

FIRST COMMUNITY CORP /SC/
Form S-8
October 08, 2004

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549**

FORM S-8
REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

FIRST COMMUNITY CORPORATION

(Exact name of registrant as specified in its charter)

South Carolina
(State of other jurisdiction of
incorporation or organization)

57-1010751
(I.R.S. Employer
Identification No.)

5455 Sunset Boulevard
Lexington, South Carolina 29072
(Address of Principal Executive Offices)

First Community Corporation / DutchFork Bancshares, Inc. Stock Incentive Plan
(Full title of the plan)

Michael C. Crapps
President
5455 Sunset Boulevard
Lexington, South Carolina 29072
803-951-2265
(Name and address of agent for service)

Copies Requested to:

Neil E. Grayson, Esq. Nelson
Mullins Riley & Scarborough LLP
Poinsett Plaza, Suite 900
104 South Main Street
Greenville, South Carolina 29601
Telephone: (864) 250-2300
Fax: (864) 232-2925

CALCULATION OF REGISTRATION FEE

| Title of securities to be registered | Amount to be registered | Proposed maximum offering price | Proposed maximum aggregate offering | Amount of registration fee |
|--------------------------------------|-------------------------|---------------------------------|-------------------------------------|----------------------------|
| Common Stock | 180,685 (1) | \$ 9.23 (2) | \$ 1,667,723 (2) | \$ 212 |

- (1) Represents shares of common stock issuable under the First Community Corporation / DutchFork Bancshares, Inc. Stock Incentive Plan, which was assumed by the registrant in connection with its acquisition of DutchFork Bancshares, Inc.
- (2) In accordance with Rule 457(h), the registration fee is based upon the exercise price.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents filed by us with the SEC are incorporated by reference into this registration statement, and all documents subsequently filed by us pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934 shall be incorporated by reference in this registration statement and shall be a part of this registration statement from the date of filing of the documents:

- (a) our Annual Report on Form 10-KSB for the year ended December 31, 2003;
- (b) our Quarterly Reports on Form 10-QSB for the fiscal quarters ended March 31, 2004 and June 30, 2004;
- (c) our Current Reports on Form 8-K filed on January 22, 2004, April 13, 2004, April 22, 2004, July 22, 2004, September 3, 2004, and October 6, 2004; and
- (d) our description of securities included in our registration statement on Form S-4/A filed on July 8, 2004.

Item 4. Description of Securities.

No response required to this item.

Item 5. Interests of Named Experts and Counsel.

No response required to this item.

Item 6. Indemnification of Directors and Officers.

The articles of incorporation of First Community contain a conditional provision which, subject to certain exceptions described below, eliminates the liability of a director to the company or its shareholders for monetary damages for breach of the duty of care or any other duty as a director. This provision does not eliminate such liability to the extent the director engaged in willful misconduct or a knowing violation of criminal law or of any federal or state securities law, including, without limitation, laws proscribing insider trading or manipulation of the market for any security.

The bylaws of First Community require the company to indemnify any person who was, is, or is threatened to be made a named defendant or respondent in any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of service by such person as a director of the company or its subsidiary bank or any other corporation which he served as such at the request of the company. Except as noted in the next paragraph, directors are entitled to be indemnified against judgments, penalties, fines, settlements, and reasonable expenses actually incurred by the director in connection with the proceeding. Directors are also entitled to have the company advance any such expenses prior to final disposition of the proceeding, upon delivery of a written affirmation by the director of his good faith belief that the standard of conduct necessary for indemnification has been met and a written undertaking to repay the amounts advanced if it is ultimately determined that the standard of conduct has not been met.

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Under the bylaws, indemnification will be disallowed if it is established that the director (i) appropriated, in violation of his duties, any business opportunity of the company, (ii) engaged in willful misconduct or a knowing violation of law, (iii) permitted any unlawful distribution, or (iv) derived an improper personal benefit. In addition to the bylaws, Section 33-8-520 of the South Carolina Business Corporation Act of 1988 (the Corporation Act) requires that a corporation indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which he was a party because he is or was a director of the corporation against reasonable expenses incurred by him in connection with the proceeding. The Corporation Act also provides that upon application of a director a court may order indemnification if it determines that the director is entitled to such indemnification under the applicable standard of the Corporation Act.

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The board of directors also has the authority to extend to officers, employees, and agents the same indemnification rights held by directors, subject to all of the accompanying conditions and obligations. The board of directors has extended or intends to extend indemnification rights to all of its executive officers.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers or persons controlling First Community pursuant to the provisions discussed above, First Community has been informed that in the opinion of the SEC, such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable.

Item 7. Exemption from Registration Claimed.

No response is required to this item.

Item 8. Exhibits.

The following exhibits are filed with this registration statement.

| <u>Exhibit Number</u> | <u>Description of Exhibit</u> |
|-----------------------|--|
| 4.1 | Amended and Restated Articles of Incorporation (incorporated by reference to Exhibit 3.1 to the company's Registration Statement No. 33-86258 on Form S-1) |
| 4.2 | Bylaws (incorporated by reference to Exhibit 3.2 to the company's Registration Statement No. 33-86258 on Form S-1) |
| 5.1 | Legal Opinion of Nelson Mullins Riley & Scarborough LLP |
| 23.1 | Consent of Clifton D. Bodiford, CPA |
| 23.2 | Consent of Nelson Mullins Riley & Scarborough LLP (contained in their opinion filed as Exhibit 5.1) |
| 24 | Power of Attorney (contained on the signature pages of this registration statement) |
| 99.1 | First Community Corporation / DutchFork Bancshares, Inc. Stock Incentive Plan |

Item 9. Undertakings.

The Company hereby undertakes:

- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:
 - (i) To include any prospectus required by Section 10(a)(3) of the Securities Act;
 - (ii) To reflect in the prospectus any facts or events which, individually or together, represent a fundamental change in the information in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities

Item 9. Undertakings.

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offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement;

- (iii) To include any additional or changed material information on the plan of distribution;

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provided, however, that the undertakings set forth in paragraph (i) and (ii) above do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission pursuant to Section 13 or 15(d) of the Exchange Act of 1934 that are incorporated by reference in this registration statement;

- (2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof;
- (3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

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SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Lexington, State of South Carolina, on this 21st day of September, 2004.

FIRST COMMUNITY CORPORATION

By: /s/ Michael C. Crapps
President and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Michael C. Crapps and Joseph G. Sawyer, or either of them, as such person's true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for such person and in such person's name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement and any Registration Statement filed pursuant to Rule 462(b) under the Securities Act of 1933, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission and any other regulatory authority, granting unto the attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as such person might or could do in person, hereby ratifying and confirming all that the attorneys-in-fact and agents, or either of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed below by the following persons in the capacities and on the dates indicated:

POWER OF ATTORNEY

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SIGNATURE

CAPACITY

DATE

/s/ Richard K. Bogan

Richard K. Bogan

Director

September 21, 2004

/s/ Thomas C. Brown

Thomas C. Brown

Director

September 21, 2004

/s/ Chimin J. Chao

Chimin J. Chao

Director

September 21, 2004

/s/ Michael C. Crapps

Michael C. Crapps

Director, President
& Chief Executive Officer

September 21, 2004

/s/ Hinton G. Davis

Hinton G. Davis

Director

September 21, 2004

/s/ Anita B. Easter

Anita B. Easter

Director

September 21, 2004

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/s/ O. A. Ethridge

O. A. Ethridge

Director

September 21, 2004

/s/ George H. Fann, Jr.

George H. Fann, Jr.

Director

September 21, 2004

/s/ W. James Kitchens, Jr.

W. James Kitchens, Jr.

Director

September 21, 2004

/s/ James C. Leventis

POWER OF ATTORNEY

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| | | |
|----------------------------|--|--------------------|
| James C. Leventis | Director, Chairman of the Board, & Secretary | September 21, 2004 |
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| /s/ Joseph G. Sawyer | | |
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| Joseph G. Sawyer | Senior Vice President Chief Financial Officer Accounting Officer | September 21, 2004 |
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| Steve P.Sligh | Director | September 21, 2004 |
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| J. Thomas Johnson | Director | September 21, 2004 |
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| /s/ Loretta R. Whitehead | | |
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| Loretta R. Whitehead | Director | September 21, 2004 |
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| /s/ Mitchell M. Willoughby | | |
| <hr/> | | |
| Mitchell M. Willoughby | Director | September 21, 2004 |

Exhibit Index

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