

AUGUST 2, 2005 CITY COUNCIL MEETING

The City Council of the City of Clinton, North Carolina met in regular session at 7:00 p.m. on August 2, 2005 at city hall auditorium. Mayor Starling presided. All councilmembers were present. The city attorney Dale Johnson; city clerk Betty Fortner; deputy clerk Elaine Hunt; city manager John Connet; director of administration Joe Best; finance director Betty Brewer; fire chief Phillip Miller; planning and community development director Jeff Vreugdenhil; police chief Mike Brim; and public works director Chris Doherty were present. Recreation director Judi Nicholson was absent.

Rev. Sam Loy, Grace United Methodist Church, gave the invocation.

Upon a motion made by Councilmember Harris, seconded by Councilmember Becton, the minutes of the July 5, and 19, 2005 city council meeting were unanimously approved.

City Manager Connet read a proclamation proclaiming August 21 – 27, 2005 as National Truck Driver Appreciation Week.

P & Z—OATHS

City Clerk Fortner administered oaths to Jeff Vreugdenhil and Nell Hudson who plan to present testimony during a public hearing for a conditional use permit as requested by Mrs. Hudson.

P & Z—ORDINANCE—PLANNED UNIT DEVELOPMENTS

Mayor Starling opened a public hearing on a request by the City of Clinton Planning Board to amend the Clinton Zoning Ordinance to add a new section, 9.20, Planned Unit Developments. Planning Director Vreugdenhil presented the proposed amendment which would allow planned unit developments in RA-20 districts. He also presented the Planning and Zoning Board's recommendation to approve the amendment. No one from the public appeared. After questions from the council, the hearing was closed.

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Strickland, the following amendment #06.08.01 to the Zoning Ordinance was unanimously adopted: 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: That the Zoning Ordinance of the city of Clinton be and the same is hereby amended is hereby amended by adding a new section to be numbered Section 9.20 Planned Unit Development, which shall read as follows:

SECTION 9.20 PLANNED UNIT DEVELOPMENTS

9.20.1 Residential Planned Unit Developments are conditional uses intended to encourage innovation, flexibility of design, and better land use by allowing deviations from the standard requirements of the City's specific zoning districts. The purpose of providing for these conditional uses is to promote:

- (1) Improved compatibility of new development with existing residential neighborhoods, and commercial enterprises;
- (2) Flexibility of design to take greatest advantage of a sites' natural and developmental qualities;
- (3) Accumulation of large areas of usable permanent open space to preserve important natural resources; and
- (4) Efficient use of land that may result in lower development and public service costs.

9.20.2 Review Criteria

The following review criteria are established as general guidelines for the Planning and Zoning Board and the City Council in their deliberations and decision making regarding planned unit developments.

- (1) Degree of departure of the proposed planned unit development from surrounding areas in terms of character, density, or type of use.
- (2) Compatibility within the planned unit development and relationship with the surrounding neighborhoods.
- (3) Prevention of the erosion of property values and degrading of surrounding areas.
- (4) Provision for future public recreational facilities, transportation, water supply, sewage disposal, surface drainage, flood control, and for soil conservation as shown in the development plans.
- (5) The nature, intent, and compatibility of permanent open space, including the proposed method for the maintenance and conservation of said permanent open space.
- (6) The feasibility and compatibility of the specified stages contained in the preliminary development plan to exist as an independent development.
- (7) The availability and adequacy of water and sewer service to support the proposed planned unit development.
- (8) The availability and adequacy of primary streets and thoroughfares to support traffic to be generated within the proposed planned unit development, and including the promotion of bicycling, walking and other alternatives to the automobile.
- (9) The benefits within the proposed development and to the general public to justify the requested departure from the standard zoning district requirements.
- (10) The conformity and compatibility of the planned unit development with any adopted development plan of the City of Clinton.

- (11) The conformity and compatibility of the proposed open space, primary and secondary uses within the proposed planned unit development.
- (12) Provisions for emergency vehicle access and service to the proposed development.
- (13) Preservation of important natural amenities on the site of the proposed development.

9.20.3 Procedures for plan submittal, review and approval.

The following procedures are established for the submittal, review, and approval of planned unit development Conditional Use Permits.

- (1) Submittal procedures. A planned unit development submittal consists of two (2) parts: a preliminary development plan and a final development plan. The preliminary development plan is the initial submittal for review by the Planning and Development Staff and other applicable agencies through the Technical Review Committee review process. This offers the applicant the opportunity to discuss the development proposal with the applicable review agencies and receive direct input from said agencies in the preparation of the final development plan. The final development plan is the plan presented to the Planning and Zoning Board and the City Council reflecting the actual development proposal for approval. Any proposal reflecting the subdivision of property may be reviewed and presented jointly with the planned unit development, conditional use proposal.
- (2) Plan submittal requirements. The plan submittal requirements of (Section 12) shall apply to planned unit developments; however, the review procedures for planned unit developments shall be governed by this article, as set forth in the paragraphs following.
- (3) Number of copies to be submitted. Six (6) copies of the preliminary development plan shall be submitted to the Zoning Administrator. After review of the preliminary development plan, the Zoning Administrator shall advise the applicant as to the number of copies of the final development plan that will be required, based upon the complexity of the project and the magnitude of changes recommended during review of the preliminary development plan.
- (4) Review procedures.
 - a. The requisite number of copies of the preliminary development plan shall be submitted to the Zoning Administrator thirty (30) days prior to the Planning and Zoning Board meeting at which the proposed planned unit development is to be heard. The Zoning Administrator shall then transmit the submitted plan and any additional materials to the applicable Technical Review Committee agencies and establish a meeting date with the developer within ten (10) days following the date of plan submittal. The Technical Review Committee shall review the plans and any additional materials for compliance with the applicable local, state, and federal regulations and suggest alternative

methods for resolutions of compliance. If modifications are to be made to the preliminary development plans, the applicant shall perform such and resubmit the modified plans of the final development plan ten (10) days prior to the Planning and Zoning Board's regularly scheduled meeting date.

- b. For final development plans, the Zoning Administrator shall transmit copies of the plans and additional materials to the Planning and Zoning Board for review and recommendation of approval, conditional approval or denial prior to the Planning and Zoning Board's regularly scheduled meeting date. The Zoning Administrator shall also provide the recommendation of the Technical Review Committee to the Board.
- c. The final development plan and any additional materials shall be transmitted to the City Council by the Zoning Administrator prior to the City Council's regularly scheduled meeting for review and approval, conditional approval, or denial. In addition, the Zoning Administrator shall provide the recommendations of the Technical Review Committee and the Planning and Zoning Board to the City Council.
- d. If the development plan is denied, no application shall be accepted by the Zoning Administrator for one calendar year from the date of Council denial for another request for a planned development, conditional use for the same property, unless said waiting period is specifically waived by the City Council in its action to deny.

(5) Approval procedures. After approval of a final development plan, or any stage thereof, by the City Council, a Conditional Use Permit shall be issued by the Zoning Administrator for a period of one (1) year. If development has not commenced within the one (1) year period, the final approval shall be declared null and void and the initial conditional use permit approval rescinded. At the request of the developer, and for good cause shown, the City Council may extend said period required for filing of said application for a certain time.

9.20.4 General regulations

The following general regulations shall apply to all planned unit developments:

- (1) Off street parking. The off-street parking requirements of Section 6 of this ordinance shall apply to all planned unit developments.
- (2) Sign regulations. The sign regulations of Section 8 of this ordinance shall apply to all planned unit developments according to the requirements for the zoning district in which each proposed development is located.
- (3) Maintenance Buildings and Management Offices. Maintenance buildings and management offices shall be in substantial conformity with the character of the surrounding property.

- (4) Development standards. Construction standards for streets, sidewalks, sewer facilities, utilities and drainage systems shall be in compliance with the requirements of the City of Clinton subdivision regulations.
- (5) Landscaping and Buffering. The provisions of the City's Green Space Requirements (Section 5) shall apply to all planned unit developments.
- (6) Maintenance of permanent open space and parking. The method of providing for such maintenance shall be as follows:
 - a. Establishment of an association or nonprofit corporation of all individuals or corporations owning property within the planned unit development for the purpose of ensuring maintenance of common facilities.
 - b. Retention of ownership, control, and maintenance of common facilities by the developer

9.20.5 Residential planned unit development regulations.

The following regulations shall apply to residential planned unit developments.

- (1) Acreage requirements. A minimum of 30,000 sq. ft. shall be required for planned unit developments.
- (2) Minimum required lot area. A minimum of 7,500 sq. feet shall be required per lot.
- (3) Minimum setback requirements. The minimum setback requirements for this conditional use shall be as follows:
 - a. Maximum Height. Maximum height of building shall be – 40 feet.
 - b. Minimum setback from property lines:
 - Front setback - 20 feet
 - Side setback - 7.5 feet
 - Rear setback - 10 feet
 - Street side setback - 10 feet
 - c. Minimum separation between on-site structures: Fifteen (15) feet, unless otherwise granted in part (b) above.
 - d. Townhouse. A single-family dwelling unit constructed in a series or group of attached units with property lines separating such units shall be reviewed through the Planned Unit Development process. A separate subdivision plat must be submitted in conjunction with the planned unit development application.

- (4) Density. For those zoning districts in which residential planned unit development is a conditional use, the density criterion shall be forty (40) percent of land coverage.
- (5) Permanent open space. Twenty-five (25) percent of the gross acreage of a residential planned unit development shall be permanent open space, as defined below. For the purposes of this ordinance, permanent open space shall be defined as any land to be utilized as landscaped green space, parks, playgrounds, parkway medians, active recreational uses, or for other similar functions, areas required as setbacks or for separation between structures may be utilized in calculating a projects permanent open space requirements. Man-made lakes or other watercourses may be used to fulfill the requirements of this section. Designated wetlands or marsh may not be calculated as part of the permanent open space requirement nor utilized in calculating density. The percentage of open space must be indicated on the plan.
- (6) Establishment of lots within planned unit developments. Any non-cluster lots created within planned unit developments, with the exception of townhouse development, whereby the lot size is determined by the structure foundation in that the lot shall not exceed the perimeter of the structure foundation and located immediately beneath such, shall be subject to the minimum area and other requirements of the zoning district in which located and processed as a subdivision in conjunction with the planned unit development. A written request may be made and submitted along with application for a Conditional Use Permit for a departure from the standard district regulations.
- (7) Maximum site coverage. The maximum coverage of the site by structures shall be forty (40%) percent of the gross site acreage after excluding wetlands, marsh or other non-buildable land.
- (8) Commercial uses. Residential planned unit developments may contain commercial development (planned business development) not exceeding ten (10%) percent of the total development project area. Such commercial development shall be located and designed so as to be functionally and architecturally compatible with a residential neighborhood. Requirements shall include modest, subdued signage and outdoor lighting in keeping with a residential area, minimal, well landscaped, off-street parking, and easy access by bicycle or on foot via connecting sidewalks. Traffic from outside the planned unit development wishing to gain access to the commercial businesses associated with the development shall not be permitted to cut through a residential area to reach the business location.
- (9) Buffer strips. Buffer strips shall be required in all residential planned unit developments when there is a substantial reduction in the permitted lot sizes as compared to adjacent property and/or where a residential planned unit development abuts land zoned residential. Buffer strips shall be of continuous evergreen composition, must be not less than fifteen (15) feet in width and six (6) feet in height, and be common owned property. This requirement may be waived in lieu of a fence as approved by City Council. In no way shall the buffer strip be considered as part of the lot.

P & Z—ORDINANCE—PLANNED UNIT DEVELOPMENTS

Mayor Starling opened a public hearing on a request by the City of Clinton Planning Board to amend the Clinton Zoning Ordinance to amend section, 9.1.2,. Planning Director Vreugdenhil presented the proposed amendment which would allow planned unit developments in RA-20 districts. He also presented the Planning and Zoning Board's

recommendation to approve the amendment. No one from the public appeared. After questions from the council, the hearing was closed. Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Strickland, the following amendment #06.08.02 to the Zoning Ordinance was unanimously adopted: 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: That the Section 9.1.2, RA-20 Residential Agriculture Districts—Conditional Uses, of the Zoning Ordinance of the city of Clinton be and the same is hereby amended is hereby amended by adding Planned Unit Developments.

P & Z—ORDINANCE

Mayor Starling opened a public hearing on a request by the City of Clinton Planning Board to amend section, 9.6.2 of the Clinton Zoning Ordinance. Planning Director Vreugdenhil presented the proposed amendment which would add speech-language pathologist as a conditional use in R-8 districts. He also presented the Planning and Zoning Board's recommendation to approve the amendment. No one from the public spoke. The public hearing was closed. Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Strickland, the following amendment #06.08.03 to the Zoning Ordinance was unanimously adopted: 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: That the Section 9.6.2, R-8 Residential Districts—Conditional Uses, of the Zoning Ordinance of the city of Clinton be and the same is hereby amended is hereby amended by adding speech-language pathologist.

P & Z—CU—SUNSET AVENUE

Mayor Starling opened a public hearing on a request by Nell Hudson for a conditional use permit to operate a speech language pathologist office at 600 Sunset Avenue, a R-8 district. Planning Director Vreugdenhil presented the Planning & Zoning Board and staff recommendation to approve the request with the condition that the wall sign displaying the business name be less than six (6) square feet. Mrs. Hudson appeared in support of the request. After questions from the council, 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 Harris, a conditional use permit was unanimously approved for Nell Hudson to operate a speech-language pathologist office at 600 Sunset Avenue.

APPOINTMENTS

Upon a motion made by Councilmember Harris, seconded by Councilmember Turlington and unanimously passed Perry Solice was appointed to fill the unexpired term of Graham Faison on the ABC Board. Terms ends August 2007.

Upon a motion made by Councilmember Strickland, seconded by Councilmember Harris, and unanimously passed Shurley McCullen was named Chairman of the ABC Board.

Upon a motion made by Councilmember Harris, seconded by Councilmember Becton, James Ezzell, Jr. was appointed to fill the unexpired term of Perry Solice on the Environmental Affairs Board which ends March, 2008.

Notification was given of the need to appoint ETJ members to the Board of Adjustment and Planning and Zoning Board. Sampson County, who had been appointing the members at the city's request, asked the city to resume appointing the members.

RESOLUTIONS—COMMUNITY DEVELOPMENT

City Manager Connet asked council to include the ETJ area in the target areas for condemning unsafe buildings.

Upon a motion made by Councilmember Becton, seconded by Councilmember Harris, the following resolution was unanimously adopted:

Resolution to Re-Designate Community Development Target Areas

Whereas, G. S. 160A-426 allows for the condemnation of unsafe buildings; and

Whereas, the city council is responsible for general public health and welfare; and

Whereas, the city's zoning jurisdiction includes one mile from the city limits; and

Whereas, certain property owners have neglected their property and the property is maintained in a manner inconsistent with these goals, desires, and responsibilities; and

Whereas, G. S. 160A-426(c) states the city council must designate target areas; and

Whereas, the City Council on February 3, 2004 designated the city limits as target areas; and

Whereas, the City Council of the City of Clinton desires to improve the appearance and vitality of all areas including the extraterritorial zoning jurisdiction;

Now, Therefore, Be It Resolved by the City Council of the City of Clinton, North Carolina that in addition to the area within the city limits, the entire City of Clinton extraterritorial zoning jurisdiction are hereby designated as target areas for the purpose of condemning unsafe buildings.

RURAL DEVELOPMENT—MIRY CREEK

Dwight Miller appeared to ask that the city file on his behalf a USDA 524 application for a \$200,000 loan for the completion of Phase II of Miry Creek Subdivision. He said there will be no cost to the city, the city's water revenue will increase and he has previously partnered with the city to administer a USDA grant. He said he had received a community development loan and it was repaid in six months.

City Manager Connet said if the city files the application, the city will be a joint applicant. USDA recommends that the city have ownership of the property since, if the developer does not repay the loan within two years, the city must repay the loan and then take legal action against Miry Creek. Mr. Connet said he does not recommend filing the application. He also said that Ed Causey with Rural Development does not recommend the filing of joint applications.

Councilmember Turlington made a motion not to file a USDA 524 application on behalf of Dwight Miller/Miry Creek. Councilmember Strickland seconded the motion and it passed unanimously.

RESOLUTIONS—REAL ESTATE DISPOSITION

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

Resolution of Intent to Lease Property Located at 303 Lisbon Street

Whereas, the City Council of the City of Clinton, NC has determined that the real property of the City located at 303 Lisbon Street will not be needed by the City for three years.

Whereas, the City Council desires to lease or rent the property of the above described property; and

Whereas, the City Council intends to consider authorizing such lease or rental at its regular meeting to be held on the 2nd day of August, 2005

Now, Therefore, Be It Resolved by the City Council of the City of Clinton, NC that:

1. The City Clerk shall cause to be published at least 10 days prior to September 5, 2005, a notice as required by G.S. 160A-272.
2. At its regular meeting on the 5th day of September 2005, the City Council intends to authorize the rental of the real property of the City described above.

ORDINANCES—CITY CODE

Public Works Director Doherty presented changes to Section 11 of the City Code which regulates garbage and trash collection. He said if adopted, these changes will bring the city's policy up to industry standards.

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Becton, the following ordinance #05.08.03 was unanimously adopted:

Chapter 11 GARBAGE AND TRASH

Sec. 11-1. Definitions.

For the purpose of this chapter, the following definitions shall apply:

Building rubbish shall mean rubbish from construction, remodeling and repair operations on houses, commercial buildings, and other structures, including but not limited to excavated earth, stones, brick, plaster, lumber, concrete, and waste parts occasioned by installations and replacements.

Bulk container shall mean a metal container of not less than two (2) nor more than eight (8) cubic yards capacity having a total gross weight not to exceed four thousand (4,000) pounds made and designated to meet all standard requirements of a "Dempster Dumpmaster" container or equivalent and which may be picked up and emptied with a "Dempster Dumpmaster" truck unit or equivalent.

Business building shall mean any structure, whether public or private, that is adapted for occupancy for transaction of business, for rendering of professional service, for amusement, for the display or sale or storage of goods, wares, merchandise, articles or equipment, including hotels, apartment houses, rooming houses, office buildings, public buildings, stores, theaters, markets, restaurants, grain processors, abattoirs, warehouses, sheds, barns, service stations and garages and other structures on premises used for or adopted to business purposes.

Central business district shall mean that area having the inner boundaries of John Street on the south; Chesnutt Street on the west; Johnson Street on the north, and Beaman Street on the east.

Garbage shall mean animal and vegetable refuse resulting from the handling, preparation, cooking and consumption of food, including a minimum amount of liquid necessarily incident thereto.

Industrial waste shall mean sawdust, shavings, feathers, excelsior, cartons, boxes, metal, glass, paper, wood, textiles, chemicals, plastic, or other waste materials from processing plants.

Refuse shall mean solid waste, including but not limited to garbage and rubbish.

Rollout container means a plastic mobile container having a capacity of sixty (60) or ninety (90) gallons made and designated to meet or exceed all standard requirements of a "Versa-Kart 60 or Versa-Kart 90". The ownership, security and general maintenance of the rollout container shall be the responsibility of the property owner.

Rollout exemption means special collection consideration given to residents who have physical disabilities, hardship, age, or a handicap coupled with no one else permanently living at the residence with the ability to perform the rollout process. An exemption must be approved by the public works director or designee, who may require additional documentation including to but not limited to, a doctor's certificate as proof thereof. Rollout exemption shall also include those isolated circumstances where the resident's setback from the street is of a distance which causes the rollout process to be unrealistic. In both cases, the

city shall perform the collection from a location on the premises approved by the director of public works.

Rubbish shall mean refuse (exclusive of garbage) including but not limited to paper, rags, cartons, boxes, wood, excelsior, rubber, leather, yard trimmings, grass, leaves, tin cans, metals, mineral matter, glass, crockery, dirt, earth, dust, tree, bush and hedge branches, cuttings and trimmings.

Waste shall mean useless, unused, unwanted, or discarded materials resulting from natural community activities, including solids, liquids and gases.

Sec. 11-2. Receptacles required.

Every person producing or accumulating refuse, shall provide and keep on the premises occupied or used by him, refuse receptacles to handle accumulations of refuse on said premises in the interval between collections by the city, in accordance with section 11-3.

Sec. 11-3. Type of receptacles required.

(a) Unless otherwise provided, receptacles for the accumulation of refuse shall be rollout containers. A minimum of one (1) or a maximum of two (2) each rollout container(s) are allowed at each property serviced. All rollout containers shall be purchased from the City at current market price and shall remain with the assigned property.

(b) Dwellings shall provide one (1) or more receptacles for the accumulation of refuse. Single-family dwellings shall be limited to no more than two (2) receptacles, and multifamily dwellings shall be limited to no more than two (2) receptacles per dwelling unit.

(c) Business buildings located in the central business district shall provide one (1) or more bulk containers for the accumulation of refuse. Bulk containers must be obtained from and maintained by private sources. The city assumes no responsibility for normal deterioration resulting from the dumping process.

(d) Business buildings located outside the central business district from which refuse is not collected daily shall provide receptacles as if they were residences; provided, that if the accumulation is sufficient to so warrant, the city manager or designee may require that one (1) or more bulk containers be provided.

(e) Multifamily apartment complexes may use bulk containers as an alternate.

(f) No person shall throw, drop, or deposit any leaves, shrubs or other debris into any catch basin, or manhole in the city.

(g) Any person may have leaves removed by the city if such leaves are placed at the curb line between the curb and sidewalk so that they may be easily handled by the collector, during the leaf collection season. No tree limbs, shrubs or other material shall be mixed with leaves. The leaves shall be collected on days designated for such collection.

(h) No swill, slop, garbage, bones, offal, kitchen waste or refuse shall be carried through the streets of the city except in a watertight metal container with tight-fitting covers.

(i) That it shall be unlawful for any person to deposit trash, refuse, waste or any other materials which is not derived from the general operation of the business or organization that the container is assigned to or owned by.

(j) City shall provide cardboard recycling collection to business requiring such service. The city will provide containers for service. The fee for service shall be adjusted from time to time by City Council as deemed appropriate.

Sec. 11-4. Precollection practices.

(a) All refuse shall be placed at the street by 7:00 AM on the day designated for collection, but no earlier than 6:00 PM the day before, and removed from the street by 7:00 PM of the same day of collection.

(b) Garbage and rubbish may be placed in the same container without separation.

- (c) No person shall remove the cover from any receptacle nor open any door of any bulk container except momentarily for the proper use thereof.
- (d) Rollout containers shall be secured on the property assigned to until the assigned day of collection; provided, the city manager or designee may require bulk containers to be at the place on the premises which is most convenient for collection.
- (e) All cardboard boxes shall be crushed flat and placed into designated cardboard collection dumpsters before collection.
- (f) Any person desiring to place trimmings, hedge cuttings, grass or similar materials for free collection shall cause such material to be placed on the curb line at the street on the area between the sidewalk and the curb or, if there is not sidewalk, at the outer most portion of the yard adjacent to the street, on the day designated for such pick up. Free collections shall include nothing more than six (6) inches in diameter nor more than sixty (60) inches in length. Free collections do not include large accumulations of brush from extensive hedge and tree trimming. Large accumulations can be collected for a fee, as established by the City Council, per load. Property owner will be billed for the collection after said collection is complete, failure of the landowner to pay said cost within thirty (30) days of notice of the cost sent to the landowners at the address shown in the Sampson County Tax Office shall be a lien upon said lands, collectable as ad Valorem taxes
- (g) All rubbish other than tree limbs, large shrubbery limbs (and leaves during the period of October 15 through January 15) to be collected at the curb shall be containerized. Containerized is defined as being in a garbage can, or plastic bag. The maximum acceptable weight for a container and contents shall be seventy-five (75) pounds. Rubbish must be at the curb by 7:00 AM on the day of collection. During that portion of the year not considered as the leaf-falling season (January 16 through October 14), all leaves will be considered to be yard rubbish and shall be containerized for pick up.
- (h) No household furnishings, appliances/white goods, mattresses, box springs, or any other refuse other than garbage and rubbish shall be removed by the city without an additional charge to be paid for by the landowner of the property upon which it is situate or from which it was removed, whether done by the landlord, tenant, licensee, invitee, or other persons, except by payment to the city for the actual cost of removal; and the city may remove such items after giving twenty-four (24) hours' notice to the owners of the property to remove the same, the city shall bill, after the pick-up is complete, the owner of the property for the actual cost of removal; and failure of the landowner to pay said cost within thirty (30) days of notice of the cost sent to the landowners at the address shown in the Sampson County Tax Office shall be a lien upon said lands, collectable as ad Valorem taxes. However, in certain special clean up periods designated by the city council, this sub-section may be waived by the public works director. During special clean up periods, limits will be established and published in advance of said special clean up periods, as to eliminate abuse of the system.
- (i) No person shall burn leaves, shrubs, trees, limbs, and the like on the street or sidewalk or on private property except upon special permission of the fire chief.
- (j) No tires or batteries shall be deposited in any rollout container, bulk container or other receptacle used for the collection of garbage, refuse or rubbish and city pickup; nor shall batteries or tires be removed by the city under its collection practices provided for by chapter 11 of the Clinton City Code of 1987.

Sec. 11-5. Collection practices.

- (a) Except as otherwise provided in this chapter and except in the case of emergency arising from an act of God or under circumstances over which the public works department has no control, the department shall collect, remove and dispose of refuse in residential sections of the city once per week.

(b) Refuse from business buildings will be removed once per week, and where deemed necessary by the public works director more than once per week.

(c) Industrial waste shall be collected, removed and disposed of by the operator of the factory, plant, or enterprise creating or causing the same in accordance with applicable provisions of this Code. Tires and other rubber wastes which are generated by businesses for which these are the predominant commercial products, shall dispose of this material by private means.

(d) Building rubbish shall be collected, removed, and disposed of by the contractor or, builder, or in their failure, by the owner of the property.

(e) Where refuse accumulates at business buildings in quantities of more than two (2) ninety-gallon rollout containers, the owner or lessor shall be required to use a bulk container when notified in writing to do so by the public works director. Any business will be limited to a maximum of two (2) eight-cubic-yard bulk containers to be emptied five (5) times per week. Refuse which accumulates in greater quantities will be the responsibility of the property owner.

(f) No person or persons shall engage in the business of collecting, hauling or transporting waste in the city without first obtaining a permit from the city council.

(g) Special rollout exemptions, as defined in Section 11-1 of this Code, may be granted to residents who are physically disabled, or those having unrealistic set backs from the street from the requirement of rolling the rollout container to the street. In either of these cases, collection shall be limited to once per week being either on Thursday or Friday. Collections shall be made from a rollout container provided on the premises at a location approved by the public works director.

(h) It shall be the responsibility of all fence companies, tree surgeons, nurseries and landscaping contractors, or any individual or company doing work on private property, to remove from the premises all rubbish resulting from such work.

Sec. 11-6. Storing of refuse.

(a) Every owner and every occupant or other person in control of any building or land in the city, including vacant property shall keep the same in a clean and orderly condition and shall deposit refuse for collection in accordance with the provisions of this chapter and the regulation of the public works director. Combustible and noncombustible refuse shall be stored in containers complying with this chapter.

(b) No person shall throw, drop, or deposit, or cause to be thrown, dropped, or deposited on any land in the city (vacant or occupied) including specifically streets, alleys, sidewalks, and other public and other semipublic areas or in all waters under jurisdiction of the city any waste (including but not limited to refuse, garbage, ashes, rubbish, dead animals or fish, paper, drinking cups, broken glass, tacks, brush, grass, weeds, anything injurious to health). If any person while transporting or hauling or causing to be transported or hauled, such rubbish or material, or earth excavation, coal, or other material, shall throw, drop, or deposit or cause to be thrown, dropped, or deposited, such rubbish, or material from the body of the vehicle, in violation of the provisions of this subsection, such person must daily clean up and remove such rubbish or material in a manner satisfactory to the public works director, failing which the public works department may clean up and remove such rubbish and material, and the city may collect the cost of cleaning up and removal from such person.

Sec. 11-7. Point of collection.

(a) Rollout containers in residential areas shall be secured on the premises at a point away from the street right-of-way at least even with, or farther back, than the front of the living abode situate thereon. Rollout containers must be at the street right-of-way by 7:00 AM on the designated day of collection, but no earlier than 6:00 PM the day before in order to

receive service and shall be returned to the secured location on the property the container is assigned to by 7:00 PM of the same collection day.

(b) No garbage shall be collected unless it is in rollout containers approved in this chapter. Garbage will not be collected from plastic bags, pasteboard boxes, metal or plastic garbage cans, or any container other than the rollout containers described.

(c) Business building collection areas shall be from a street right-of-way or a city maintained alley right-of-way. Where front collection points are used, empty containers shall not be left on the street more than thirty (30) minutes after collection. The best location in this instance shall be determined by the public works director.

(d) No collection shall be made from vacant lots nor shall any large rocks, sand/dirt, wood chips, bricks, concrete, asphalt, tree stumps, tree limbs of more than five (5) feet in length and six (6) inches in diameter or other heavy objects be removed by the city. No collection shall be made for rubbish not derived from the normal maintenance of any residence; large accumulations are referenced in Section 11-4 of this chapter. However, in certain special clean up periods designated by the city council, this paragraph may be waived by the public works director. During special clean up periods, limits will be established and published in advance of said special clean up periods, as to eliminate abuse of the system.

(e) Materials to be collected by special collection shall be placed on the curb line at the street on the area between the sidewalk and the curb in neat, compact piles.

Sec. 11-7.1. Collection of garbage, refuse and rubbish.

Collection of garbage, refuse and rubbish notwithstanding any other sections of chapter 11 of the Clinton City Code of 1987 that containers for garbage, refuse and waste shall be furnished by the city to the occupants of every dwelling, apartment, or other unit of family housing, or occupant of a commercial unit, a container designated for the collection of garbage and waste, to be collected once a week as set forth in other provisions of this chapter. Said container shall be secured in the rear of the premises until the designated date for such collection and the garbage and waste containers must be at the street right-of-way prior to the time and date of collection in order to receive the collection service.

Occupants of each dwelling, apartment or any other unit of family habitans, or commercial unit shall be assessed a monthly fee to be established by the city council from time to time, said collection fee to be added to the water and sewer bill from the city to the occupant; and failure to pay said collection fee shall result in a termination of water and sewer service in the same manner as failure to pay water and sewer user charges cause termination of such service, however, that in the event that the unit of habitation or commercial enterprise own a master meter, then said collection fees shall be collected from said occupants, and their failure to pay by the twelfth day of the month for which they shall become due shall constitute a charge on the water and sewer bill of the city charged to the master meter.

Sec. 11-8. Fees.

Any business building, political subdivision or facility or charitable institution that utilizes the refuse collection facilities and procedures of the city, that is not taxed, shall pay such an amount as may be determined from time to time by the city council; such fees to be commensurate with the number of collections required and the amounts of such collections.

Sec. 11-9. Depositing garbage, waste or refuse on public or private premises prohibited.

It shall be unlawful to throw, place or deposit garbage, waste, trash, or refuse of any kind in any public place or on any public or private property.

Sec. 11-10. Maintenance of rubbish, weeds, long grass, etc., on vacant lots or other premises.

It shall be unlawful to maintain any property, vacant or otherwise upon which there is an uncontrolled growth of noxious weeds, grasses, or bushes to a height in excess of ten (10) inches and causing or threatening to cause infestation by rats, mice, snakes or vermin of any kind or constituting a fire hazard or which is in any way detrimental to the public health, morals, safety or general welfare; provided, however that this section shall not apply to planted and cultivated flowers, shrubbery or other vegetables or crops, property not reasonably accessible to power mowing equipment, and undeveloped parcels greater than five (5) acres in size, except for those portions of tracts greater than five (5) acres in size which constitute a public nuisance.

Further, it shall be unlawful to maintain any land, vacant or otherwise, which has upon it rubbish, waste, stagnant ponds, and fallen trees to such an extent that it is causing infestation by rats, mice, snakes or vermin of any kind or constituting a fire hazard or which is in any way detrimental to the public health, morals, safety or general welfare.

Sec. 11-11. Notice to abate nuisance.

(a) In the event of a violation of section 11-10, the owner, occupant or agent of such lot or premises shall be notified to remove the cause of the violation at his expense within the time specified in the notice. Such notice shall be deemed sufficient if given by personal service of written notice or service by certified mail to the owner, occupant or agent at his last known address as shown in the office of the city tax collector. If there be no owner, occupant or agent whom the notice can be served, then a written or printed notice shall be posted by a police officer upon the property or premises. The owner, occupant or agent shall have seven (7) days from the date of such service in which to remedy the same or the city shall cause the same to be remedied, unless an appeal for relief is delivered in writing to the city code enforcement officer within the same seven-day period and that if an appeal is received within the time stated, the appeal will be heard by the city manager, or his designated agent, within three (3) days. This shall be stated in the notice of abatement.

(b) If after seven (7) days of existence of such conditions, unless the owner, occupant or agent has appealed, or after the city manager has heard the requested appeal and concurred with the code enforcement officer that such nuisance exists, the city may forthwith cause such condition to be removed, abated or remedied, if the owner, occupant or agent has not done so, and upon abatement by the city, the cost of abatement shall be assessed against the real property upon which said cost is incurred, and collected as property tax.

Also, if the expense of abatement exceeds what may be collected from the property on which the nuisance occurred, the cost of abatement may become a lien on any other real property of the owner within the city limits or one (1) mile thereof, except the owner's primary residence, and shall be collected as a money judgment, unless the owner can show that the nuisance was created solely by the actions of another.

ORDINANCES—BUDGET—RECREATION

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Turlington, the following ordinance #05.08.04 was unanimously adopted:

**ORDINANCE ESTABLISHING A CAPITAL PROJECT BUDGET
ROYAL LANE SOCCER COMPLEX**

Be It Ordained by the City Council of the City of Clinton, NC that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted:

Section 1. The project authorized is described in the work statement contained in the grant agreement between the City of Clinton and the North Carolina Recreation Trust Fund.

Section 2. The officers of this unit are hereby directed to proceed with the terms of the grant documents, the rules and regulations of the Park and Recreation Trust Fund and the budget contained herein.

Section 3. The following revenues are anticipated to be available to complete the project:

703010.8000	PARTF Grant	\$ 65,146.00
703010.8400	City Contribution	65,146.00
Total Revenues		\$130,292.00

Section 4. The following expenditures are appropriated for the project:

706210.2000	Soccer Field Construction	\$109,431.00
706210.2100	Shelter Renovation Tennis Wall	5,800.00
706210.2200	Mulch Replacement	2,000.00
706210.2300	Station Fitness Course	7,000.00
706210.8000	Contingency	6,061.00
Total Expenditures		\$130,292.00

SUBDIVISIONS

Planning Director Vreugdenhil presented for consideration a request by Anthony Lee for a preliminary plat for a 3.28 acre, 13-lot subdivision located off Oakland Blvd. He said the Planning and Zoning Board and staff recommend approval. Upon a motion made by Councilmember Harris, seconded by Councilmember Becton, the request was unanimously approved.

REPORTS

The code violations, finance, fire, personnel, police, and tax reports were acknowledged.

City Manager Connet reported the 2005 general property tax levy is \$2,222,558.70.

PUBLIC COMMENTS

Mayor Starling asked if anyone in the audience wanted to address council on any matter not already discussed. No one came forward.

RESOLUTIONS—CLOSED SESSION

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Harris, the following resolution was unanimously adopted at 8:10 p.m:

RESOLUTION TO ENTER CLOSED SESSION

Be It Resolved that the regular meeting of the City Council of the City of Clinton, North Carolina held August 2, 2005 enter closed session as allowed by G. S. 143-318.11(a)(4) to discuss personnel and G. S. 143-318.11(a)(6) to discuss industrial recruitment

Council re-entered regular session. Mayor Starling reported no action was taken.

Upon a motion made by Councilmember Harris, seconded by Councilmember Stefanovich, and unanimously passed, the meeting was adjourned.

City Clerk

Mayor