

JANUARY 8, 2008 CITY COUNCIL MEETING

The City Council of the City of Clinton, North Carolina met in regular session at 7:00 PM on January 8, 2008 at city hall auditorium. Mayor Starling presided. Councilmembers Becton, Harris, Stefanovich, Strickland, and Turlington were present. The city attorney Dale Johnson; city clerk Betty Fortner; deputy clerk Elaine F. Hunt; city manager John Connet; finance director Betty Brewer; fire chief Philip Miller; planning and community development director Jeff Vreugdenhil; planner Mary Rose; public works director Chris Doherty; recreation director Judi Nicholson; and police chief Mike Brim were present.

Rev. Louie V. Andrews, III, Pastor of Graves Memorial Presbyterian Church, gave the invocation.

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Becton, the minutes of the December 4, 2007 regular city council meeting was approved unanimously.

PRESENTATION

Ms. Wanda Corbett appeared before Council to tell of a food distribution ministry which has been in effect for more than four years. She and other family members are in charge of this food distribution ministry and are in need of assistance from the community. Although Tri-County, Sampson County Health Department, Goshen Medical Center, and local farmers have come to their rescue, they are in need of storage space to store food, a permanent location, land, handrail, and a forklift. The goal of the group is to make a difference for everybody.

RECOGNITIONS

Councilman Strickland introduced Aaron Dale Underwood to City Council and the public. Mayor Starling presented him with a certificate of commendation upon receiving his Eagle Scout designation.

Police Chief Mike Brim recognized Anthony Davis as "Police Officer of the Year". Chief Brim stated Officer Davis has been with the city since August 2003, and is doing an excellent job.

Fire Chief Philip Miller and Deputy Fire Chief Todd Solice recognized Joe Dixon, who has been employed with the city for approximately 9 years, and Robert Burke, who has been employed with the city for approximately 20 years as "Firefighters of the Year".

PUBLIC HEARING -- OATHS

Mayor Starling administered oaths to Jeff Vreugdenhil, Alice and Ransom Newkirk, and Michael Thornton who would possibly present testimony during public hearings for conditional use permit requests.

P & Z -- FAISON HIGHWAY -- BURGESS GROUP CONSOLIDATED

Mayor Starling opened a public hearing on a request by Burgess Group Consolidated for the rezoning of approximately 3.4 acres off Faison Highway from R-8 Residential to HC Highway Commercial. Planning Director Vreugdenhil explained the request and gave the staff and Planning and Zoning Board recommendation to approve the request upon the findings of fact and zoning consistency statement. No one else appeared to be heard, and the hearing was closed.

Upon a motion made by Councilmember Strickland, seconded by Councilmember Becton, and unanimously passed, this public hearing item was continued until the next city council meeting to be held on February 5, 2008 in the City Hall Auditorium.

P & Z -- 804 AND 806 COLLEGE STREET -- UNITED EQUITIES VI

Mayor Starling opened a public hearing on a request by United Equities VI for the rezoning of approximately 4.5 acres located at 804 and 806 College Street from O & I Office and Institutional, NS Neighborhood Shopping, and R-8 Residential to R-6 Residential. Planning Director Vreugdenhil explained the request and gave the staff and Planning and Zoning Board recommendation to approve the request upon the findings of fact and zoning consistency statement. No one else appeared to be heard, and the hearing was closed.

Upon a motion made by Councilmember Turlington, seconded by Councilmember Strickland, the following amendment #2008.01.01 to the Zoning Ordinance was unanimously adopted:

WHEREAS, in accordance with the provisions of North Carolina General Statute 160A-383, the City of Clinton Planning Board does hereby find and determine that the recommendation of ordinance amendment RZ-12-07 is consistent with the goals and objectives of the City of Clinton Land Use Plan and other long range planning documents; and

WHEREAS, upon the recommendation of the Planning and Zoning Board and after public hearing and due notice thereof as required by law, the City Council of the City of Clinton, NC do enact as follows: The Zoning Ordinance of the City of Clinton be and the same is hereby amended as follows: That 4.5 acres located at 804 and 806 College Street is hereby rezoned from O & I Office and Institutional, NS Neighborhood Shopping, and R-8 Residential to R-6 Residential.

P & Z – 607 COLLEGE STREET – CLINTON REALTY

Mayor Starling opened a public hearing on a request by Michael Thornton of Clinton Realty for a conditional use permit to operate a real estate office at 607 College Street, an R-8 District. Planning Director Vreugdenhil explained the request and gave the staff and Planning and Zoning Board recommendation to approve the request. He stated that Council may impose conditions. No one else wished to be heard, and the hearing was closed.

Mayor Starling read Standard 1: The use will not endanger the public health, safety, or general welfare if located where proposed and developed according to plan. He then called for a vote on whether the requested use would meet this standard. Five voted that the standard would be met. No one voted no.

Mayor Starling read Standard 2: The use meets all required conditions and specifications as outlined in the conditional use application, and/or as imposed by the City Council. He then called for a vote on whether the requested use would meet this standard. Five voted that the standard would be met. No one voted no.

Mayor Starling read Standard 3: The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, or substantially diminish and impair property values within the neighborhood, or is a public necessity. He then called for a vote on whether the requested use would meet this standard. Five voted that the standard would be met. No one voted no.

Mayor Starling read Standard 4: The location and character of the use if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in conformity with the Clinton Development Plan. He then called for a vote on whether the requested use would meet this standard. Five voted that the standard would be met. No one voted no.

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Strickland, and after determination that this request is in accordance with the provisions of NCGS 160A-383, a conditional use permit was unanimously approved for Michael Thornton to operate a real estate office at 607 College Street.

P & Z – 80A ISAAC WEEKS ROAD – ALICE AND RANSOM NEWKIRK

Mayor Starling opened a public hearing on a request by Alice and Ransom Newkirk for a conditional use permit to operate a commercial daycare at 80A Isaac Weeks Road, a HC District. Planning Director Vreugdenhil explained the request and gave the staff and Planning and Zoning Board recommendation to approve the request. He stated that Council may impose conditions. No one else wished to be heard, and the hearing was closed.

Mayor Starling read Standard 1: The use will not endanger the public health, safety, or general welfare if located where proposed and developed according to plan. He then called for a vote on whether the requested use would meet this standard. Five voted that the standard would be met. No one voted no.

Mayor Starling read Standard 2: The use meets all required conditions and specifications as outlined in the conditional use application, and/or as imposed by the city council. He then called for a vote on whether the requested use would meet this standard. Five voted that the standard would be met. No one voted no.

Mayor Starling read Standard 3: The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, or substantially diminish and impair property values within the neighborhood, or is a public necessity. He then called for a vote on whether the requested use would meet this standard. Five voted that the standard would be met. No one voted no.

Mayor Starling read Standard 4: The location and character of the use if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in conformity with the Clinton Development Plan. He then called for a vote on whether the requested use would meet this standard. Five voted that the standard would be met. No one voted no.

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Becton, and after determination that this request is in accordance with the provisions of NCGS 160A-383, a conditional use permit was unanimously approved for Alice and Ransom Newkirk to operate a commercial daycare at 80A Isaac Weeks Road.

STREET CLOSING -- PORTION OF PIERCE STREET

Mayor Starling opened a public hearing on a request by the City of Clinton and recommended by the Recreation Advisory Board and Recreation Director Judi Nicholson for the closing of a portion of Pierce Street between Ellen Street and the dead end. Recreation Director Nicholson stated that the purpose of this request is to control after-hour access to the park. No one else wished to be heard, and the hearing was closed.

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Harris, the following resolution was unanimously adopted by the City Council of the City of Clinton, at 7:38 PM on the 8th day of January, 2008, at a meeting held at City Hall Auditorium:

RESOLUTION ORDERING THE CLOSING OF PIERCE STREET

WHEREAS, on the 8th day of November, 2007, the City Council of the City of Clinton directed the City Council of the City of Clinton to publish the Resolution of Intent of the City Council of the City of Clinton to consider closing Pierce Street from the northwest edge of Ellen Street to the dead end in the Sampson Independent once each week for four successive weeks, such resolution advising the public that a meeting would be conducted in the auditorium of the City Hall on the 8th day of January, 2008, at 7:00 o'clock, P.M.; and

WHEREAS, the City Council of the City of Clinton on the 8th day of November, 2008, ordered the City Clerk to notify all persons owning property abutting on the said street, as shown on the county tax records, by registered or certified mail, enclosing with such notification a copy of the Resolution of Intent; and

WHEREAS, the City Clerk has advised the City Council of the City of Clinton that adequate notices were posted on the applicable street as required by G. S. 160A-299; and

WHEREAS, after full and complete consideration of the matter and after having granted full and complete opportunity for all interested persons to appear and register any objections that they might have with respect to the closing of said street described above in the public hearing held on the 8th day of January, 2008, at 7:00 o'clock p.m.; and

WHEREAS, it now appears to the satisfaction of the City Council of the City of Clinton that no individual owning property abutting the said street as a result of said closing be thereby deprived of a reasonable means of ingress and egress to their property;

NOW, THEREFORE, subject to the reservation of easements to the City of Clinton for utility purposes, Pierce Street between the northwest edge of Ellen Street and the dead end is hereby ordered closed, and all right, title, and interest that may be vested in the public to said area for alley or walkway purposes is hereby released and quitclaimed to the abutting property owners in accordance with the provisions of G.S. 160A-299(c).

The City Clerk is hereby ordered and directed to file in the office of the Register of Deeds of Sampson County a certified copy of this resolution and order.

PARKING -- WALL STREET

City Manager Connet presented a request to continue the one hour parking along Wall Street between Vance and Main Streets to one hour now that the construction is completed. City Council agreed that this time limit is working out fine.

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Strickland, the following resolution was unanimously adopted:

RESOLUTION AMENDING PARKING ALONG WALL STREET BETWEEN MAIN STREET AND VANCE STREET

BE IT RESOLVED by the City Council of the City of Clinton, NC that the on-street parking time limit along Wall Street between Vance Street and Main Street shall be one hour.

BE IT RESOLVED that the Official Traffic Map shall reflect this; and

NOW, THEREFORE, BE IT RESOLVED that the Chief of Police shall cause appropriate signs to be erected.

APPOINTMENTS

Upon a motion made by Councilmember Turlington, seconded by Councilmember Becton, Beth Oglesby was unanimously reappointed to the Planning and Zoning Board for a five year term ending January 2013.

Appointment to the Board of Adjustment for District 1 was continued.

Upon a motion made by Councilmember Turlington, seconded by Councilmember Harris, Howard Hobson was unanimously reappointed to the Board of Adjustment for a three year term ending January 2011.

The January 2008 appointments to the All-America City Committee were continued.

BIDS -- FORMER VOCATIONAL REHABILITATION BUILDING – SHSAA

City Manager Connet presented bids for the demolition of the former Vocational Rehabilitation Building at the former Sampson High School. He stated that an agreement had been reached with the Sampson Alumni Association to remove the building in exchange for a “no cost” lease on the property. He recommended accepting the low bid of the qualified bidder, Tap Construction, Inc.

<u>Bidder</u>	<u>Amount</u>
Tap Construction, Inc.	\$ 24,900
J. R. Bradshaw & Co.	32,705
D. H. Griffin Wrecking Co., Inc.	17,860 (Bid was received after closing)

Upon a motion made by Councilmember Harris, seconded by Councilmember Stefanovich, the bid was awarded unanimously to Tap Construction, Inc. in the amount of \$24,900.00.

RESOLUTION --NC DOT -- FAYETTEVILLE STREET

Jeff Vreugdenhil presented an enhancement agreement with NC DOT so that the city could receive a \$15,000 enhancement grant. He also presented a resolution authorizing the mayor and city clerk to execute the agreement. The purpose of the grant is to install sidewalk and handicap access at the intersection of Williams Street and Fayetteville Street. Upon a motion made by Councilmember Harris, seconded by Councilmember Strickland, the following resolution was unanimously adopted:

WHEREAS, the Department and the Municipality have agreed to participate in the construction of a five (5) foot sidewalk along SR 1296 (Fayetteville Street) from Williams Street to Barden Street approximately 450 feet in Clinton; and,

WHEREAS, the Municipality shall be responsible for the preparation of sidewalk design and project plans, acquisition of any required right away, relocation of all utilities, and construction of the project; and,

WHEREAS, the Department agrees to reimburse the Municipality for the actual construction cost of the project not to exceed \$15,000. Reimbursement shall be made in one (1) final payment upon completion of the project.

NOW, THEREFORE, BE IT RESOLVED that Project E-2971 C, Sampson County, is hereby formally approved by the City Council of the City of Clinton and that the Mayor and Clerk of this Municipality are hereby empowered to sign and execute the Agreement with the Department of Transportation.

SCOPE OF WORK – PHASE III – DOWNTOWN REVITALIZATION PROJECT

Consideration of scope of work for Phase III of the Downtown Revitalization Project was continued until engineering information is received.

SPRINGVALE CEMETERY -- 5TH ADDITION

Public Works Director Doherty presented a resolution stating the restrictions for the new section – 5th Addition Springvale Cemetery. He requested rates to be set as follows:

<u>Inside</u>	<u>Outside</u>	<u>Fee</u>
\$155	\$310	\$95

Upon a motion made by Councilmember Becton, seconded by Councilmember Stefanovich, the abovementioned rates and the following resolution stating the restrictions was unanimously adopted:

BE IT RESOLVED that all of the lots shown on the map entitled “Fifth Addition to Springvale Cemetery” which is recorded in **Map Book 64 Page 51** of the Sampson County Registry be subject to the following additional restrictions:

- a) The said lot is to be used only for cemetery purposes.
- b) No trees, shrubs or plants shall be planted thereon by any person, except that the right is reserved for the City of Clinton to plant such trees, shrubs, or plants as it, in its uncontrolled discretion, may determine. The City of Clinton from time to time will have the entire cemetery area, of which the above-described lots are a part, landscaped, and the right on the part of the City of Clinton is reserved to plant on the above-described lots such trees, shrubs, or plants as it, in its uncontrolled discretion, deems advisable in order to carry out the landscaping of the whole cemetery addition. In making such plantings, the City of Clinton shall not in any way interfere with any grave which may be on said lots; and the owners of the lots, if space occupied by any tree, shrub, or other plant placed thereon by the City is needed for burial purposes, may request the City of Clinton to remove the same, and the City shall remove same when such space is needed for burial purposes.
- c) No hedges, fences, copings, or enclosures which extend or protrude above the ground level of the above-mentioned lots and driveways

shall be erected or placed thereon; neither shall any bench, seat or similar object be placed thereon.

- d) No grave marker, family monument, or stone, monument, or marker of any kind shall be placed at any grave or on the said lot except as follows: Graves may be marked either by flat or vertical markers or monuments firmly set in a concrete foundation which shall be at least two (2) inches below ground level, provided that no single grave marker or monument may have a base larger than 12 inches by 22 inches and no double grave marker or monument may have a base size no larger than 12 inches by 66 inches; and provided that all grave monuments are made of a natural stone material of a minimum thickness of four (4) inches at its thinnest point or materials that consist of at least eighty-seven (87) percent copper; and provided that all grave monuments or markers for spaces A, B, C, & D in lots 1 – 184 are placed so that they are no farther than 16 inches from the eastern line of the grave plot upon which they are installed, or for spaces E, F, G, & H in lots 1 – 184 are placed so that they are no farther than 16 inches from the western line of the grave plot upon which they are installed, nor closer than 19 inches from the northern and southern boundary line in the case of a single marker or monument, nor closer than 19 inches from the northernmost and southernmost lines of contiguous grave plots which are marked by double monuments or markers, and for graves in lots 37 – 60 & 130 – 151 are to be marked by flat markers only. City shall not be responsible for vandalism occurring to any grave marker.
- e) All graves shall be level, and no grave mound shall be permitted, and all permanent type vases placed on said lot shall be of the types which do not extend above the ground level.
- f) All graves must be opened and closed under the supervision of the City of Clinton after a permit is obtained from the City, and the owner shall make arrangements with the funeral director to remove all surplus dirt from the lot and from the cemetery, and all turf shall be protected, preserved and replaced after an interment or the erection of a monument or marker.
- g) The City of Clinton reserves the right to close all roads leading into the cemetery and to the above mentioned lots, except during the time of a funeral, and reserves the right to make such rules and regulations for the use of said lots and cemetery as are not inconsistent herewith and as deemed necessary or advisable for the beautification and maintenance of said cemetery.
- h) This conveyance is made subject to Section 6 of Chapter 6 of the Clinton City Code of 1999, and which reads as follows: “The price for cemetery lots and portions thereon in the Clinton Municipal Cemeteries shall be by resolution set by the City Council from time to time, and the rate or sale to a resident of the City of Clinton shall be one-half (½) the price charged for a conveyance to non-residents. No person shall convey any interest in any municipal cemetery property without the concurrence of the City of Clinton as evidence by the signature of the Clinton City Clerk and the City Seal; and the Register of Deeds of Sampson County shall not record any deed conveying any interest in any municipal cemetery

property without its having been signed by the Clinton City Clerk and attested with the Clinton City Seal. The City Clerk shall not sign said deed of conveyance without the Conveyancer, if the person being conveyed to is a non-resident of the City of Clinton, paying to the City of Clinton the difference between the price charged to a Clinton City resident and a non-Clinton city resident at the time of conveyance unless the Conveyancer is conveying to his or her lineal descendants or spouse.

AND BE IT FURTHER RESOLVED that the City of Clinton retains the option to redesignate any of said lots for a different use so as long as they are owned by the City of Clinton.

CONDEMNATIONS

City Manager Connet presented an ordinance of condemnation for 306 Ferrell Street. Barbara B. and Jaray R. Sampson, Sr. were instructed on September 12, 2007 to remove the unsafe structure, but it has not been done.

Upon a motion by Councilmember Turlington, seconded by Councilmember Becton, the following ordinance #2008.01.02 was unanimously adopted:

AN ORDINANCE DIRECTING THE CODE ENFORCEMENT OFFICER TO REMOVE OR DEMOLISH THE PROPERTY HEREIN DESCRIBED AS UNSAFE AND DIRECTING THAT A NOTICE BE PLACED THEREON THAT THE SAME MAY NOT BE OCCUPIED

WHEREAS, the City Council of the City of Clinton finds that the structure described herein is unsafe pursuant to G.S. 160A-426; and

WHEREAS, this structure should be removed or demolished as directed by the Code Enforcement Officer; and should be placarded by placing thereon a notice prohibiting use; and

WHEREAS, Barbara B. and Jaray R. Sampson, Sr., the owners of this structure have been given a reasonable opportunity to bring the structure to the standards of the Housing Code in accordance with G.S. 160A-426 pursuant to an order issued by the Code Enforcement Officer on September 25, 2007, the owners have failed to comply with this order.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Clinton, that:

Section 1. The Code Enforcement Officer is hereby authorized and directed to place a placard containing the legend:

“This structure is unsafe; the use or occupation of this structure is prohibited and unlawful.”

On the structure located at 306 Ferrell Street and in the City of Clinton.

Section 2. The Code Enforcement Officer is hereby authorized and directed to proceed to remove or demolish the above-described structure in accordance with his order to the owners thereof dated September 25, 2007, and in accordance with the Code and G.S. 160A-426.

Section 3(a). The cost of removal or demolition shall constitute a lien against the real property upon which the cost was incurred. The lien shall be filed in the office of the Sampson County Tax Collector, and shall have the same priority and be collected in the same manner as the lien for special assessments in Article 10 of G.S. Chapter 160A.

Section 3(b). Upon completion of the required removal or demolition, the Code Enforcement Officer shall sell the materials of the structure and credit the proceeds against the cost of removal or demolition. The Code Enforcement Officer shall certify the remaining balance to the Tax Collector. If a surplus remains after sale of the materials and satisfaction of the cost of removal or demolition, the Code Enforcement Officer shall deposit the surplus in the Superior Court where it shall be secured and disbursed.

Section 4. It shall be unlawful for any person to remove or cause to be removed the placard from any structure to which it is affixed. It shall likewise be unlawful for any person to occupy or to permit the occupancy of any structure therein declared to be unsafe.

Section 5. This ordinance shall become effective upon adoption.

ADMINISTRATION -- PERSONNEL

City Manager Connet presented a request to re-structure the City Manager's Office as a result of Betty Fortner's retirement. He stated that re-structuring would include the creation of an Assistant City Manager position that he recommended placing in Pay Grade 24, amending the job description, and adjusting some of the duties of the City Clerk position. He further stated that the City Clerk position will be in Pay Grade 22.

Upon a motion by Councilmember Turlington, seconded by Councilmember Stefanovich, the request to re-structure the City Manager's Office was unanimously approved.

POLICIES – PERSONNEL

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Becton, and unanimously passed the Personnel Policy was amended by adding Attachment A, Health and Safety Program Policy which is incorporated herein as if fully set out.

REPORTS

The finance, fire, code, personnel, public works, and police reports were acknowledged.

City Manager Connet reported that the retirement party for City Clerk Betty Fortner will be held on Friday, February 8th at 2:00 PM. City Clerk Fortner's retirement date is February 1, 2008.

City Manager Connet informed council that the new podium was donated to the city by Kivett's Inc. A motion was made by Councilmember Stefanovich, seconded by Councilmember Strickland, and unanimously passed to present Kivett's Inc. the following resolution of thanks for the podium:

RESOLUTION OF THANKS

WHEREAS, the City Council recognizes that Kivett's Inc., owned by Jerol Kivett is one of the largest and oldest manufacturers of church furnishings and fiberglass steeples in the United States; and

WHEREAS, the City Council of the City of Clinton would like to extend its warmest thanks to Kivett's, Inc., for the wonderful podium presented to Mayor and City Council at its regular city council meeting on January 8, 2008; and

WHEREAS, the City Council of the City of Clinton would like Jerol Kivett and his staff to know that their gift was very generous; and

WHEREAS, the City wishes to thank Kivett's, Inc. for beautifying the City Council's Chamber with the eloquent podium embossed with the City of Clinton's seal.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Clinton, North Carolina does hereby express our sincere appreciation; and

BE IT FURTHER RESOLVED that a copy of this resolution be spread upon the minutes of the City Council of the City of Clinton, NC as a permanent record of this expression and a copy be presented to Jerol Kivett.

Upon a motion made by Councilmember Becton, seconded by Councilmember Strickland, and unanimously passed, the meeting adjourned at 7:56 PM.

Deputy City Clerk

Mayor