

**AGENDA ITEM SUMMARY
OCONEE COUNTY, SC**

COUNCIL MEETING DATE: Thursday, March 2, 2006

COUNCIL MEETING TIME: 9:00 a.m.

ITEM TITLE OR DESCRIPTION:

Resolution requesting that the Oconee County Planning Commission study and make recommendations to County Council concerning ordinances, regulations, or zoning classifications necessary to protect Lakes Jocassee, Keowee, and Hartwell, and to promote sound long range planning.

BACKGROUND OR HISTORY:

Over the last few years, Oconee County has received concerns from various citizens and citizen groups concerning the need for planning and better land uses in Oconee County. While issues of this nature can occur anywhere in the county, the water quality and the aesthetic beauty of Oconee County's lakes are of special concern. The lakes provide potable water for the citizens of Oconee County, as well as providing important recreation and tourism benefits for the County. The best, and perhaps the only, way to protect the lakes is through land use regulations. Proposed land use regulations are legally required to come through the County Planning Commission to the County Council. For this reason, County Council must refer the issues raised in the attached Resolution to the Planning Commission for its study and recommendation back to County Council.

SPECIAL CONSIDERATIONS OR CONCERNS:

Land use regulations are often called "zoning". When the County considered zoning several years ago there was vocal opposition. It is important that all sides and all views on this issue be heard through workshops, local forums, or educational seminars before any possible changes are made.

STAFF RECOMMENDATION:

Adopt the attached Resolution to formally refer the land use, environmental and growth management issues contained herein to the Planning Commission for a thorough, but expeditious study and a future recommendation back to County Council on the subject of land use regulations to protect lakes Jocassee, Keowee, and Hartwell, property owners rights, and to promote sound long range planning in Oconee County.

FINANCIAL IMPACT:

In order for the Planning Department to obtain the information necessary to assist the Planning Commission to perform the tasks outlined in this Resolution in an expedited, but thorough manner with substantial public involvement, it is anticipated that additional staff will be needed in the Planning Department. In the event that the County decides to actually implement zoning regulations, certain permanent new staff positions will be necessary. In addition, it is anticipated that some consultants will have to be hired to fully implement land use or zoning regulations if approved by County Council.

ATTACHMENTS:

Resolution

Submitted or Prepared By:

Brad Norton
County Attorney

Approved for Submittal to Council:


Ron H. Rabun, County Administrator

Reviewed By/ Initials:

<u>N/A</u>	County Attorney
<u>N/A</u>	Finance
<u>JH</u>	Planning

C: Clerk to Council

OCONEE COUNTY COUNCIL
RESOLUTION NO. 2006-08

A RESOLUTION REQUESTING THAT THE OCONEE COUNTY PLANNING COMMISSION STUDY AND MAKE THOROUGH, BUT TIMELY RECOMMENDATIONS TO COUNTY COUNCIL CONCERNING ORDINANCES AND LAND USE REGULATIONS NECESSARY TO PROTECT LAKES JOCASSEE, KEOWEE AND HARTWELL AND TO PROMOTE SOUND LONG RANGE PLANNING.

WHEREAS, Oconee County borders three large lake reservoirs: Lake Jocassee, Lake Keowee and Lake Hartwell; and

WHEREAS, these lakes provide vital water supply, recreation and tourism within Oconee County, and as such, are vital to the health, well being, and economy of Oconee County; and

WHEREAS, Oconee County has been informed that water providers in Oconee County have plans to use and/or expand their use of these lakes for potable water; and

WHEREAS, the construction of dwellings along the shores of these water reservoirs will increase the density and impact of the population living along these lakes; and

WHEREAS, the County Council has concerns about the health, sanitation, public safety, stormwater run off, shore erosion, sedimentation, and the overall water quality within these water reservoirs; and

WHEREAS, it is important to protect the natural beauty and health of the County's most significant natural resources; and

WHEREAS, it is vital to Oconee County's future to protect and to wisely use these water resources, taking into account the interest of the various stakeholders, property owners, and the general public interest,

NOW THEREFORE, BE IT ORDAINED, that the Oconee County Council, duly assembled, and with a quorum present and voting, resolves as follows:

That the Oconee County Planning Commission, in conjunction with the Oconee County Planning Department, the County Administration and Staff, and such consultants as are necessary, shall as expeditiously and as thoroughly as possible, do the following:

- a) Determine how other counties in South Carolina are responding to the increased pressures of growth and lakefront development and what methods they have used to protect their water resources and to promote best management practices;
- b) Collect data and information concerning how and where existing and future development from new construction have created actual or potential lakefront and water quality problems in Oconee County, and other similar lakefront areas;
- c) Determine what protections are now in place and what regulations, practices, or infrastructure may be needed in the future to protect these vital resources;
- d) Determine the economic and tax consequences, both pro and con to be anticipated; and
- e) Make recommendations to County Council regarding additional regulations, ordinances, zoning, or other prudent measures necessary to protect the environment, recreational access, sustainable development, the public's interest, and sound long range planning.
- f) Seek substantial public involvement and education through open meetings and forums.

The Oconee County Council formally requests that the Planning Commission study and make recommendations concerning these growth management issues to County Council as early as is practicable.

APPROVED, RATIFIED AND ADOPTED on first and final reading this second day of March, 2006.

H. Frank Ables, Jr.
Council Chairman
Oconee County Council

Attest:

Opal O. Green,
Clerk to Council

**AGENDA ITEM SUMMARY
OCONEE COUNTY, SC**

**COUNCIL MEETING DATE: 3/2/2006
COUNCIL MEETING TIME: 9:00 AM**

ITEM TITLE OR DESCRIPTION:

First Reading of Ordinance 2006-04, "AMENDMENT TO LOAN AGREEMENT RELATING TO \$35,000,000 OCONEE COUNTY, SOUTH CAROLINA POLLUTION CONTROL REVENUE REFUNDING BONDS (DUKE ENERGY CORPORATION, SERIES 1999A AND SERIES 1999B) (THE "BONDS") TO PROVIDE FOR GUARANTEE THEREOF." And First Reading of Ordinance 2006-05, "AMENDMENT TO LOAN AGREEMENT RELATING TO \$77,000,000 OCONEE COUNTY, SOUTH CAROLINA POLLUTION CONTROL FACILITIES REVENUE REFUNDING BONDS, SERIES 1993 (DUKE POWER COMPANY PROJECT) (THE "BONDS") TO PROVIDE FOR GUARANTEE THEREOF."

BACKGROUND OR HISTORY:

Recently, Duke Energy Corporation has entered into an Agreement and Plan of Merger, dated May 8, 2005, and its subsequent amendments, which would allow for the merging of Duke Energy Corporation and Cinergy Corporation as subsidiaries under Duke Energy Holding Corporation. With this agreement, Duke Energy wants to amend the corresponding indentures for each of the issues to add the guarantee, or backing, by the larger holding company, Duke Energy Holding Corporation, and to clarify that merger transactions do not violate the "maintenance of existence" provisions. They believe that these amendments would not jeopardize the interests of the bondholders, but rather substantially benefit the bondholders with the support of a significantly larger corporation.

In 1993, revenue-refunding bonds in the amount of \$77,000,000 were issued by Oconee County for Pollution Control Facilities for a Duke Power Company project. The "Loan Agreement between Oconee County, South Carolina and Duke Power Company" dated April 1, 1993 and its amendments, outlined the responsibilities of Duke Power Company. In addition, Oconee County issued bonds totaling \$35,000,000 for the same purpose with the same type of bond transcripts in October 1999. In the agreement, specific provisions are made that would allow Duke Power Company to merge, as long as the successor corporation would assume all obligations of the Duke Power Company. Furthermore, Section 8.1 discusses "Assignment"; whereas, Duke Power Company must provide Oconee County with a true and complete copy of the assignment, together with any instrument of assumption.

SPECIAL CONSIDERATIONS OR CONCERNS:

STAFF RECOMMENDATION:

- 1) Staff recommends adoption of this ordinance #2006-04 of first reading with second reading scheduled for March 7, 2006 and third and final reading on March 21, 2006.
- 2) Staff recommends adoption of this ordinance #2006-05 of first reading with second reading scheduled for March 7, 2006 and third and final reading on March 21, 2006.

FINANCIAL IMPACT:

These actions will in no way affect the County's debt limit or bonding capacity nor will the County be responsible for the payment of the debt.
The approval of the amendments to the Loan Agreement will maintain and grow jobs and revenue for Oconee County.

ATTACHMENTS:

Proposed Ordinances

Submitted or Prepared By:



Department Head/Elected Official

Approved for Submittal to Council:



Ron H. Rabun, County Administrator

Reviewed By/ Initials:

_____ County Attorney

 Finance

_____ Other

C: Clerk to Council

OCONEE COUNTY
ORDINANCE 2003-04

AMENDMENT TO LOAN AGREEMENT RELATING TO \$35,000,000 OCONEE COUNTY, SOUTH CAROLINA POLLUTION CONTROL REVENUE REFUNDING BONDS (DUKE ENERGY CORPORATION, SERIES 1999A AND SERIES 1999B) (THE "BONDS") TO PROVIDE FOR GUARANTEE THEREOF.

WHEREAS, Oconee County, South Carolina (the "County"), acting by and through its County Council (the "County Council"), under and pursuant to the provisions of Title 48, Chapter 3 of the Code of Laws of South Carolina 1976, as amended (the "Act"), has previously issued its \$35,000,000 Pollution Control Revenue Refunding Bonds, Series 1999A and Series 1999B (Duke Energy Corporation Project) (the "Bonds"); and

WHEREAS, Duke Energy Corporation (the "Corporation") has requested that the County amend the Loan Agreement dated as of October 1, 1999 relating to the Bonds to, among other things, add a guarantee from Duke Energy Holding Corp. (the "Parent"); and

WHEREAS, the County Council has caused to be prepared and presented to this meeting the following document which the County proposes to execute and deliver: Amendment to Loan Agreement among the County, the Parent and the Corporation (the "Amendment").

WHEREAS, it appears that the instrument above referred to, which is now before this meeting, is in appropriate form and is an appropriate instrument to be executed and delivered by the County for the purposes intended.

NOW, THEREFORE, BE IT ORDAINED by Oconee County, South Carolina, as follows:

Section 1. In order to further the purposes of the Act by assisting the Corporation in the purposes contemplated by the Amendment, the Amendment is approved.

Section 2. Nothing in this Ordinance or the Amendment shall be construed to change the fact that the Bonds are limited obligations of the County, the principal and interest on which are payable solely out of the revenues derived from the Loan Agreement. The Bonds and the interest thereon shall never constitute an indebtedness of the County within the meaning of any state constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability of the County or a charge against its general credit or taxing powers.

Nothing in this Ordinance or the Amendment shall be construed as an obligation or commitment by the County to expend any of its funds other than (i) the proceeds of the Bonds, (ii) the revenues derived from the Loan Agreement, and (iii) any moneys arising out of the investment or reinvestment of said proceeds, revenues or moneys.

Section 3. The form, terms and provisions of the Amendment presented to this meeting and filed with the Clerk of the County Council be and they are hereby approved and all

of the terms, provisions and conditions thereof are hereby incorporated herein by reference as if the Amendment were set out in this ordinance in its entirety. The Chairman and the Clerk of the County Council be and they are hereby authorized, empowered and directed to execute, acknowledge and deliver the Amendment in the name and on behalf of the County, and thereupon to cause the Amendment to be delivered to the Corporation. The Amendment is to be in substantially the form now before this meeting and hereby approved, or with such minor changes therein as shall be approved by the officials of the County executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of the Amendment now before this meeting.

Section 4. The Chairman and the Clerk of the County Council, for and on behalf of the County, are hereby each authorized and directed to do any and all things necessary to effect the execution and delivery of the Amendment and the performance of all obligations of the County thereunder.

The Chairman and the Clerk of the County Council are each further authorized to execute and deliver such other documents and certificates necessary to effectuate the Amendment as contemplated in this ordinance.

Section 5. The provisions of this ordinance are hereby declared to be separable and if any section, phrase or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions hereunder.

Section 6. All orders, resolutions, ordinances and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed and this ordinance shall take effect and be in full force from and after its passage and approval.

Passed and approved this ____ day of _____, 2006.

**OCONEE COUNTY,
SOUTH CAROLINA**

By: _____
Chairman, Oconee County Council

ATTEST:

Clerk, Oconee County Council

First Reading: _____

Second Reading: _____

Public Hearing and
Third Reading: _____

OCONEE COUNTY
ORDINANCE 2006-05

AMENDMENT TO LOAN AGREEMENT RELATING TO \$77,000,000 OCONEE COUNTY, SOUTH CAROLINA POLLUTION CONTROL FACILITIES REVENUE REFUNDING BONDS, SERIES 1993 (DUKE POWER COMPANY PROJECT) (THE "BONDS") TO PROVIDE FOR GUARANTEE THEREOF.

WHEREAS, Oconee County, South Carolina (the "County"), acting by and through its County Council (the "County Council"), under and pursuant to the provisions of Title 48, Chapter 3 of the Code of Laws of South Carolina 1976, as amended (the "Act"), has previously issued its \$77,000,000 Pollution Control Facilities Revenue Refunding Bonds, Series 1993 (Duke Power Company Project) (the "Bonds"); and

WHEREAS, Duke Energy Corporation (f/k/a Duke Power Company) (the "Corporation") has requested that the County amend the Loan Agreement dated as of April 1, 1993 relating to the Bonds to, among other things, add a guarantee from Duke Energy Holding Corp. (the "Parent"); and

WHEREAS, the County Council has caused to be prepared and presented to this meeting the following document which the County proposes to execute and deliver: Amendment to Loan Agreement among the County, the Parent and the Corporation (the "Amendment").

WHEREAS, it appears that the instrument above referred to, which is now before this meeting, is in appropriate form and is an appropriate instrument to be executed and delivered by the County for the purposes intended.

NOW, THEREFORE, BE IT ORDAINED by Oconee County, South Carolina, as follows:

Section 1. In order to further the purposes of the Act by assisting the Corporation in the purposes contemplated by the Amendment, the Amendment is approved.

Section 2. Nothing in this Ordinance or the Amendment shall be construed to change the fact that the Bonds are limited obligations of the County, the principal and interest on which are payable solely out of the revenues derived from the Loan Agreement. The Bonds and the interest thereon shall never constitute an indebtedness of the County within the meaning of any state constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability of the County or a charge against its general credit or taxing powers.

Nothing in this Ordinance or the Amendment shall be construed as an obligation or commitment by the County to expend any of its funds other than (i) the proceeds of the Bonds, (ii) the revenues derived from the Loan Agreement, and (iii) any moneys arising out of the investment or reinvestment of said proceeds, revenues or moneys.

Section 3. The form, terms and provisions of the Amendment presented to this meeting and filed with the Clerk of the County Council be and they are hereby approved and all of the terms, provisions and conditions thereof are hereby incorporated herein by reference as if the Amendment were set out in this ordinance in its entirety. The Chairman and the Clerk of the County Council be and they are hereby authorized, empowered and directed to execute, acknowledge and deliver the Amendment in the name and on behalf of the County, and thereupon to cause the Amendment to be delivered to the Corporation. The Amendment is to be in substantially the form now before this meeting and hereby approved, or with such minor changes therein as shall be approved by the officials of the County executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of the Amendment now before this meeting.

Section 4. The Chairman and the Clerk of the County Council, for and on behalf of the County, are hereby each authorized and directed to do any and all things necessary to effect the execution and delivery of the Amendment and the performance of all obligations of the County thereunder.

The Chairman and the Clerk of the County Council are each further authorized to execute and deliver such other documents and certificates necessary to effectuate the Amendment as contemplated in this ordinance.

Section 5. The provisions of this ordinance are hereby declared to be separable and if any section, phrase or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions hereunder.

Section 6. All orders, resolutions, ordinances and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed and this ordinance shall take effect and be in full force from and after its passage and approval.

Passed and approved this ____ day of _____, 2006.

**OCONEE COUNTY,
SOUTH CAROLINA**

By: _____
Chairman, Oconee County Council

ATTEST:

Clerk, Oconee County Council

First Reading: _____

Second Reading: _____

Public Hearing and
Third Reading: _____