, and a pumper truck and a portion of the cost of a ladder truck, with an estimated completion date of 2004; and a fire station and police substation for the Cainhoy area, and a pumper truck and a portion of the cost of a ladder truck, with an estimated completion date of 2007.

(c) The payment of a development's proportionate share of system improvement costs by payment of the impact fees as set forth herein constitutes full and complete payment of the new development's proportionate share of those system improvements costs; (d) An impact fee payer:

1. may negotiate and contract with the city to provide facilities or services, in lieu of the impact fees;
2. has the right of appeal, as hereafter set forth;
3. shall not be required to pay any impact fee until the issuance of the building permit or development permit when no building permit is required.

(v) Exemptions from impact fees.

Any claim for exemption from an impact fee must be made no later than when the applicant applies for the first building permit, or development permit if no building permit is sought, for the proposed development that creates the obligation to pay the fees. Notwithstanding any other provision of this ordinance, only the following development shall be exempt from payment of impact fees:

- (a) rebuilding the same amount of floor space of a structure that was destroyed by fire or other catastrophe;
- (b) remodeling or repairing a structure that does not result in an increase in the number of service units;
- (c)
- (d) replacing a residential unit, including a manufactured home, with another residential unit on the same lot, if the number of service units does not increase;
- (e) placing a construction trailer or office on a lot during the period of construction on the lot;
- (f) constructing an addition on a residential structure which does not increase the number of service units;
- (g) adding uses that are typically accessory to residential uses, such as a tennis court or a clubhouse, unless it is demonstrated clearly that the use creates a significant impact on the system's capacity;
- (h) the residential units in a development project if:
 1. the development project creates affordable housing units; and
 2. the impact fee for the residential affordable housing units is funded through a revenue source other than impact fees; and
 3. if the revenue source to fund the fees is provided by the city, the developer has consented to submit the development to the program established to monitor creating and maintaining affordable housing, as hereafter set forth.

(i) a development that does not utilize the service for which the impact fee was imposed, provided however, the fee shall be imposed should the development subsequently utilize the service.

(vi) Affordable Housing. Because all or part of any particular development project may be exempt from impact fees, the following sets forth the procedures for exemption from the fees, when the funding source for the fees is provided by the city:

- (a) As to rental units, the owner and/or developer shall be required to submit to the department of housing and community development verified income reports of household income of all rental occupants at the inception of each tenancy and on an annual basis

thereafter for a period of three (3) years. If during this timeframe the units are rented to households whose income exceeds the definition of affordable housing as provided herein, the then owner of the units, as a condition of continues occupancy, shall be required to reimburse the city for the impact fees paid for those units.

(b) As to owner occupied units, each owner, prior to initial occupancy, shall be required to submit to the department of housing and community development a verified income report of household income of all members of the household, and continue to do so on an annual basis thereafter for a period of three (3) years. If during this timeframe a unit is owned or occupied by persons, other than the initial owner(s), whose household income exceeds the definition of affordable housing as provided herein, the then owner of that unit shall be required to reimburse the city for the impact fees paid for the unit.

(c) For purposes hereof, household income shall include all sources of financial support, both

cash and in kind, of all adult members of the household, to include wages, salaries, tips, commissions, all forms of self-employment income, interest, dividends, net rental income, income from estates or trusts, social security benefits, railroad retirement benefits, Supplemental Security benefits, Aid to Families with Dependand Children or other public assistance or public welfare programs, other sources of income regularly received, including Veterans' (VA) payments, unemployment compensation and alimony, awards, prizes, government or institutional or eleemosynary loans, grants or subsidies and contributions made by the members' families for medical, personal or educational needs.

(d) The owner and/or developer shall be required to execute a Memorandum of Use with the city acknowledging the use of the unit(s) for affordable housing in accordance with the provisions hereof, which memorandum shall be in a form acceptable for recording in the record office of the applicable county and which shall be recorded in the record office of the applicable county.

(vii) Independent calculations. A developer may submit an independent calculation of the applicable impact fee representing the fair share of system improvements necessitated by his development project pursuant to the provisions of section (viii), or he may enter into an agreement in lieu of the payment of impact fees as provided in section (xiv).

(viii) Provisions for independent calculations of impact fees.

1. Independent calculations for the determination of impact fees must be performed by qualified professionals based upon sound studies utilizing accepted engineering practices and planning principles.

2. The independent calculation shall be subject to review and approval of the capital projects committee and the mayor. In the case of large projects involving multiple uses and complex calculations the committee may seek the additional assistance of qualified consultants at the expense of the developer.

3. The committee shall either approve or provide in writing the reasons for disapproval of the independent calculation study within 60 days of its submittal for review.

4. Prior to commencing the study, the developer's professional consultant and the appropriate city staff shall agree upon the relevant factors that will be utilized in the independent fee calculation. (ix) Credits.

- (a) Should the city elect to accept a contribution, payment, construction or dedication of land for system improvements, a developer may apply for a credit against the applicable impact fee imposed herein.
- (b) The determination of the amount of any credit shall be undertaken through the submission of an Application for Credit Agreement, which shall be submitted to the director of planning and neighborhoods.
- (c) The application for a Credit Agreement shall include the following information: 1.
If the proposed application involves a credit for any contribution, the following documentation must be provided:
- a. A certified copy of the development approval in which the contribution was agreed;
 - b. If payment has been made, proof of payment; or
 - c. If payment has not been made, the proposed method of payment.
2. If the proposed application involves credit for the dedication of land:
- a. A drawing and legal description of the land;
 - b. The appraised fair market value of the land at the date a building permit is proposed to be issued for the development, prepared by a professional Real Estate Appraiser who is a member of the Member Appraisal Institute (MAI) or who is a member of Senior Residential Appraisers (SRA), and if applicable, a certified copy of the development permit in which the land was agreed to be dedicated.
3. If the proposed Application for Credit Agreement involves construction:
- a. The proposed plan of the specific construction prepared and certified by a duly qualified and licensed engineer or contractor;
 - b. The projected costs for the suggested improvement, which shall be based on local information for similar improvements, along with the construction timetable for the completion thereof. Such estimated cost shall include the cost of construction or reconstruction, the cost of all labor and materials, the cost of all lands, property, rights, easements and franchises acquired, financing charges, interest prior to and during construction and for one (1) year after completion of construction, costs of plans and specifications, surveys of estimates of costs and of revenues, costs of professional services, and all other expenses necessary or incident to determining the feasibility or practicability of such construction or reconstruction.
 - c. Within ten (10) days of receipt of the proposed Application for Credit Agreement, the director of planning and neighborhoods shall determine if the application is complete. If it is determined that the proposed Agreement is not complete, the director shall send a written statement to the applicant outlining the deficiencies. The director shall take no further action on the proposed Application for Credit Agreement until all such deficiencies have been corrected or otherwise settled.
 - d. Once the director determines the proposed Application for Credit Agreement is complete, the capital projects committee and the mayor shall review it within thirty (30) days.
 - e. If the Application for Credit Agreement is approved, a Credit Agreement shall be prepared and signed by the applicant and the city. It shall specifically outline the contribution, payment, construction or land dedication, the time by which it shall be completed, dedicated, or paid, and any extensions thereof, and the dollar credit the applicant shall receive for the contribution, payment or construction.

f. Appeal of Credit Decision. A feepayer aggrieved by the decision of the committee and mayor regarding credits may appeal such decision pursuant to the appeals provisions herein.

(x) Accounting; expenditures.

(a) Revenues from all impact fees shall be maintained in interest-bearing accounts.

Accounting records shall be maintained for each system improvement. Interest earned on impact fees shall be considered funds of the account on which it is earned, and must be subject to all restrictions placed on the use of impact fees pursuant to the provisions of this ordinance. (b) Expenditures of impact fees shall be made only for the system improvements for which the impact fee was imposed as shown by the capital improvements plan set forth in Part 3, Section E-1 of the Charleston Century V City Plan and as authorized in this section. Impact fees may not be used for:

1. a purpose other than system improvement costs to create additional improvements to serve new growth;
2. a category of system improvements other than that for which they were collected; or
3. the benefit of service areas other than the area for which they were imposed. (xi)

Refunds of impact fees.

(a) All impact fees collected shall be refunded to the owner of record of property on which a development impact fee has been paid if:

1. the impact fees have not been expended within three years of the date they were scheduled to be expended on a first-in, first-out basis; or
2. a building permit or permit for installation of a manufactured home is denied. (b)

When the right to a refund exists, the city shall send a refund to the owner of record within ninety days after it is determined by the city that a refund is due.

(c) The refund shall include the pro-rata portion of interest earned while on deposit in the impact fee account.

(d) A person entitled to a refund has standing to sue if there has not been a timely payment of a refund pursuant to subsection (b) of this section.

(xii) Appeals.

(a) A feepayer aggrieved by an administrative decision regarding the payment of impact fees or independent calculations or credits may appeal to the Committee on Public Works and Utilities, utilizing such forms as may be provided by the Department of Planning and Neighborhoods. The appeal must be taken within fifteen (15) days of receipt of written notice of the decision. The committee shall conduct a hearing and render a decision, which shall be final.

A party aggrieved by the decision of the committee may appeal to the circuit court for the applicable county within thirty (30) days of receipt of written notice of the committee. (b)

A feepayer may pay an impact fee under protest. A feepayer making the payment is not estopped from exercising the right of appeal nor is the feepayer estopped from receiving a refund of an amount considered to have been illegally collected. In lieu of making a payment of an impact fee under protest, a feepayer, at his option, may post a bond or submit an irrevocable letter of credit for the amount of impact fees due, pending the outcome of an appeal. (c) The city shall provide for mediation by a qualified independent party, upon voluntary agreement by both the feepayer and the city, to address a disagreement related to the impact fee for proposed development.

Participation in mediation does not preclude the pursuit of other remedies provided for herein or that are otherwise available by law.

(xiii) Collection of impact fees.

(a) Impact fees due according to the provisions contained herein shall be collected at the time a building permit, or development permit if no building permit is required, is sought. (b) Should the feepayer elect to post a financial guarantee as provided in (xiii)(b) above, rather than pay the impact fee at the time of issuance of a building permit, the city may impose the following additional requirements, including, but not limited to:

1. additions to the fee for reasonable interest and penalties for nonpayment or late payment;
2. withholding of the certificate of occupancy until the impact fee is paid; 3. withholding of utility services until the impact fee is paid; and
4. imposing liens for failure to pay timely a impact fee.

(xiv) Agreement.

A feepayer and/or developer may enter into an agreement with the city, including an agreement entered into pursuant to the South Carolina Local Government Development Agreement Act, or other such mutually acceptable agreement, providing for payments instead of impact fees for facilities or services.

(xv) Liberal construction.

The provisions of this impact fee ordinance shall be liberally construed to effectively carry out its stated purposes, which are found and declared to be in the furtherance of the public health, safety, economy, good order, appearance, convenience and general welfare for the harmonious, orderly, and progressive development of land within the city. (xvi) Severability.

If any provision of this ordinance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions hereof are severable.

Section 2. This ordinance shall become effective May 1, 2003 if ratified prior thereto, and if not ratified by then, then it shall become effective upon ratification.

Council then considered the public hearings called for by the following advertisement, which appeared in The Post and Courier on and April 6, 2003, and in The Chronicle on April 9, 2003:

PUBLIC HEARING

The public is hereby advised that the City Council of Charleston will hold a public hearing Tuesday, April 22, 2003, beginning at 5:00 p.m. at City Hall, 80 Broad Street on the request that the Zoning Ordinance of the City of Charleston be changed in the following respects:

Rezoning

1. To rezone 1513 Savannah Highway (.03 acre) (TMS# 349-01-00-018) a portion of an Single-Family Residential (SR-1) classification to General Business (GB) classification.
2. To rezone property located on Maybank Highway (St. Johns Woods) (24.16 acres) (TMS# 279-00-00-143) from Single-Family Residential (SR-1) classification to Diverse Residential (DR-6) classification.

Zonings

3. Property located on Maybank Highway (12.82 acres) (TMS# 312-00-00-091 and 092) Single-Family Residential Planned Unit Development/Commercial Transitional (SR-4 PUD/CT).

Ordinance Amendments

4. Request approval to amend Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) to amend the current zoning ordinances regarding adult uses to include

amortization for adult uses not already subject to amortization and add definitions of adult media/novelty store with amortization.

Interested persons are invited to attend the hearing and express their views. Extended presentations should be made in writing.

VANESSA TURNER-MAYBANK

Clerk of Council

The following is the report of the City Planning Commission regarding the public hearing matters:

TO THE MAYOR AND COUNCILMEMBERS OF THE CITY COUNCIL OF CHARLESTON:

The Planning Commission met on March 19, 2003 and presents the Mayor and Council with the following recommendations:

City Plan Amendment

1. IMPACT FEES:

City Council requests the Planning Commission study and review the implementation of impact fees to fund certain capital improvements.

An amendment to the **Century V City Plan** will be presented for consideration.

Recommendation: APPROVAL

Rezoning

1. 1513 Savannah Highway (TMS# 349-01-00-018) .03 acre – Request rezoning of a portion of an SR-1 (Single-Family Residential) tract to GB (General Business).

Recommendation: APPROVAL

2. Maybank Highway (St. Johns Woods) (TMS# 279-00-00-143) 24.16 acres – Request rezoning from SR-1 (Single-Family Residential) to DR-6 (Diverse Residential).

Recommendation: APPROVAL

Subdivisions

1. Glenn McConnell Parkway (TMS# 306-00-00-002) 39.07 acres – Request final subdivision approval for 2 lots. Zoned DR-9 (Diverse Residential) and GO (General Office).

Recommendation: APPROVAL

2. Daniel Island Drive (Barfield Park, Parcel V) (Part of TMS# 275-00-00-116) 6.60 acres – Request preliminary subdivision approval for 38 lots. Zoned DI-R (Daniel Island Residential).

Recommendation: APPROVAL WITH CONDITIONS

3. One Vendue Range (TMS# 458-09-02-017) .39 acres – Request final subdivision approval for 2 lots. Zoned LB (Limited Business).

DEFERRED BY APPLICANT

4. Riverland Drive and George L. Griffith Boulevard (TMS# 337-00-00-002) 20.06 acres – Request preliminary subdivision approval for 49 lots. Zoned PUD (Planned Unit Development).

Recommendation: APPROVAL

5. Meadow Breeze Lane (Sylvan Shores VI Phase 1) (TMS# 310-10-00-001) 8.35 acres – Request preliminary subdivision approval for 18 lots. Zoned SR-1 (Single-Family Residential).

DEFERRED BY APPLICANT

Zonings

1. **Maybank Highway (TMS# 312-00-00-091 and 092)** 12.82 acres – Request zoning of SR-4 PUD/CT (Single-Family Residential Planned Unit Development/ Commercial Transitional). This property was zoned RSL (Low-Density Suburban Residential) in Charleston County.

Recommendation: APPROVAL, WITH THE FOLLOWING CONDITIONS:

1. THAT THE PROPOSED PAVEMENT WIDTH ALONG THE CENTER MEDIAN BE INCREASED FROM 15 FEET TO 16 FEET,

2. THAT DETAILS ON STORMWATER DETENTION IN THE PROJECT BE WORKED OUT TO THE SATISFACTION OF THE DEPARTMENT OF PUBLIC SERVICE Ordinance Amendments

1. Request approval to amend Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) to require traffic impact studies for all residential subdivisions of 50 or more lots.

DEFERRED UNTIL APRIL MEETING

2. Request approval to amend Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) to amend the current zoning ordinances regarding adult uses to include amortization for adult uses not already subject to amortization and add definitions of adult media/novelty store with amortization.

Recommendation: APPROVAL

3. Request approval to amend Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) regulations concerning the designation of Commercial Corridor Design Review District, to add the following commercial corridors to the District:

Mary Ader Avenue

Shelby Ray Court

West Ashley Circle (and all future cross-streets)

West Wildcat Boulevard

Recommendation: APPROVAL Recommendation: APPROVAL

Minutes

Council considered the bill rezoning property located at 1513 Savannah Highway (0.30 acre) (A portion of TMS #349-01-00-018) from Single-Family Residential (SR-1) zoning to General Business (GB) zoning. Mr. Keane reported that the applicant had requested the rezoning of this small triangle of property that is part of a residential lot off of Linden Circle.

He pointed out the location of the subject property on a large exhibit map and said that the request had come from Baker Motors, which is located on the Savannah Highway. He commented that they wanted to incorporate this small piece of property into their property. He noted that they would be making quite a number of improvements bringing the property up to code with a lot of landscape standards, etc. He said that the required 25-foot buffer between commercial businesses and homes next door was one of the improvements. Staff and the Planning Commission recommended approval of this rezoning request.

Councilmember George noted a difference in the acreage as shown on the map and listed on the bill up for first reading. Mr. Keane responded that he believed it should be .30 acres. The correction would be made prior to second reading of the bill.

There were no further questions or comments of Council.

Mayor Riley invited public comment on this matter. No member of the public expressed a desire to speak for or against this proposed rezoning. The Mayor declared this public hearing concluded.

On motion of Councilmember Bleecker, seconded by Councilmember Lewis, City Council voted to adopt the City Planning Commission's recommendation and to give first reading to the subject bill.

First reading was given to a bill entitled:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON BY CHANGING THE ZONE MAP, WHICH IS A PART THEREOF, SO THAT A PORTION OF A SINGLE-FAMILY RESIDENTIAL (SR-1) TRACT LOCATED AT 1513 SAVANNAH HIGHWAY (0.30 ACRE) (A PORTION OF TMS #349-01-00-018) BE REZONED FROM SINGLE-FAMILY RESIDENTIAL (SR-1) CLASSIFICATION TO GENERAL BUSINESS (GB) CLASSIFICATION.

Mr. Keane reported that there were two zoning matters on Johns Island, this one and the next one on the agenda for this meeting.

He referred to a large exhibit map and said that he wanted to provide a context to consider these two matters. He had received a phone call earlier in the day from someone who had asked him whether or not they would be consistent with the County Comprehensive Plan on Johns Island.

Mr. Keane explained further that frequently there is a lot of misunderstanding about the recommendations in the county plan and the City plan. He then pointed out the location of the two subject properties, the St. Johns property (Item E-3 on the agenda) and the Ray family proposal for an SR-4 PUD and a little bit of commercial property on Maybank Highway (E-4 on the agenda).

He indicated the location of a red dashed line on the exhibit map that showed that both of these properties are located within the urban side of the urban growth boundary. Frequently, he said that people think any proposal that increases the density at all on a piece of property no matter how small is inconsistent with the County Comprehensive Plan.

Mr. Keane then referred to the City Plan that Council had adopted in 2000. He said that the City had not in any instance gone outside of the urban growth boundary on Johns Island to annex anyone or to provide for development of a density that is higher than is recommended in the County Comprehensive Plan and the City Plan.

Within the urban area inside the urban growth boundary, Mr. Keane said that both the County Comprehensive Plan and the City Plan recommend suburban type densities. He went on to say that those could be over five units per acre. He commented that he wanted to clarify that both of these proposals are inside the urban growth boundaries. He further noted that both staff and the Planning Commission had recommended approval of both of these matters.

Mr. Keane then turned Council's attention to the public hearing to rezone property located on Maybank Highway (*St. Johns Woods*) (24.16 acres) (TMS #279-00-00-143). He noted that the applicant had requested rezoning from Single-Family Residential (SR-1) to Diverse Residential (DR-6) in order to develop this property.

He noted that the developer had plans to put 76 lots in this area. He said that under the SR-1 zoning the developer had gone through the technical approval process and had approval for a subdivision of 82 lots. He commented that the request had been made to change the zoning to DR-6 to allow a greater variety of lot sizes. He stated that the current SR-1 zoning would require

all of the lots to be 9,000 square feet or larger. Mr. Keane explained that the developer would like to do approximately 20 lots at something less than that.

He went on to say that the actual density of the subject property would be around three units per acre, which would be lower than the SR-1 zoning would permit. He commented that the current SR-1 zoning would allow 4.8 units per acre. He again stated that both staff and the Planning Commission had recommended approval of this rezoning.

There were no questions or comments of Council.

Mayor Riley invited public comment on this matter. The following person addressed Council:

1) A gentleman stated that he was available to answer questions.

No one else expressed a desire to speak for or against this proposed rezoning. The Mayor declared this public hearing concluded.

On motion of Councilmember Evans, seconded by Councilmember Lewis, City Council voted to adopt the City Planning Commission's recommendation and to give first reading to the subject bill.

First reading was given to a bill entitled:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON BY CHANGING THE ZONE MAP, WHICH IS A PART THEREOF, SO THAT PROPERTY LOCATED ON MAYBANK HIGHWAY (*ST. JOHNS WOODS*) (24.16 ACRES) (TMS #279-00-00-143), ANNEXED INTO THE CITY OF CHARLESTON MARCH 24, 1987 (#1987-25), BE REZONED FROM SINGLE-FAMILY RESIDENTIAL (SR-1) CLASSIFICATION TO DIVERSE RESIDENTIAL (DR-6) CLASSIFICATION.

Council then considered the public hearing pertaining to the zoning of property located on Maybank Highway (12.82 acres) (TMS #312-00-00-091 and 092) to Single-Family Residential Planned Unit Development /Commercial Transitional (SR-4 PUD/CT).

Mr. Keane pointed out the site of the subject property on the large exhibit map and noted that it is located toward River Road on Maybank Highway from St. Johns Woods. He said that the developer had proposed the SR-4 PUD/CT zoning to permit 66 single-family dwelling units and an area of 1.84 acres to the property for commercial transitional zoning. He explained that the CT zoning is a zoning district designed for commercial uses that would be in a neighborhood such as the use of a house for very low-intensity commercial use.

He mentioned that the developer had been working with planning staff for sometime on the layout of this property trying to come up with an interesting design. In addition to that, Mr. Keane said the developer had been working with the Department of Housing and Community Development to make sure that these units could be available to low-moderate income families. Both staff and the Planning Commission recommended approval of this zoning.

Mayor Riley invited public comment on this matter. The following person addressed City Council:

1) Reverend Alonzo Washington, member of the Johns/Wadmalaw/Redtop Island Ministry of Alliance and was a pastor on Johns Island for eight years, spoke of the time of Hurricane Hugo in 1989 and said many of the homes on Johns Island had been destroyed. Since then he commented that many of the residents have had to move for a number of reasons. He further noted that a lot of people had moved onto the island.

Reverend Washington expressed his belief that this would be a good opportunity for the low-moderate income residents of Johns Island, Wadmalaw Island and the surrounding area to be

able to stay on the island. He commented that it would also provide an opportunity for those exiting out of the inner City. He expressed support for the proposal before Council on behalf of the alliance.

No one else expressed a desire to speak for or against this zoning matter. The Mayor declared this public hearing concluded.

Councilmember George stated the purpose and intent indicated this would be the ultimate build out. He said that he thought it would be a good subdivision and he liked the storm drainage. He noted that there is a road that appears to connect to an 11-acre tract of land that is zoned SR-1. He asked about the road.

Mr. Keane responded that staff had asked the developer to provide the opportunity for connections so there could be a network of streets in the future.

Mayor Riley commented that he also thought the plan was a very good one that would allow affordable housing.

There were no further questions or comments of Council.

On motion of Councilmember Evans, seconded by Councilmember Bleecker, City Council voted to adopt the City Planning Commission's recommendation and to give first reading to the subject bill.

First reading was given to a bill entitled:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON BY CHANGING THE ZONE MAP, WHICH IS A PART THEREOF, SO THAT PROPERTY LOCATED ON MAYBANK HIGHWAY (12.82 ACRES) (TMS #312-00-00-091 AND 092), ANNEXED INTO THE CITY OF CHARLESTON SEPTEMBER 9, 2002 (#2002-114), BE ZONED SINGLE-FAMILY RESIDENTIAL PLANNED UNIT DEVELOPMENT /COMMERCIAL TRANSITIONAL (SR-4 PUD/CT) CLASSIFICATION.

The remaining public hearing matter pertained to amending the current Zoning Ordinances regarding adult uses to include amortization for certain adult uses not already subject to amortization and adding a definition of Adult Media/Novelty Store with amortization. Assistant Corporation Counsel Tim Domain reported this bill before Council for first reading related to certain adult uses. He explained that the bill adds to the definition of adult uses/adult novelties, and he said that the City's current ordinance did not address adult novelties.

Continuing, he stated that the bill also addresses the percentage of adult media materials, which he said would also be an addition to the City's current ordinance. He commented that the subject bill would also add an amortization period for the remaining adult uses.

Mr. Domain said that the changes were warranted and that he had been working with the Zoning Administrator Lee Batchelder. He commented that Mr. Batchelder had assisted him in taking this matter before the Planning Commission. He noted that both staff and the Planning Commission had recommended approval.

Councilmember Gilliard thanked Mr. Domain for his guidance and told him that the residents of the Maryville/Ashleyville community really appreciated his assistance. When Councilmember Gilliard asked if this would delay the process with the adult bookstore on St. Andrews Boulevard, Mr. Domain replied that the subject bill was not intended to and would not delay in any way the effort to proceed with the bookstore case. He stated that the subject bill specifically addresses that if an amortization period has already run, this is not intended to and shall not extend any amortization period such as to an adult bookstore.

Councilmember Gilliard then commented that two citizens, Leonard Higgins and Mr. Smalls, had been keeping watch on this matter. Councilmember Gilliard noted that these gentlemen represent Maryville/Ashleyville and spoke of their persistence and efforts throughout this process. He thanked the Mayor, Council and staff for their assistance in this matter. He then expressed special appreciation to Mr. Higgins for his longevity in seeing this thing through. Mayor Riley thanked Councilmember Gilliard and expressed his concurrence with his comments.

The Mayor invited public comment on this matter. The following persons addressed Council: 1) Leonard Higgins, Maryville/Ashleyville neighborhood, spoke in support of the subject bill. He thanked the Mayor and Council for the support in this matter. He stated his support for the bill and said that he hoped that this might spare other neighborhoods the grief that his neighborhood had experienced.

Mr. Higgins spoke briefly about the people who go through the neighborhoods and throw away covers to explicit videos. He said that the bookstore is in the wrong place and it should not be in a community. He did not believe that anyone would want this type of business in his/her community.

2) Mr. Smalls also thanked the Mayor, Council and City staff for their support regarding the situation with the adult bookstore. He spoke of listening earlier in this meeting to comments about the growth and development of the City of Charleston. Mr. Smalls said that the store has no right to be at its present location and said there are other locations for this type of activity. 3) Tommy Goldstein, Esq. said that he was not offended by the adult bookstore and he would be happy to have it in his neighborhood. He offered to swap houses after the properties are appraised and an agreement could be reached. Mr. Goldstein said that he would be happy to move into the neighborhood.

He commented that the City should demonstrate a little bit of tolerance toward the business and recommended some reading to Councilmember Gilliard. He said that the business has rights under the law. He referred to a letter that he had sent to the Chair of the Planning Commission and stated that he had received no response. He remarked that no one from the City had ever given him the courtesy of any conversation about this bookstore. Mr. Goldstein said that the bill before Council would limit the material to 10 percent. He stated that would not "pass muster" and said that there are several cases that address that. He commented that a certain amount of adult material is allowed under the law without being classified as adult business. He said "we are headed toward more litigation."

Mr. Goldstein suggested City Council be a little more tolerant for those who express views with which they might not be in agreement.

Mr. Higgins rose to respond that Mr. Goldstein could have his client transfer the business to Ashley Landing in his neighborhood.

4) Muhammed Idris referred to the adult bookstore as garbage and said that it belonged at the dump.

5) Arthur Lawrence, President of the Westside Neighborhood Association, spoke in support of the bill before Council. He expressed support for the Mayor and Councilmember Gilliard in their efforts.

Mr. Lawrence said the President Street/Cannon Street Corridor is the corridor coming into the City of Charleston and this filth was not wanted in the gateway to the City.

No one else expressed a desire to speak for or against this matter. Mayor Riley declared this public hearing concluded.

The Mayor respectfully remarked that Mr. Goldstein wanted the adult bookstore in his community, he would have to move out of the City of Charleston because the ordinance would not allow this kind of use anywhere in the City because it should not be there. He said that Mr. Higgins, his neighbors and every neighborhood deserve to enter their neighborhoods without these kinds of adult stores at the entrance.

Councilmember George stated his strong support for the proposed bill, but he wanted to know about the 10 percent rule. He guessed that from the standpoint of legal it really does not matter how much filth like this is in a video store. He said that one would be too many if it is in the wrong place and accessible to his children and grandchildren. He asked if the 10 percent would be okay and where it had come from.

Mayor Riley commented that Mr. Domain had become an expert in this area of the law. The Mayor expressed doubt that there is a lawyer anywhere that knows more about this and he said that the bill had been drafted with Mr. Domain's expert advice.

Mr. Domain stated his opinion that the 10 percent number would be okay. He said that the issue is that it is a substantial portion because you probably cannot reach down to the most miniscule levels and say one single book, one single video, etc.

Councilmember George then asked if this was a good firm, hard line that the City could hold.

Mr. Domain responded that this certainly had not been tested in the courts of South Carolina yet, but he felt comfortable with the number. He expressed his belief that it would be upheld.

There were no further questions or comments of Council.

On motion of Councilmember Gilliard, seconded by Councilmember George, City Council voted to adopt the City Planning Commission's recommendation and to give first reading to the subject bill.

First reading was given to a bill entitled:

AN ORDINANCE TO AMEND THE CURRENT ZONING ORDINANCES REGARDING ADULT USES TO INCLUDE AMORTIZATION FOR CERTAIN ADULT USES NOT ALREADY SUBJECT TO AMORTIZATION AND ADDING A DEFINITION OF ADULT MEDIA/NOVELTY STORE WITH AMORTIZATION.

Next on the agenda was the approval of the minutes of City Council's March 25, 2003, meeting. The minutes were approved as published on motion of Councilmember Evans.

The Citizen Participation Period followed. The following persons addressed City Council:

1) Darrold Heyward, President of Amalgamated Transit Union (ATU), said that he had written several letters to the Mayor trying to get an item pertaining to the sanitation workers placed on the agenda. He commented that he wanted to be able to meet with sanitation workers and said that he had come to announce that more than 70 sanitation workers had officially joined the ATU.

Mr. Heyward stated that he was asking that the workers be recognized. Mr. Heyward said that after this meeting their membership into the ATU would be formalized. He commented that he had sent a copy of a resolution to the Mayor and Councilmembers. He distributed an additional copy of the resolution and asked Council to adopt it. A copy of the resolution is on file in the office of the Clerk of Council in the meeting folder of this date.

He remarked that nothing in the subject resolution referred to collective bargaining and said that he was well aware of the law. He stated his understanding that the City could not collectively bargain and that a dues check off could not be done. He also expressed his awareness of state law. Mr. Heyward said that everyone could certainly meet and confer. He noted that it is done in a number of cities around the country even as close as Savannah. He asked the Mayor and Council to recognize these sanitation workers and to let these workers meet and confer with their chosen representative.

Mr. Heyward further noted that a number of representatives from various organizations were present at this meeting.

2) Kenneth Riley, 735 Savage Road and member of the International Longshoremen's Association (ILA), said that there had been meetings. He commented that the union representatives had heard what the Mayor and the City attorneys had said. He stated that they had been told that these workers did not have a right to a contract and he understood that. He said they were told that the workers did not have the right to a dues check off and that was understood. He commented that they had been told that the workers did not have the right to strike and that was understood as well.

He went on to say that they had also been told that this is America, that workers have the right to organize, that the workers have the right to form or join existing unions, that they have the right to meet and assemble and choose leaders among themselves. He said that he was asking for the City to recognize their right to do so. He expressed understanding of the law and said that he was not asking anyone, especially the City of Charleston, to violate the law. He said that he did not want anyone to actually hide behind the law.

He commented that the City of Charleston was being asked to focus on what the law would allow the union to do. He commented that if the sanitation workers had their way tonight it would not be possible to close the streets because they would be lined up and down with garbage trucks because of their desire to be at this meeting.

Mr. Riley stated that public-sector workers were feeling the brunt of budget cuts in this City, this state and all over the country right now. He spoke of a seven-city initiative that was being planned to win collective bargaining rights to all public sector workers. He said that the initiative would be taking place in South Carolina, North Carolina, Georgia, Louisiana, Tennessee and Alabama.

He said that the sanitation workers were asking for respect, a voice in the workplace and the City's recognition of their right to speak with a collective voice. He urged Council to support this now and in the future as this struggle continues.

3) Sharon Fratepietro, 6 Peele Place in Harleston Green, described herself as a customer of the sanitation workers. She stated that she was not knowledgeable enough to speak about the merits of their complaints, but she said that as a citizen she was amazed that they had not been able to place this matter on Council's agenda.

She commented that they are not only employees, they are citizens and constituents of this Council. She said that she thought Council was here to serve and it seemed to her that the tail was wagging the dog.

Ms. Fratepietro then addressed Mayor Riley saying that she had lived in Charleston County for 23 years and had seen his leadership in so many difficult situations. She told the Mayor that she

was surprised that this had come to a rushed discussion of this serious matter and that he had not taken the leadership on this issue.

Mayor Riley noted that he wanted to clarify any misimpression. He said any person could address Council at any City Council meeting and this period is an open period. He spoke of meeting regularly with the sanitation employees at the sanitation headquarters at a time that is convenient to their schedule. He said the meetings had been completely open to receive concerns, comments, to act on them and to communicate back with them.

The Mayor remarked that although this might be part of a region-wide effort, he wanted everybody to know that there had not been any budget cuts in the City of Charleston. He stated that over the last several years the City's sanitation workers had received a higher percentage of increase over any other employees in the City. He noted that their benefit package had continued to improve and he thought that the health insurance plan might be the best of any city that he knew of.

He also talked about the tremendous amount of additional equipment that had been purchased, which had been recommended by the sanitation employees. He spoke about the work that had been done with issues pertaining to routes.

He went on to explain to his dear friends that as Mr. Heyward and Mr. Riley had mentioned, there is a law in South Carolina that public bodies cannot collectively bargain with or recognize unions. He noted that although it is possible in other states, it cannot be done in South Carolina. The Mayor said that the City begins from the standpoint of following the law.

He explained that Mr. Heyward had asked to meet with him as a representative of the union to meet, which would be a first step in breaking the law in recognizing and collectively bargaining and beginning the process of negotiations.

Mayor Riley assured everyone that in terms of care, concern and responsiveness to our employees, and most particularly to the sanitation workers, the City has a very strong record. He remarked that did not mean that more could not be done or that more would not be done and more will be done.

He commented as City Council knows from the purchasing of equipment and support, pay increases, promotion opportunities, etc. the City has a very strong record. He again stated that there had been no budget cuts in the City. The Mayor said that budget cuts might be happening in this southeast region and perhaps that had caused this movement. He noted that the City's "record of support, recognition, appreciation for, listening to and responding to our sanitation workers is very strong, indeed."

4) Leonard Higgins, representing the Maryville/Ashleyville Neighborhood Association, expressed his appreciation to Police Chief Reuben Greenberg for the use of the police bus. A group of citizens had used the bus recently to travel to Anderson, SC for a hearing pertaining to the adult bookstore located in their community.

He commented that there had been some concern expressed that a group of protesters had been transported at taxpayers' expense. He clarified that these citizens had not only been concerned about their community, they were also concerned for others.

5) Erin McKee, President of the Charleston Labor Council, stated that the sanitation workers had come to organized labor a few years ago and she said that the concerns of the sanitation workers had not been addressed. She commented that the sanitation workers had contacted Darrold Heyward again.

She said that every worker in our society should be afforded the most basic respect from their employer and their community. Ms. McKee read from a prepared statement that the ability to address concerns that working men and women have in their jobs should be guaranteed to all Americans regardless of their stature in the community.

She continued to read that everyone who lives in this community should be offended by the City's refusal to meet with these hardworking municipal employees to listen to their concerns and to try to resolve these concerns in an amicable manner.

6) Elaine Caravello, American Cancer Society, read a letter on behalf of Laura Williams. She read that Ms. Williams has asthma and is allergic to cigarette smoke. Ms. Williams suggested in her letter that having a designated smoking area outside the building would be an easy solution for restaurants and establishments. She asked Council to do something to implement smoking requirements.

7) Marc Knapp, West Ashley resident, thanked Director of Planning and Neighborhoods Tim Keane and Superintendent of Environmental Services Sam Price for responding to his telephone calls. He referred to the comments that union representatives had made and said they were here because of the failure and the continuing failure of the Department of Human Resources.

He also noted that he has truly been concerned about Police Chief Reuben Greenberg and suggested he get a mental evaluation. He stated that he has the most respect in the world for Chief Greenberg and he expressed the hope that Council would take his comments as trying to help.

8) Jim Campbell stated his support for the sanitation workers to organize themselves. He described the Chamber as a very historic room embedded in the history of America and spoke of Charleston's history in American labor. He remarked that a war started in Charleston had been the first major struggle for labor in America, which was called the Civil War. He said that this war had really been a labor struggle against the owners of labor in this state and in this City. Mr. Campbell noted that he was happy to see the leader of the longshoremen's union at this meeting because that union started in 1867 two years after the ending of that labor war. He expressed the belief that the sanitation workers had concluded that they would never be satisfied with the little perks dished out from time to time. He went on to say that they would never be satisfied with a new piece of equipment. He described the earlier discussion around the upgrading of equipment as very pertinent and contradictory to this discussion around upgrading the quality of the lives of the sanitation workers. He stated that they would never be satisfied with the addition of a new piece of equipment to address a much broader safety issue and a much deeper issue.

Continuing, Mr. Campbell said that they would also never be satisfied with impromptu meetings with elected officials whenever the "u" word (union) is mentioned.

9) Muhammed Idris spoke on behalf of the American Society of Muslims. He commended President George Bush, his staff and the American government for the humane manner in which they had fought the war in Iraq.

He also asked that every member of Council seek as much knowledge as possible about the Islam religion so they could be better prepared to inform the public about this religion. He invited them to contact him if they would like to get more information about this universal religion.

10) Debbie Jernigan, a nurse, expressed her strong support for Charleston to be a smoke free city. She talked about her experiences as an oncology nurse and commented that many people do not have the opportunity to actually bear witness to someone dying of Cancer, particularly from tobacco uses. She shared the details of the death of a Cancer patient and said this was an event that she would never forget.

Ms. Jernigan noted that tobacco is harmful on the body, adds to healthcare costs and also decreases the quality of life in our community. She asked for Council's support to make the community healthier and enrich the lives of our people.

11) Arthur Lawrence, President of the Westside Neighborhood Association, thanked the Mayor and Council for what they had done for the Joseph Moore organization earlier in this meeting.

He also spoke of political correspondence that had been distributed, which criticized District 6. He said that it was unfortunate that this was occurring and referred to the negative correspondence coming into the neighborhood.

He wanted to thank the Councilmembers who stand up in the neighborhood. He thanked staff and said that trees had been planted and there is a senior citizens' home in the neighborhood. He also thanked staff because drugs had dissipated in the neighborhood. He expressed his appreciation to staff for all of the work they were doing along with Council's leadership.

Mr. Lawrence expressed his appreciation to Mayor Riley for his support of the schools. 12)

A gentleman addressed Council requesting support for the sanitation workers. He thanked Mr. Riley and the representatives from the ATU for showing up at this meeting. He asked Council to support them in what they were doing because this was not just about a union issue, not just about a wage issue or an equipment issue. He stated that this was about the right to stand up and say "I am somebody." He said that this was about the right to be treated as a human being and to have people talk to you as such and to work as such.

He cited a quotation of Dr. Martin Luther King as having said that "it is a crime in this rich nation people have to live with starvation wages."

13) Tripp Hayes, 3416 Farmers Market Drive, representing the Greater Charleston Hotel/Motel Association, stated that his organization opposed the smoking ban as proposed. He said that the association sees this as something bad for their business and bad for the restaurants in the area. He stated that the association wanted to be on record in opposition to the proposed smoking ban.

14) Curtis Vanderhorst, member ILA, spoke in support of the sanitation workers saying that they keep this City clean and beautiful. He expressed his belief that the sanitation workers deserve the right to have their chosen representatives and he hoped that Council would vote for the resolution, which was mentioned earlier in this meeting.

15) Charles Brave, chaplain and trustee of the ILA Local 1422 and Mt. Pleasant resident, presented a tee shirt to Mayor Riley. He read the information on the shirt, which answered the question "What have unions done for me?" He read the responses: (1) an 8-hour day, (2) a 5-day work week, (3) health insurance, (4) good pension, (5) paid sick leave, (6) fair treatment for women, people of color and workers with disabilities, (7) higher wages, (8) overtime pay, (9) job safety, (10) paid holidays, (11) severance pay, (12) paid vacations and (13) family and medical leave.

He stated his support for organized labor and said that everything in this Chamber, in this fine country, and this beautiful City had been built on the back of organized labor. He spoke of Dr. Martin Luther King's efforts in trying to do the same thing that labor was trying to do now. He referred to comments about the law. He said that there are a lot of things on the books, but he felt that everyone needed to ask if the law was right. He noted that South Carolina is a right to work state, but he said every individual has the right to organize also.

16) John Botts, McLaura Hall resident, stated his support for third reading of the bill to zone 3080 and 3092 Ashley River Road (0.94 acres) (TMS #358-00-00-010 & 011), Single-Family Residential (SR-1). This matter would be before Council later in this meeting.

He spoke of his involvement in the historical aspect of Highway 61 and his involvement in a number of charrettes in the area. He commented that the Department of Planning presents some very nice plans during these charrettes and this gives hope to the residents that there will be very wise development that is consistent with the historic nature of the area.

Mr. Botts said that City Council had passed two plans, the Highway 61 Plan and the Century V Plan. He commented that both of these plans addressed the density issues in the area and both of them indicate that the area should be low density. He stated his belief that SR-1 zoning for the subject properties would be consistent with these plans. He said since he had to leave he would trust Council to vote wisely and according to the plans.

No one else expressed a desire to address Council. The Mayor declared the Citizen Participation period concluded.

Councilmember Lewis commented on having listened to the concerns that had been expressed on behalf of the sanitation workers. He said that he and Councilmember Gallant had met with them. He spoke of the plans to purchase new equipment and to hire more employees. He expressed his understanding that the concerns go further than this.

He stated that he and Councilmember Gallant were very willing to sit down and listen to the sanitation workers. He talked of how this Council has been very sensitive to these issues and of the need to address these concerns.

Councilmember Lewis said that as far as he is concerned the sanitation workers are the backbone of this City. He said that people often speak of the importance of law enforcement employees. He agreed that the City needs law enforcement, but he said if they went on strike tomorrow the City could get the National Guard to come here.

Continuing, he said if the sanitation workers walked off their jobs and garbage stayed on the streets in 80-degree weather the City would be faced with health problems. He stressed that the Mayor and Council would address any these concerns and he assured everyone that the City would work with the Sanitation Division.

Councilmember Lewis then introduced Councilmember Bleecker, Chair of the Committee on Human Resources. He invited employees to contact her with any personnel concerns that they had. He expressed confidence that she would take these concerns to the Committee on Human Resources and they would be addressed. He added that this Council would continue to address these concerns as well.

Mayor Riley referred to the very nice tee shirt that had been presented to him and said that he agreed with the tremendous advancements that organized labor has led for our country. He referred to this as a very important movement that began in the early 20th Century. Without any question, he said their record of achievement has been extraordinary.

He talked about having watched what Ken Riley and his union members do to make the port of Charleston the most efficient port in America. The Mayor said that they can load and unload a container ship faster, and time is money, than any other port in America and probably in the world.

He remarked that city government is a government of laws in South Carolina. He reiterated that public entities could not collectively bargain with or negotiate with unions. He again stated that is the law and said that the City operates within the law. He said that the City must operate within the law and has no choice but to do so.

The Mayor then spoke of recent meetings with the sanitation workers and staff, some at 6:30 a.m. He noted that oftentimes Councilmember Lewis and Councilmember Gallant had been in attendance at these meetings because they had brought issues to him. He said that there had also been meetings in the office with sanitation workers. Mayor Riley noted that there had been a huge amount of communication, which he welcomes, enjoys and reveres. He said that this communication would continue.

Mayor Riley remarked that after the last meeting every single question that was raised had been answered in a memorandum to every sanitation employee. He commented that there had been questions about rear loaders, side loaders, Johns Island, Daniel Island, routes, hours, work after dark, the whole thing.

The Mayor commented that there had a lot of hard questions. He described the meeting as very relaxed and people said anything that was on their minds. He said that not one person at that meeting had asked to talk to him about joining the union or to talk to him about union representation. He said that the workers had been with the leader of their government and the leader of their employ, the head of the City, talking about matters of concern to them. He went on to say that these meetings would be taking place regularly in full and complete communication. He noted for those who were not familiar with City government, as he had stated previously and as Councilmember Lewis had said, there have been substantial increases in pay, equipment and personnel.

Mayor Riley commented that one of the complaints last year had been that there were not enough people. He asked Director of the Department of Public Service Laura Cabiness about the change in the number of people. Ms. Cabiness responded that between last year and this year 15 people would be added.

He then spoke of a chart that had been used to show new equipment goals. Ms. Cabiness said that by the end of August she expected to reach the goal of 25 trucks that are less than eight years old.

Continuing, the Mayor talked about the City's benefit package and health insurance program. He noted that an additional vacation day had been given this year. He said that the City's overtime policy for sanitation workers is more than is required.

Mayor Riley stressed that no one reveres the work that these fine people do more than he does. He remarked that he gets more unsolicited comments from citizens about how nice the sanitation workers are, how kind, how helpful and how efficient they are. He stated that they are the backbone of the City.

He referenced the City budget of four years ago. The Mayor said that the City gives a pay raise every year. He acknowledged that there might be budget cuts around the region as had been mentioned during Citizen Participation. He said there obviously had been a several state

movement and Charleston had perhaps been a part of that, but the City has had a pay increase every year. He noted that state government had not been able to do that. He commented that lots of state governments had not been able to do that. He went on to say that lots of state governments had cut back and lots of state governments had raised the employees' health insurance costs to local governments. He said the City had not done that.

Mayor Riley further noted that the City had continued its very strong benefit package. In addition to all that, he said that the 2003 budget included money set aside for an additional increase. He stated that staff had been working on that and he said that it would be coming down the road.

He restated that the City must obey the law. He said that there is no sanitation employee who could not come into his office. He commented that he would be delighted to meet with them. He again spoke of regular meetings where the sanitation workers are, where they meet in the morning to get ready for the day. He indicated that he had asked Ms. Cabiness to always set these meetings at a time that would be most convenient to the sanitation employees.

He went on to say that he had met the employees in the Streets and Sidewalks Division at 3:30 p.m. when they are about to knock off. The Mayor stated that the meetings would continue to be scheduled at convenient times for the employees.

Councilmember Gallant commented that the City pays for Councilmembers to Washington to the National League of Cities (NLC) meetings. He told of a class he had attended recently with approximately 50 other council members from around the country at which they were dialoguing about to make their cities more efficient. He said sanitation issues and issues of public safety had been topics of discussion.

He told of other forms of government that did not allow the council members to meet with city employees. He said it was against the law in some other parts of the country for council members to even talk with the employees and the employees must go through a city manager. He shared information about the meetings with Charleston's sanitation workers. He said that a representative from the New York area had reported that they were laying off sanitation workers, firefighters and police officers because they have no money in the budget. He noted many of them expressed envy about the conditions in Charleston.

Councilmember Gallant talked about standing up for the sanitation workers and trying to do something good for these employees. He said that he felt that he and his colleagues fight a good fight every year to put certain things in the budget.

He commented that everybody makes mistakes. He cited scripture that "you subject yourself to the authority that you find yourself under." He stated that he subjected himself and all of his colleagues to do that particular thing. He expressed the belief that in doing so things would be better for every single employee.

Councilmember Gallant shared that he had done the funeral for the police officer that had been killed on James Island. He talked about walking with the officer's mother while she cried and they prayed for her son. He said that she had told him that she knew her son had not made a great deal of money as a police officer in the City of Charleston, but she knew that he loved what he was doing. He said that she thanked him for what had been done for them and he found that to be an inspiration to continue to try to do his part as a Councilmember.

He spoke of the tough decisions that must be made. He talked of attending meetings on cold rainy days to discuss the issues with the employees and said that he "just needed to put it out on

the table that we have tried." He wanted his colleagues to know that an effort had been made to the least as the Bible says "if you have done it unto the least of my brethren, you've done it unto me." He reiterated that he just wanted to share with everybody that "we have reached out to the least."

Councilmember Campbell said that he had witnessed the work done by Councilmember Lewis and Councilmember Gallant in meeting with the sanitation workers, the Mayor and staff. He commented that there was still a lot of frustration within the Sanitation Division. He expressed the belief that the employees were saying that they would like to have a system of communication that is institutionalized within the City of Charleston structure.

He then asked if the City's legal staff had seen the resolution that had been distributed during Citizen Participation before this meeting. The Mayor said that legal had not seen it and he had handed one of them a copy of it a few moments ago.

Councilmember Campbell asked for this item to be placed on the agenda for the next Council meeting, for legal staff to examine it, to also get an opinion from the attorney general's office and report back at the next Council meeting or at the second Council meeting in May.

Mayor Riley stated that he believed it would be better to get an opinion from the City's lawyers. He said an opinion from the attorney general's office, in all due respect, is not law. He recommended having the City's attorneys provide their analysis. He said if anybody had any questions that they wanted to ask the attorney general, they could do that but he thought that would only muddy the water.

Councilmember Gilliard noted that he had listened to everybody's comments. He also recognized that some of his union brothers and sisters, mainly from the ILA, were present at this meeting. He spoke of a union website at which his name can be found listed as a former union president and said that he has always been proud of that. He commented that he had also been involved in organizing.

Addressing Kenneth Riley and the union members, Councilmember Gilliard stated that he would never renege on the purpose of the union and the cause of the union. He said one thing he had learned as a 15-year former union president of United Steel Workers of America that when we want to communicate things and we want things to go over as organized effort for everybody to understand we do it with dignity and respect, the same thing that we ask private business to try to implement in contracts throughout the country.

He said that in his 10 years of union organizing he had learned that when you are trying to care for workers regardless of their race or gender people should be educated on the how, what and why of unions. People need to understand that they should not be afraid of any labor union.

Continuing, he commented that he chose to run for elected office and was elected, but the union will always remain a big part of his life. He stated when he first got elected to this Council he did the first thing that a former union brother would do to bring the plight of sanitation workers to the forefront. He commented that he had taken time off of his job to ride with these employees through the City of Charleston.

Councilmember Gilliard spoke of the many meetings Councilmember Campbell had with the sanitation workers to address their concerns.

He commented that the next step had been to check with the City's legal staff to be sure that he did not cross any boundaries and that his actions would be in accordance with state law. He

stated that after hearing the concerns of the sanitation workers collectively, everybody on Council then and now decided to come up with methods to address their concerns.

Councilmember Gilliard then addressed Kenneth Riley, former union members and current union members saying that he wanted them to understand that Council had been very aggressive in addressing the plight of the sanitation workers, law enforcement and other employees. He remarked that unions have always been inclusive.

Continuing, Councilmember Gilliard noted that many members of Council did not know this issue would be raised and commented if they had known, they could have been better prepared to address this matter.

He spoke of the comments from the Mayor, the legal opinion and the work of Councilmember Lewis and Councilmember Gallant. He expressed his understanding that meetings had been taking place with sanitation workers and that Council needed to be informed as to whether or not it would be within their legal rights to address this matter.

Councilmember Gilliard talked about listening to all the comments that had been made during Citizen Participation, about being on many strike lines and about seeing people lose their lives on strike lines. He said that he had learned how to approach things differently. He remarked that he knows the good that unions have done not only for this state, but also for this country.

Councilmember Tinkler commented that he had listened to the Mayor and to the union representatives. He said that it would be hard for him to imagine a more effective representative of the employees than those who sit on City Council. He did not see how there could be an improvement and said that he wanted to commend the members of Council who had taken an active interest in this issue. He expressed the understanding that they had been communicating on a more or less constant basis with the City's sanitation workers. He noted his belief that the City had been responding to the concerns of the sanitation workers.

Councilmember Campbell clarified his earlier motion saying that he wanted a report from legal pertaining to the resolution on the agenda at the second meeting of Council in May.

Councilmember Bleecker said that it had been a great pleasure to serve as the Chair of the Committee on Human Resources since she was elected to Council three and one-half years ago. She commented that she and Councilmember Tinkler had met with the sanitation workers. She expressed her belief that Director of Human Resources Althea Purnell and everyone on her staff works very hard. She described the City's benefit package as extraordinary.

She commended Councilmember Lewis and Councilmember Gallant for the work they had done with the issues pertaining to the sanitation workers. There was no further discussion or questions of Council.

Mayor Riley restated Councilmember Campbell's motion to have a report from the Legal Department on Council's agenda at the second meeting in May. Council voted unanimously to approve this request.

Councilmember Campbell asked for appointments to boards and commissions and the MBD Quarterly Reports to be moved from the Miscellaneous Business portion of the agenda to the Petitions and Communications portion of the agenda in the future. Mayor Riley responded that he would be glad to do that.

Council went into Executive Session at 7:18 p.m. on motion of Councilmember Evans to receive legal advice pertaining to McLaura Hall and returned to Open Session at 7:31 p.m.

Upon returning to Open Session, Mayor Riley reported that no action was taken. He said that the City's most recent, wonderful and past Corporation Counsel William B. Regan had provided legal advice.

Council received the following report of the Committee on Public Works and Utilities, which had met Tuesday, April 8, 2003:

The Committee on Public Works and Utilities reports: 4-8-03

TO THE MAYOR AND COUNCILMEMBERS, THE CITY COUNCIL OF CHARLESTON:

The Committee on Public Works and Utilities recommends that City Council:

- 1) Approve the acceptance and dedication of streets and adopt the attached (See Resolutions below) Resolutions to do so.
 - A. Mt. Royall, Phase VII, Grand Oaks Plantation: Tryon Circle (50' R/W), Mockingbird Lane (50' R/W), Portion of Bent Hickory Road (50' R/W)
 - B. Bull Creek Peninsula
- 2) Set a public hearing to consider the proposed closing and abandonment of the southern most portion of Peecksens Court (approximately 52 feet) which is approximately 158 feet from its intersection with Bogard Street.

On motion of Councilmember Evans, seconded by Councilmember Tinkler, Council voted to adopt the report of the Committee on Public Works and Utilities including the adoption of two Resolutions and to set a public hearing May 12, 2003 to consider the closing and abandonment of a portion of Peecksens Court. The following Resolutions were adopted:

RESOLUTION

ACCEPTANCE AND DEDICATION OF STREETS

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF CHARLESTON THAT ALL, those certain streets, roads, drives and cul-de-sacs, situate, lying and being in the City of Charleston, Charleston, South Carolina, and designated as Bull Creek Lane (60' R/W), shown on a plat entitled "FINAL SUBDIVISION PLAT OF BULL CREEK PENINSULA, LOCATED IN THE PIERPOINT AREA, ST. ANDREW'S PARISH, CITY OF CHARLESTON, SOUTH CAROLINA" Prepared by Thomas V. Bessent, dated October 16, 2002 and revised January 17, 2003, and recorded in Plat Book --, at Page --, in the RMC Office of Charleston County, and conveyed by deed dated February 12, 2003, recorded in the RMC Office of Charleston County, be and the same is hereby dedicated as public right-of-way.

RESOLUTION

ACCEPTANCE AND DEDICATION OF STREETS

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF CHARELSTON THAT ALL, those certain streets, roads, drives and cul-de-sacs, situate, lying and being in the City of Charleston, Charleston County, State of South Carolina, and designated as Tryon Circle (50' R/W), Mockingbird Lane (50' R/W), and portions of Bent Hickory Road (50' R/W), shown on a plat entitled "FINAL SUBDIVISION PLAT SHOWING MT. ROYALL, PHASE7. A 9.707ACRE TRACT OF LAND, A PORTION OF LOT 8, PROPERTY OF BEAZER HOMES, INC. LOCATED IN BEES LANDING, IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA." Prepared by Richard A. Aldridge, PLS, OF Trico Engineering Consultants, dated February 3, 2003, and recorded in Plat Book --, at Page --, in the

RMC Office of Charleston County, and conveyed by deed dated February 27, 2003, recorded in Plat Book--at Page --, in the RMC Office of Charleston County, be and the same are hereby dedicated as public rights-of-way

Next, City Council received the following report of the Committee on Ways and Means:

The Committee on Ways and Means Reports: 4/22/03

TO THE MAYOR AND COUNCILMEMBERS, THE CITY COUNCIL OF CHARLESTON:

The Committee on Ways and Means recommends that City Council act on each of the following matters as stated below:

1.) **SOUTH WINDEMERE TRAFFIC CIRCLE: PROFESSIONAL SERVICES CONTRACT - \$24,990 - HNTB CORPORATION - ACCOUNT #050513-52238:**

The Committee on Ways and Means recommends City Council approve, and authorize the Mayor to sign, a contract in the amount of \$24,990 with HNTB Corporation for the design of the South Windemere Traffic Circle. This contract allows reimbursable expenses in an amount not-to-exceed \$900. Funds will come from account #050513-52238.

2.) **SPRING CANNON STREETScape: PROFESSIONAL SERVICES FEE AMENDMENT #2 - \$59,900 - KENNETH B. SIMMONS ASSOCIATES - ACCOUNT #050550-52238:**

The Committee on Ways and Means recommends City Council approve, and authorize the Mayor to sign, a contract in the amount of \$59,900 for design work associated with a change in the project scope for the Spring Cannon Streetscape project. Funds will come from account #050550-52238.

3.) **EAST BAY STREET BRICK ARCH STORM DRAIN: SYSTEM REPAIR - \$58,000 - PALMETTO GUNITE CONSTRUCTION COMPANY, INC. - ACCOUNT #050345-52240:**

The Committee on Ways and Means recommends City Council approve, and authorize the Mayor to sign, a contract in the amount of \$58,000 with Palmetto Gunite Construction Company, Inc. for the repair of approximately 160 feet of the brick arch tunnel and the installation of a manhole within East Bay Street (north of the intersection with Queen Street). The work will be performed in accordance with procedures approved for the Meeting Street, Phase II project. Funds will come from account #050345-52240.

The vote was not unanimous with Councilmember Gilliard voting nay. Councilmember Shirley did not vote on this matter, and his *Statement of Potential Conflict of Interest* is on file in the office of the Clerk of Council.

4.) **HUMAN RESOURCES: PERSONNEL GUIDELINE 4.1 - HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA):**

The Committee on Ways and Means recommends City Council approve Personnel Guideline 4.1 - Health Insurance Portability and Accountability Act (HIPAA). The Act is a multi-faceted federal law requiring, among other items, portability of group health insurance coverage from one employer to another, restrictions on pre-existing exclusions in group health plans, and protection of private health information.

5.) **2003 STREET VENDOR FRANCHISE ORDINANCE:** The Committee on Ways and Means recommends City Council give first reading to the following bill:

“An ordinance authorizing the Mayor to execute on behalf of the City of Charleston a Franchise

Agreement with All That's Good, Inc., Uncle Rob's Wiener's-N-Buns, Rainbow Ice, Inc., Maui Wowi of S.C., Inc., Espresso Yourself Mobile Café, L.L.C., and Shao Ling Ouyang, certain designated spaces within the City of Charleston from which food or drink or reading material sold in conjunction with the sale of food or drink may be sold from stationary carts or other devices."

6.) **REPORT ON STREET VENDOR SPACE #4 (VENDUE AND PRIOLEAU STREET):**

The Committee, based on the recommendations of the Committee on Traffic and Transportation, recommends City Council authorize staff to identify and develop specifications for a new vendor space at Waterfront Park. Staff has been working on developing a vendor space at Waterfront Park for the sale of food and/or beverages. Staff will report back to the Committee on Traffic and Transportation once a space has been identified.

7.) **REPORT ON CITY MARINA EXPANSION:** The Committee, based on the recommendations of the Committee on Real Estate, recommends City Council accept the report for information. Staff has been meeting with the City's consultants and the representatives of the City Marina Company since the last meeting. There was no report as yet, but staff was continuing to meet to resolve the matter. The work has continued on the floating docks, and the City has sent the City Marina Company two (2) letters putting them on notice that any construction on the docks is at the company's risk and the City has not waived any of its rights under the lease to seek a court decision.

8.) **ASSIGNMENT OF RENTAL CONTRACT BETWEEN EAST COAST CONCERTS AND THE CITY OF CHARLESTON TO CHARLESTON ALIVE AFTER FIVE, LLC FOR USE OF THE CHARLESTON MARITIME CENTER:**

The Committee, based on the recommendations of the Committee on Real Estate, recommends City Council approve, and authorize the Mayor to sign, an Assignment of Rental Contract between East Coast Concerts and the City of Charleston to Charleston Alive After Five, LLC for use of the Charleston Maritime Center. Steve Harry, General Manager, East Coast Concerts, contacted the City regarding the previously approved rental contract with his company. East Coast Concerts will no longer be in this type of business, and Mr. Harry requested that the contract be assigned to a new business entity, Charleston Alive After Five, LLC.

The vote was not unanimous with Councilmembers Fishburne and George voting nay.

LARRY SHIRLEY, Vice-Chair HENRY B. FISHBURNE, JR.

DEBORAH MORINELLI JAMES LEWIS, JR.

KWADJO CAMPBELL JIMMY S. GALLANT, III

WENDELL G. GILLIARD YVONNE D. EVANS

PAUL E. TINKLER ANNE FRANCES BLEECKER

G. ROBERT GEORGE JOSEPH P. RILEY, JR., Mayor

Councilmember Bleecker moved for adoption of the report of the Committee on Ways and Means including giving first reading to one bill. Councilmember Gilliard seconded the motion. The motion carried.

Councilmember Shirley did not vote on the matter pertaining to the system repair of the East Bay Street Brick Arch Storm Drain. His signed *Statement of Potential Conflict of Interest* is on file in the office of the Clerk of Council in the meeting file of this date.

First reading was given to a bill entitled:

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF CHARLESTON A FRANCHISE AGREEMENT WITH ALL THAT'S GOOD, INC., UNCLE ROB'S WIENER'S-N-BUNS, RAINBOW ICE, INC., MAUI WOWI OF S.C., INC., ESPRESSO YOURSELF MOBILE CAFÉ, LLC, AND SHAO LING OUYANG, CERTAIN DESIGNATED SPACES WITHIN THE CITY OF CHARLESTON FROM WHICH FOOD OR DRINK OR READING MATERIAL SOLD IN CONJUNCTION WITH THE SALE OF FOOD OR DRINK MAY BE SOLD FROM STATIONARY CARTS OR OTHER DEVICES.

Council then considered one bill before them for third reading.

The bill passed third reading on motion of Councilmember Shirley. On the further motion of Councilmember Bleecker, the rules were suspended and the bill was immediately ratified as:

RATIFICATION NUMBER

2003-39

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON BY CHANGING THE ZONE MAP, WHICH IS A PART THEREOF, SO THAT 3080 AND 3092 ASHLEY RIVER ROAD (1.06 ACRES) (TMS# 358-00-00-010 & 011), BE REZONED FROM SINGLE-FAMILY RESIDENTIAL (SR-1) CLASSIFICATION TO DIVERSE RESIDENTIAL (DR-9) CLASSIFICATION.

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. That the Zoning Ordinance of the City of Charleston be, and the same hereby is amended, by changing the zone map thereof so as to rezone the property described in Section 2 hereof by changing the zoning designation from Single-Family Residential (SR-1) classification to Diverse Residential (DR-9) classification.

Section 2. The property to be rezoned is described as follows:

3080 and 3092 Ashley River Road (1.06 acres)

(TMS# 358-00-00-010 & 011)

Section 3. This ordinance shall become effective upon ratification.

The next matter before Council was six (6) bills up for second reading

On motion of Councilmember Evans, the six (6) bills received second reading. They passed second reading on motion of Councilmember Gallant and third reading on motion of Councilmember Shirley. On the further motion of Councilmember George, the rules were suspended and the bills were immediately ratified as:

RATIFICATION NUMBER

2003-40

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE THE NECESSARY DOCUMENTS TO ENTER INTO THAT CERTAIN AGREEMENT BETWEEN THE CITY OF CHARLESTON AND CHRISTIAN BAPTIST CHURCH, MORE FULLY DESCRIBED ON EXHIBIT I, ATTACHED HERETO AND INCORPORATED BY REFERENCE HEREIN.

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. The Mayor is hereby authorized to execute the necessary documents to enter into that certain Agreement between the City of Charleston and Christian Baptist Church, more fully

described on Exhibit I, attached hereto and incorporated by reference herein. **Section 2.** This Ordinance shall become effective upon ratification.

EXHIBIT I

Ordinance #2003-40

) **AGREEMENT**

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

WITNESSETH:

WHEREAS, the **City of Charleston** (the "City") and **Christian Baptist Church** (the "Church") are both duly organized and existing under the Constitution and laws of the State of South Carolina, and are capable of entering into this Agreement; and

WHEREAS, the Church is desirous of implementing an expansion of its church facility located at 835 Magnolia Road in the City and County of Charleston, State of South Carolina (the "Church Property"); and

WHEREAS, the City is the owner of the West Ashley Bike Way, bearing TMS 418-00-00-006, which is adjacent to the Church Property (the "Bike Way"); and

WHEREAS, the Church desires to lease a portion of the Bike Way from the City to accommodate its parking needs for the Church Property; and

WHEREAS, the parties desire to set forth their respective rights and obligations regarding the Church's use, improvement, maintenance and repair of a portion of the Bike Way as hereinafter defined.

NOW, THEREFORE, for and in consideration of the sum of Five (\$5.00) Dollars and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The term of this Agreement shall commence on _____, 2003 and shall terminate on _____, 2013, unless otherwise terminated as provided herein.
2. The City agrees to lease to the Church that portion of the Bike Way for parking purposes only, more fully shown on Exhibit A (Map is attached to original ordinance), attached hereto and incorporated by reference herein. The area being leased is located generally to the North of an existing gravel driveway, which provides ingress and egress for the Church Property from Magnolia Road; on the East by Magnolia Road; on the North by the Bike Way; and on the West by lands of the City and which accommodate 28 parking spaces (the "Leased Premises").

In accordance with the terms and conditions set forth herein, the City shall permit the Church to construct a parking lot on the Leased Premises at no cost to the City, which shall consist of the following (the "Parking Lot"):

- A. Slag Fines Parking Surface;
- B. 6' tall fence around the limits of construction as set forth on Exhibit, made of timber treated lumber;
- C. Landscaping on the interior and exterior sides of the aforesaid fence, to include an 8' wide vegetative buffer around the exterior side of the aforesaid fence and the planting of three (3) trees, in accordance with the requirements, standards and specifications of the City's Parks and Design, Development and Preservation Departments;
- D. Removal of certain designated trees within the Leased Premises in accordance with the City's Design, Development and Preservation Department;

- E. Installation of appropriate lighting fixtures in accordance with requirements, standards and specifications of the City's Parks Department.
 - F. The Parking Lot improvements shall be subject to the approval of the City's Design Review and Technical Review Committees;
 - G. Any future improvements to the Parking Lot not specified herein shall be done only with the prior written approval of the City and at no cost to the City.
4. Upon completion of construction of the Parking Lot by the Church, the Church agrees to operate, maintain and repair or replace, as necessary, the Parking Lot at no cost to the City. Operation, maintenance and repair, or replacement, as necessary, of the Parking Lot shall include but not be limited to the following:
- A. Keeping the Parking Lot free and clear of all trash and debris;
 - B. Providing all utilities for the Parking Lot;
 - C. Repairing or replacement the Parking Lot and its components more fully set forth in Paragraph 3;
 - D. Maintaining liability insurance on the Parking Lot in an amount as approved by the City, which names the City as an additional insured thereon for the term of this Agreement.

The Church shall provide the City with a certificate of insurance evidencing the Church's public liability coverage on the Complex with limits of liability of no less than \$1 M per occurrence, said coverage to remain in effect during the term of this Agreement. The Church shall provide the City with a certificate of insurance evidencing such coverage upon the execution of this Agreement. The Church further agrees that any cancellation of the coverage as reflected in such certificate shall only be done after the Church has provided the City with thirty (30) days prior written notice of such policy cancellation, at which time a substitute certificate of insurance meeting the requirements of this paragraph shall be provided to the City by the Church.

5. The Church agrees that it shall indemnify and hold the City harmless from and against any and all claim, suits, demands, losses, or judgments arising out of this Agreement.
6. The City reserves the right to terminate this Agreement if the Church fails to comply with the terms herein. In such event, the City shall notify the Church in writing of the specifics regarding such noncompliance. If the Church fails to cure the noncompliance within thirty (30) days after receipt of the City's notice of noncompliance, the City shall have the right to terminate this Agreement and pursue any remedy it has available to it in law or equity for breach of this Agreement, including the right to collect attorney's fees, costs and damages it incurs by virtue of such breach from the Church. In the event of termination, the Church shall immediately return the Leased Premises to the City normal wear and tear excepted. In the event of termination pursuant to this paragraph, the Church agrees that it shall not be entitled to compensation of any kind from the City, including but not limited to reimbursement for the cost of the Improvements, damages or attorney's fees. Damage to the Leased Premises by the Church that is not repaired within thirty (30) days of receipt of written notice from the City requiring the necessary repair shall be deemed an event of default under this paragraph.
7. This Agreement shall be governed by the laws of the State of South Carolina.
8. Notice to the parties as required pursuant to this Agreement shall be sent by first-class mail, return receipt requested, as follows:

If to the City: If to Church:
Mayor Joseph P. Riley, Jr. Christian Baptist Church
80 Broad Street c/o Essaw Turner
Charleston, SC 29401 Chairman, Deacon
Board 924 Hillsboro Dr. Charleston, SC 29407
cc: City of Charleston
Department of Parks
861 Meeting Street
Charleston, SC 29403

WHEREFORE, the duly authorized officials of the City and the Church have hereunto placed their signatures and duly attested their seals this _____ day of _____, 2003.

WITNESSES: CITY OF CHARLESTON

By: Joseph P. Riley, Jr.

Its: Mayor

ATTEST: Vanessa Turner-Maybank
Clerk of Council

WITNESSES: CHRISTIAN BAPTIST CHURCH

By: Kerry Yates _____
Its: Chairman, Trustee Board
Its: Assistant Chairman
Trustee Board
By: Essaw Turner
Its: Chairman, Deacon Board
By: Timothy R. Simmons
Its: Pastor

RATIFICATION NUMBER

2003-41

AN ORDINANCE TO PROVIDE FOR THE ANNEXATION OF PROPERTY KNOWN AS 1624 CLARK HLLS CIRCLE AND VACANT LOT (3.58 ACRES) (TMS# 253-00-00-083 AND 251), JOHNS ISLAND, CHARLESTON COUNTY, TO THE CITY OF CHARLESTON AND INCLUDES ALL MARSHES, PUBLIC WATERWAYS, AND PUBLIC RIGHTS-OF-WAY, SHOWN WITHIN THE AREA ANNEXED UPON A MAP ATTACHED (MAP IS ATTACHED TO ORIGINAL ORDINANCE.) HERETO AND MAKE IT PART OF DISTRICT 11.

BE IT ORDAINED BY THE MAYOR AND THE MEMBERS OF CITY COUNCIL, IN CITY COUNCIL ASSEMBLED:

Section 1. Finding of Fact

As an incident to the adoption of this Ordinance, City Council of Charleston finds the following facts to exist:

- A) Section 5-3-150, Code of Laws of South Carolina (1976) as amended, provides a method of annexing property to a city or town upon a Petition by all persons owning real estate in the area requesting annexation.

B) The City Council of Charleston has received a Petition requesting that a tract of land in Charleston County hereinafter described be annexed to and made a part of the City of Charleston, which Petition is signed by all persons owning real estate in the area requesting annexation.

C) The area comprising the said property is contiguous to the City of Charleston. Section 2. Pursuant to Section 5-3-150, Code of Laws of South Carolina (1976) as amended, the following described property be and hereby is annexed to and made part of the City of Charleston and is annexed to and made part of present District 11 of the City of Charleston, to wit: SAID PROPERTY to be annexed, 1624 Clark Hills Circle and vacant lot, (3.58 acres), Johns Island, is identified by the Charleston County Assessors Office as TMS# 253-00-00-083 and 251 (see attached map) (Map is attached to original ordinance.) and includes all marshes, public waterways and public rights-of-way, shown within the area annexed upon a map attached hereto and made a part hereof.
Section 3. This ordinance shall become effective upon ratification.

RATIFICATION NUMBER

2003-42

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON BY CHANGING THE ZONE MAP, WHICH IS A PART THEREOF, SO THAT PROPERTY LOCATED AT HENRY TECKLEBURG DRIVE AND 2095 SAVAGE ROAD (*ESSEX FARMS VILLAGE CENTER*) (104.12 ACRES) (PART OF TMS# 309-00-00-003), ANNEXED INTO THE CITY OF CHARLESTON JULY 31, 1979 (#1979-47), BE REZONED FROM DIVERSE RESIDENTIAL (DR-6) PUD AND GENERAL OFFICE (GO) CLASSIFICATIONS TO LIMITED BUSINESS (LB) PUD CLASSIFICATION. BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. That the Zoning Ordinance of the City of Charleston be, and the same hereby is amended, by changing the zone map thereof so as to rezone the property described in Section 2 hereof by changing the zoning designation from Diverse Residential (DR-6) and General Office (GO) classifications to Limited Business (LB) PUD classification.

Section 2. The property to be rezoned is described as follows:

Property located at Henry Tecklenburg Drive and 2095 Savage Road (*Essex Farms Village Center*) (104.12 acres) (Part of TMS# 309-00-00-003)

Section 3. This ordinance shall become effective upon ratification.

RATIFICATION NUMBER

2003-43

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON BY CHANGING THE ZONE MAP, WHICH IS A PART THEREOF, SO PROPERTY LOCATED AT 1847 ASHLEY RIVER ROAD AND ANCRUM HILL ROAD (4.32 ACRES) (TMS# 351-07-00-026), ANNEXED INTO THE CITY OF CHARLESTON

FEBRUARY 25, 1985 (#1985-29), BE REZONED FROM GENERAL OFFICE (GO) AND DIVERSE RESIDENTIAL (DR-4) CLASSIFICATIONS TO DIVERSE RESIDENTIAL (DR-2F) CLASSIFICATION.

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. That the Zoning Ordinance of the City of Charleston be, and the same hereby is amended, by changing the zone map thereof so as to rezone the property described in Section 2 hereof by changing the zoning designation from General Office (GO) and Diverse Residential (DR-4) classifications to Diverse Residential (DR-2F) classification.

Section 2. The property to be rezoned is described as follows:

Property located at 1847 Ashley River Road and Ancrum Hill Road (4.32 acres) (TMS# 351-07-00-026)

Section 3. This ordinance shall become effective upon ratification.

RATIFICATION NUMBER

2003-44

AN ORDINANCE AMENDING CHAPTER 54, OF THE CODE OF THE CITY OF CHARLESTON (ZONING ORDINANCE) TO ADD RESTRICTIONS FOR SHIPPING CONTAINER STORAGE USES AND AMORTIZE EXISTING SHIPPING CONTAINER STORAGE USES THAT DO NOT CONFORM TO THE STACKING LIMITATIONS CONTAINED HEREIN. **(AS AMENDED)**

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. Section 54-120 of the Zoning Ordinance of the City of Charleston is hereby amended by inserting the following definition in alphabetical order:

“Shipping Container Storage Uses. Outdoor storage of three (3) or more shipping containers that are not attached to a truck trailer chassis and may or may not be used for storage of materials.”

Section 2. Section 54-203, Table of Permitted Uses, of the Zoning Ordinance of the City of Charleston is hereby amended by inserting in numerical order under the principal uses column a new principal use category which shall read as follows:

“424. Shipping container storage (outdoor) 54-206, o.”

Section 3. Section 54-203, Table of Permitted Uses, of the Zoning Ordinance of the City of Charleston is hereby amended by inserting under the zoning district columns for the LI and HI zoning districts a “‡” for principal use category 424. Shipping container storage (outdoor), thereby allowing this principal use as a conditional use within the LI and HI zoning districts.

Section 4. Section 54-206, r., of the Zoning Ordinance of the City of Charleston is hereby amended by inserting “or shipping containers” after the word “boats” in subsection 1. Section

5. Section 54-207 of the Zoning Ordinance of the City of Charleston is hereby amended by inserting a new subsection, which shall read as follows:

“o. Shipping container storage uses shall only be permitted within the LI and HI zoning districts as a conditional use where the staff determines, upon review of a site plan submitted by the applicant showing the location of the proposed shipping container storage area, stacking

limitations, and required buffer improvements (if applicable), that the proposed use satisfies the following restrictions:

1. Within the LI zone district, no stacking of shipping containers shall be permitted. Within the HI zone district, no stacking of shipping containers shall be permitted within 300 feet of any residential zoning district. A survey may be required to verify that an area or parcel to be used to stack shipping containers is more than 300 feet from a residential zoning district.
 2. Where stacking of shipping containers is permitted, the height of the stack shall not be permitted to exceed three (3) containers.
 3. Shipping container storage areas shall be buffered from all streets and residences by a minimum 25 foot wide Type "D" buffer or the buffer required for the adjacent street if that buffer requirement is greater than 25 feet, and all non-industrial zoning districts by the minimum buffer required under Table 3.5, Section 54-347.
 4. Exemptions. Water-dependent maritime shipping and cargo handling facilities or terminals where shipping containers are stored temporarily awaiting further shipment or relocation to storage facilities shall be exempt from these requirements.
 5. Amortization of nonconforming uses. Existing shipping container storage uses that do not conform to the stacking restrictions listed above in subsections 1 and 2 and are not exempt in accordance with subsection 4, shall be amortized and made to conform to the above stacking restrictions or discontinued twelve (12) months after the effective date of this ordinance."
- Section 6. This ordinance shall become effective upon ratification.

RATIFICATION NUMBER

2003-45

AN ORDINANCE TO AMEND ORDINANCE #2002-108 TO CORRECT A CLERICAL ERROR FOR 2 PORTERS COURT (TMS #460-08-01-131) AND 14 PORTERS COURT (TMS #460-08-01-037), TO REFLECT THAT THE CORRECT TRANSFER AMOUNT IS \$12,000.00 INSTEAD OF \$17,000.00 FOR 2 PORTERS COURT, AND \$17,000.00 INSTEAD OF \$12,000.00 FOR 14 PORTERS COURT.

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN THE CITY COUNCIL ASSEMBLED:

Section 1. Ordinance Number 2002-108 is hereby corrected by amending the Transfer Amount to reflect that \$12,000.00 is the correct amount for 2 Porters Court instead of \$17,000.00.

Section 2. Ordinance Number 2002-108 is hereby corrected by amending the Transfer Amount of reflect that \$17,000.00 is the correct amount for 14 Porters Court instead of \$12,000.00.

Section 3. This Ordinance shall become effective upon ratification.

The 2003 City of Charleston Boards and Commissions Appointments were next on the agenda. Council had received a memorandum from Mayor Joseph P. Riley, Jr. dated April 15, 2003 in their agenda packets in which he outlined a list of appointees for Council's consideration. Council was also in receipt of two memoranda from Mayor Riley, which had been distributed to their desks prior to the meeting. Two changes were recommended.

One memorandum informed Council that Reuben Reeder had decided to relinquish his position on the Board of Zoning Appeals - Site Design and that he would like to continue to serve on the Housing Authority. Mayor Riley recommended appointing Sean F. Keefer, Esq. to fill Mr. Reeder's unexpired term on the Board of Zoning Appeals - Site Design, which term would expire January 2004.

Reverend Sidney Davis had advised Mayor Riley that he would be unable to accept the appointment to serve on the Municipal Election Commission (MEC). The Mayor had contacted former MEC member Carolyn Johnson and she had agreed to serve.

On motion of Councilmember Evans, seconded by Councilmember Bleecker, Council voted to approve the appointments as distributed including the two changes, which had been laid on their desks.

The following appointments were approved:

***ACCOMMODATIONS TAX ADVISORY COMMITTEE**

(6 Members - 1 Councilmember - **1 year term**)

1. John Orr
2. Dr. Theodore Stern
3. Alphonso Brown
4. Missy C. Gold
5. John Edwards
6. Janice Kahn

Janice Kahn will fill the seat of George E. Campsen, Jr.

The remainder of the Committee have voiced their desire to continue serving. These appointments will expire January 2004.

***BCD COUNCIL OF GOVERNMENTS BOARD *BOARD OF APPEALS UNDER THE INTERNATIONAL BUILDING CODE**

1. Councilmember Louis Waring
2. Councilmember Deborah Morinelli

(7 Members - **4 year staggered terms** - 2 Alternates)

1. James Meadors, Chair (2008)
2. Amanda Griffith Herbert (2007)
3. Boyd Wood (2006)
6. Eddie Porcher (2005)
7. Lenny Greene (2004)
8. Ray Frisch, Alternate (2008)
9. Eddie Fava, Alternate (2008)

***BOARD OF FIREMASTERS**

(10 Members - 2 Councilmembers -- **1 year terms**)

1. Robert E. Molony, **Chair**
2. Dr. Thomas A. Duc, Jr.
3. Queen Ester Jenkins
4. William Richardson
5. Thomas Eiserhardt
6. Richard Brewer, Jr.
7. Bobby Herbert
8. Ronald Plunkett
9. Leonard Higgins
10. Councilmember James Lewis, Jr.
11. Councilmember G. Robert George

***BOARD OF ZONING APPEALS - SITE DESIGN**

(7 Members -- **3 year terms**)

1. Robert M. Hollings, Jr.
2. Nell Postell
3. Sean F. Keefer

Nell Postell will fill the unexpired term of Ron Norton. Her term will expire January 2005. Sean F. Keefer will fill the unexpired term of Reuben Reeder. His term will expire January 2004.

Robert Hollings, Jr. has voiced his desire to continue serving on this Board. His term will expire January 2006.

***BOARD OF ZONING APPEALS - ZONING**

(7 Members -- 3 year terms - all will expire 1/06)

1. Sandra Campbell
2. Margaret Smith
3. Russell Rosen
4. Samuel H. Altman

***CAROLINA ART ASSOCIATION BOARD**

(2 Members - 1 year term) ***CENTRAL BUSINESS DISTRICT REVITALIZATION COMMISSION**

1. Adelaida Bennett

(12 Members - 2 Councilmembers and the Mayor - 3 year terms)

1. Patterson Smith
2. Nese Zinn
3. Jonathan M. Morant
4. Barbara Nelson

Jonathan Morant will fill the seat of Decatur Wilson, who resigned from the Commission. His term will expire January 2006.

Barbara Nelson will fill the seat of Augustine Olalere, who resigned from the Commission. Her term will expire January 2006.

Patterson Smith and Nese Zinn have voiced their desire to continue serving on this Commission. Their terms will expire January 2006.

***COMMISSION ON ARTS AND HISTORY**

(7 Members and 2 Councilmembers - 1 year term)

1. Dr. Marvin Dulaney
2. Bernice DeCosta-Davis
3. David McCormack, Esq.
4. Mrs. James Stuckey
5. Charles Waring III
6. Robert N. Rosen, Esq., **Chair**
- 7.

Mrs. Jeffery Rosenblum

Dr. Marvin Dulaney will fill the seat of Mary Ramsay, who has resigned from the Commission. The remainder of the Committee has voiced their desire to continue serving. These appointments will expire January 2004.

***CHATS POLICY COMMITTEE *COMMUNITY DEVELOPMENT ADVISORY COMMITTEE**

1. Councilmember James Lewis
2. Councilmember Yvonne Evans

(7 Members - 2 Councilmembers and the Mayor - 1 year terms)

1. Joseph McFarland
2. Christopher Rose
3. Miranda Holmes
4. I. Mayo Read, Jr.
5. Brenda Scott
6. Daniel E. Martin, Jr., Esq.
7. Annabelle Seabrook
8. Councilmember James Lewis
9. Councilmember Jimmy Gallant

The remainder of the Committee members had voiced their desire to continue serving on this Committee. These appointments will expire January 2004.

***FIRE DEPARTMENT ONE PERCENT COMMITTEE**

(5 Members to consist of the Fire Chief, Chief Financial Officer, Chair of Board of Firemasters and 2 citizens (1 appointed by Fire Chief and 1 appointed by Mayor) - 4 year term

1. John Chisolm (1/04)
2. Bobby Herbert (1/06)

***GOLF COURSE COMMISSION, MUNICIPAL**

(10 Members - 3 Councilmembers, 1 representative of Edisto Realty Co.; 1 representative of Jenkins Links; the current Junior Representative and 1 Member at Large - 1 year term)

1. Elaine Bonner
 2. Ernest Masters
 3. Abram Brown (Jenkins Links)
 4. Sully Witte-Jenneally (Edisto Realty)
 5. Milton S. Costa, MD
 6. Gene Kizer
 7. Benjamin Robinson
 8. Yvonne Bondurant
 9. Dr. Morey Lipton
 10. Greg McKelvey
- (Member at large) (Jr. Representative)

***HOMEOWNERSHIP INITIATIVE COMMISSION**

(9 Members - 2 year terms) ***HOUSING AUTHORITY OF CITY OF CHARLESTON**

1. Ira Rosenberg (1/04)
- (7 Members - 5 year staggered terms) 1.
Reuben R. Reeder (1/08)

***HOUSING BOARD OF APPEALS**

(5 Members consisting of a Realtor, an Architect, an Engineer, 2 General contractors or Building materials dealer -- 1 year term)

1. David Ott
2. Theodore Padgett
3. Michael Rozier
4. Howard Sherman
5. Neil Stevenson

***MBD ADVISORY BOARD 1.**

Tia Brewer

***MUNICIPAL COURT JUDGES**

(1 year term)

1. Judge Arthur C. McFarland
2. Joseph S. Mendelsohn
3. Thomas P. Morrison
4. Veronica G. Small
5. Charles L. Allen
6. Michael A. Molony

***PLANNING COMMISSION**

(9 Members - 3 year terms)

1. Byron K. Geddings (2006)
2. Valerie Perry (2006)
3. Gordon Geer (2006)

***RECREATION COMMISSION 1/04)**

(14 Members plus 5 Councilmembers of the Standing Committee - 1 year term All will expire

1. Wendy Gibson (1)
2. Jeff Church (2)
3. Iman I.S. Rasheed (3)
4. Florence Bennett (4)
5. John Scott (5)
6. Monty W. Robinson (7)
7. Ledlie Bell (8)
8. Angelo Anastapoulo, Jr. (9)
9. Brad Nettles (10)
10. Ward Irvin (11)
11. Kathleen Wilson (12)
12. Thomas Johnson (12)
13. Chad Vail (At Large) (1)
14. David A. Bendt (At Large) (11)

***REDEVELOPMENT AND PRESERVATION, COMMISSION ON**

(9 Members - 2 Councilmembers and the Mayor - 1 year term-All will expire 1/04)

1. Capers G. Barr, III, Chair
2. Joseph McFarland
3. Jerome Clemons
4. Rev. Alma Dungee
5. Thomas G. Baker
6. Ezekiel Cross
7. Frances Mack
8. Robert Gailliard, Esq.
9. Elaine Harvey

***TOURISM COMMISSION, CITY OF CHARLESTON**

(13 Members and the Mayor - **3 year term - two terms only**)

1. Richard Knoth **1/04**

(Unexpired term of Tony Youmans)

***TOWN AND GOWN COMMISSION**

(10 Members and the Mayor, including 2 Councilmembers, 3 City residents owning and occupying home in the College impact zone, a Manager of real property in the zone, 1 Representative of the Police Department, 1 from the College office of the President, 1 from Dean of Student Affairs and 1 from the Student Government Association - **3 year term**)

1. Chief Reuben Greenberg

2. President, College of Charleston

3. Dr. George Haborak

Dean of Student Affairs, College of Charleston

4. President of Student Government Assoc.

College of Charleston

5. Ken Swing

6. Peter Shahid

7. Joseph Hurteau

8. Robert Ballard 9. Lorraine Perry

These appointments will expire January 2006.

The Minority Development (MBD) 1st Quarter Report 2003 was the remaining item on the agenda. Council accepted this report as Information.

Mayor Riley reiterated that in the future appointments and MBD Reports would appear under the Petitions and Communications portion of the agenda as requested earlier in this meeting.

Councilmember Campbell spoke of a report that came out of minority business improvements as it relates to businesses and the Cooper River Bridge Project. He referred to this as a very embarrassing number. He said when we look at the project that we have involved as far as the renovation of the houses that were turned over, he hoped that our numbers would reflect on a better situation than DOT did.

Continuing, he said that he would like for City staff to provide an update on the Youth Employment Program.

Councilmember Morinelli asked if there was any way that the City could do anything to arrange pickup within 24-48 hours following volunteer cleanups. She spoke of the recent cleanup on Highway 61 and said that trash was still sitting.

The Heritage Motorcycle Rally had taken place the weekend prior to this meeting.

Councilmember Bleecker and Councilmember George shared a couple of experiences they had with motorcycle riders over the previous weekend.

Councilmember Fishburne complimented the City Police Department on the way they had managed the motorcycle rally. Mayor Riley added that there had been great communications from the presidents of the City's neighborhood councils.

Councilmember Gilliard expressed his concern about sunbathers at Marion Square. He announced that he had scheduled a meeting with the Dean of Students of the College of

Charleston on Friday at 11:00 a.m. He invited all Councilmembers, and in particular the Councilmembers representing this area, to join him at this meeting.

Councilmember Campbell asked for a report on the \$10,000,000 housing bond at the next City Council meeting as it relates to the progress of that project.

The agenda noted the next City Council meeting would be at 5:00 p.m., Monday May 12, 2003 at City Hall.

There being no further business the meeting adjourned at 7:50 p.m.

Vanessa Turner-Maybank Clerk
of Council