

NOVEMBER 5, 2008, CITY COUNCIL MEETING

The City Council of the City of Clinton, North Carolina, met in regular session at 7:00 PM on November 5, 2008, in the city hall auditorium. Mayor Starling presided. Councilmembers Becton, Harris, Stefanovich, Strickland, and Turlington were present. City Attorney Dale Johnson; city clerk Elaine F. Hunt; city manager John Connet; assistant city manager Shawn Purvis; finance director Betty Brewer; fire chief Philip Miller; planning and community development director Jeff Vreugdenhil; planner Mary Rose; public works director Chris Doherty; human resource manager Lisa Carter; police chief Mike Brim; and recreation director Judi Nicholson were present.

Minister Leonard Henry gave the invocation.

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Strickland, the minutes of the October 7, 2008, city council regular meeting and October 28, 2008, city council special meeting were unanimously approved.

PROCLAMATION

City Manager Connet stated that the City of Clinton had received a letter from Deborah Gallaway, North Carolina Representative for Silver Star Families of America. This group is asking cities all over the country to proclaim May 1st as "Silver Star Banner Day" to remember the wounded and ill of our Armed Forces. City Manager Connet further stated that following "Silver Star Banner Day", the proclamations will be donated to the Stars and Stripes Museum, where the original Silver Star Flag is on display.

Upon a motion made by Councilmember Becton, seconded by Councilmember Harris, the following proclamation was unanimously approved:

SILVER STAR BANNER DAY PROCLAMATION

WHEREAS, the City of Clinton, as always honors the sacrifice of the men and women in the Armed Forces; and

WHEREAS, The Silver Star Families of America was formed to make sure we remember the blood sacrifice of our wounded and ill by designing and manufacturing a Silver Star Banner and Flag; and

WHEREAS, to date, the Silver Star Families of America has freely given thousands of Silver Star Banners to the wounded and their families; and

WHEREAS, the members of The Silver Star Families of America have worked tirelessly to provide the wounded of this City and County with Silver Star Banners, Flags and care packages; and

WHEREAS, The Silver Star Families of America's sole mission is that every time someone sees a Silver Star Banner in a window or a Silver Star Flag flying that people remember the sacrifices for this City, State and Nation; and

WHEREAS, the people and Mayor of the City of Clinton wish that the sacrifice of so many in our Armed Forces never be forgotten;

NOW, THEREFORE, I, Lew Starling, Mayor of the City of Clinton, do hereby proclaim my appreciation for the Silver Star Families of America and honor their commitment to our wounded and hereby declare May 1st "Silver Star Banner Day," the permanent and official day to honor the wounded and ill members of the Armed Forces of the City of Clinton.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the City of Clinton in the State of North Carolina.

PRESENTATIONS

Susan Rouse appeared before City Council to ask consideration of becoming an Idle-Free Community. Ms. Rouse stated that she and husband visited British Columbia and learned that the residents here, as well as other states and communities, are partaking in this Idle-Free Community program. Ms. Rouse further stated that "now that we are an All America City, perhaps we can take the lead in bringing awareness to the benefits of turning engines off while waiting in lines".

City Council directed Assistant City Manager Purvis to look deeper into this request and it will be discussed further at the December 2, 2008, city council meeting.

Parks and Recreation Director Judi Nicholson appeared before City Council to brief them on the long-range facility plan for the department. Ms. Nicholson stated that the plan has been presented to the Recreation Advisory Board and now is being presented to City Council. Ms. Nicholson stated that reorganization of the department and certification of employees are included in the plan. She further stated that a new main office building is being proposed in this plan and grants are being sought to assist in the construction. She said that one of the criteria to qualify for the grant is to present a long-range plan in a public meeting and conduct a public hearing. Ms. Nicholson asked City Council to review the CIP plan being presented and call for a public hearing at the December 2, 2008, city council meeting.

Upon a motion made by Councilmember Turlington, seconded by Councilmember Harris, a public hearing was called for the December 2, 2008, city council meeting to meet requirements to qualify for a grant in the construction of a new main office building for the Parks and Recreation Department.

OATHS

Mayor Starling administered oaths to Mary Rose and Torwana Coe.

P & Z – 820 COLLEGE STREET – TORWANNA COE

Mayor Starling opened a public hearing on a request by Torwana Coe for a conditional use permit to operate a child care center at 820 College Street in an NS Neighborhood Shopping district. City Planner Mary Rose explained the request and gave the staff, Planning, and Zoning Board recommendation to approve the request. She stated that Council might 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 Becton, seconded by Councilmember Stefanovich, and after determination that this request is in accordance with the provisions of NCGS 160A-383, a conditional use permit was unanimously approved for Torwana Coe to operate a child care center at 820 College Street, in an NS Neighborhood Shopping district.

P & Z – NC HWY 403 – ANNEXATION

Mayor Starling opened a public hearing on the annexation of NC Hwy 403 and consideration of adoption of ordinances of annexation. City Manager Connet stated that in accordance with the North Carolina General Statutes, it is required that a public hearing be conducted prior to any annexation. He further requested approval of the annexation ordinances to extend the corporate limits along NC 403 from Sir Clinton Apartments to Pugh Road. No one appeared to be heard, and the hearing was closed.

Upon a motion made by Councilmember Strickland, seconded by Councilmember Harris, the following ordinance to extend the corporate limits of the City of Clinton, North Carolina, effective January 1, 2009, was unanimously adopted at 7:22 PM:

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS
OF THE CITY OF CLINTON, NORTH CAROLINA
2008.11.1**

WHEREAS, the City Council of the City of Clinton, North Carolina has been petitioned under G.S. 160A-31 to annex the area described below; and

WHEREAS, the City Council of the City of Clinton has by resolution directed the City Clerk to investigate the sufficiency of the petitions; and

WHEREAS, the City Clerk has certified the sufficiency of the petitions and a public hearing on the question of this contiguous annexation was held in the City Hall Auditorium at 7:00 PM on November 5, 2008, after due notice by publication on October 21, 2008; and

WHEREAS, the City Council of the City of Clinton finds that the petitions meet the requirements of G.S. 160A-31;

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

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described contiguous property is hereby annexed and made part of the City of Clinton as of January 1, 2009:

BEGINNING at a stake on the Southern right-of-way line of N. C. Highway No. 403 (Faison Highway) in the property line between Campbell Oil Company of Clinton, Inc. (see Deed Book 1030 Page 108) and T. Carroll Hobbs (see Deed Book 923 Page 44), said stake being located North 71 degrees 42 minutes 50 seconds East 1197.64 feet and South 09 degrees 05 minutes 00 seconds West about 50.00 feet from the center line intersection of N. C. Highway No. 403 (Faison Highway) and U. S. Highway No. 701 (Business); running thence from said beginning point with the Southern right-of-way line of N. C. Highway No. 403 (Faison Highway) 50 feet from the center line and with the Northern line of Campbell Oil Company of Clinton, Inc. (see Deed Book 1030 Page 108), North 71 degrees 42 minutes 50 seconds East about 168.91 feet to an existing iron stake; thence with Junius Davison Tyndall (see Deed Book 1593 Page 88 and Map Book 59 Page 84), North 67 degrees 42 minutes 41 seconds East 160.07 feet to an existing iron stake, a corner of Lennie I. House (see Deed Book 722 Page 175); thence leaving N. C. Highway No. 403 (Faison Highway), the dividing line between Tyndall and Lennie House, South 22 degrees 38 minutes 05 seconds East 299.88 feet to an existing iron stake and North 69 degrees 11 minutes 03 seconds East 59.86 feet to an existing iron pipe, a corner with Lawrence Melson; thence the dividing line between Lennie House and Lawrence Melson (see Deed Book 1465 Page 994 and Map Book 44 Page 79) and with the Sampson County Water and Sewer District II (see Deed Book 1458 Page 827 and Map Book 44 Page 79), North 22 degrees 36 minutes 09 seconds West

301.69 feet to an iron stake in the Southern edge of the N. C. Highway No. 403 (Faison Highway) right-of-way; thence with the Southern right-of-way line of N. C. Highway No. 403 (Faison Highway) and with Sampson County Water and Sewer District II "Meter Vault" (see Deed Book 1458 Page 827 and Map Book 44 Page 79), North 67 degrees 27 minutes 11 seconds East 30.00 feet to an iron stake; thence with the Southern right-of-way line of N. C. Highway No. 403 (Faison Highway) and with Lawrence E. Melson (see Deed Book 1465 Page 994 and Map Book 44 Page 79), North 67 degrees 27 minutes 11 seconds East 90.00 feet to an existing iron stake; thence with the Southern right-of-way line of N. C. Highway No. 403 (Faison Highway), and with Lot No. 1 of A & M Oliver Properties, LLC (see Deed Book 1591 Page 474 and Map Book 56 Page 12), North 67 degrees 24 minutes 45 seconds East 150.00 feet to an existing iron stake; thence the same course continued with Lot No. 2 of A & M Oliver Properties, LLC, North 67 degrees 24 minutes 45 seconds East 208.06 feet to an existing iron stake; thence leaving N. C. Highway No. 403 (Faison Highway) and with Lot No. 3 owned by Gary Wayne Straughn (see Deed Book 1706 Page 541 and Map Book 56 Page 12), South 22 degrees 35 minutes 15 seconds East 354.38 feet to an existing iron pipe, a joint corner between Ellen Robinson Jones and Patricia Robinson Hering (see Deed Book 1524 Page 721) and Sharon McPhail (see Deed Book 1207 Page 361); thence with McPhail, South 72 degrees 28 minutes 29 seconds West 179.74 feet to an existing iron pipe; thence with McPhail and then with Moses J. McRae (see Deed Book 1239 Page 122), South 63 degrees 01 minutes 14 seconds West 173.73 feet to an existing iron pipe; thence the dividing line between Lawrence Melson and with Moses J. McRae, South 10 degrees 23 minutes 18 seconds West 100.05 feet to an existing iron stake; thence the dividing line between Melson and with Daisy B. Stokes (see Deed Book 803 Page 624), South 87 degrees 29 minutes 22 seconds West 97.66 feet to an existing iron pipe at the Northeast end of Maple Street (never open); thence crossing Maple Street, South 87 degrees 30 minutes 22 seconds West 20.00 feet to an existing iron stake; thence with the West side of Maple Street and with Junious Davison Tyndall, South 06 degrees 48 minutes 48 seconds West 90.67 feet to an existing iron pipe; thence the dividing line between Junious Davison Tyndall (see Map Book 59 page 84), and Anna Belle Ashley (see Deed Book 708 Page 95) and with Jessie L. Brewington (see Deed Book 708 Page 128), North 66 degrees 01 minutes 12 seconds West 192.80 feet to an existing iron pipe in the East edge of Oak Street; thence with the East edge of Oak Street, North 06 degrees 48 minutes 48 seconds East 40.22 feet to an existing iron pipe; thence again with Tyndall and crossing Oak Street, South 67 degrees 36 minutes 23 seconds West 13.10 feet to an existing iron pipe and North 65 degrees 20 minutes 04 seconds West 9.00 feet to an existing iron pipe; thence with Tyndall and with the Western edge of Oak Street, South 06 degrees 48 minutes 48 seconds West 79.00 feet to an existing iron stake; thence the dividing line with Tyndall and with Willie F. Royal (see Deed Book 600 Page 353), North 66 degrees 01 minutes 12 seconds West 50.00 feet to an existing iron stake; thence continuing with Tyndall, North 64 degrees 49 minutes 30 seconds West 105.51 feet to an existing iron stake, Tyndall's Southwest corner and the Southeast corner of Campbell Oil Company of Clinton, Inc. (see Deed Book 1030 page 108); thence with Campbell Oil Company of Clinton, Inc., North 65 degrees 42 minutes 40 seconds West 143.43 feet to a point marked by a concrete monument and North 09 degrees 05 minutes East about 176.77 feet to the point of **BEGINNING**, containing 7 acres, more or less, as computed from various maps and deeds of record during September, 2008 and may be found to

be inaccurate when a complete survey is done. Note: In this description, all deeds and maps used for this description call for the right-of-way of N. C. Highway No. 403 (Faison Highway) to be 50 feet from the center line, but according to J. Keith Jackson with the N. C. D. O. T., the State of North Carolina is only claiming 30 feet from the center line.

Section 2. Upon and after January 1, 2009, the above described contiguous property and its citizens shall be subject to all debts, laws, ordinances, and regulations in force in the City of Clinton and shall be entitled to the same privileges and benefits as other parts of the City of Clinton. Said contiguous property shall be subject to municipal taxes according to G. S. 160A-58.10.

Section 3. The Mayor of the City of Clinton shall cause to be recorded in the office of the Register of Deeds of Sampson County, and in the Office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed property, described in Section 1 above, along with a duly certified copy of this ordinance. Such a map shall also be delivered to the Sampson County Board of Elections, as required by G.S. 163-288.1.

Upon a motion made by Councilmember Turlington, seconded by Councilmember Stefanovich, the following ordinance to extend the corporate limits of the City of Clinton, North Carolina effective January 1, 2009, was unanimously adopted at 7:23 PM:

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS
OF THE CITY OF CLINTON, NORTH CAROLINA
2008.11.2**

WHEREAS, the City Council of the City of Clinton, North Carolina has been petitioned under G.S. 160A-58.1 to annex the area described below; and

WHEREAS, the City Council has by resolution directed the City Clerk to investigate the sufficiency of the petitions; and

WHEREAS, the City Clerk has certified the sufficiency of the petitions and a public hearing on the question of this satellite annexation was held in the City Hall Auditorium at 7:00 PM on November 5, 2008 after due notice by publication on October 21, 2008; and

WHEREAS, the City Council of the City of Clinton finds that the area described therein meets the requirements of G.S. 160A-58.1(b), as follows:

- a. The nearest point on the proposed satellite corporate limits is not more than three (3) miles from the primary corporate limits of the City of Clinton.
- b. No point on the proposed satellite corporate limits is closer to another city than to the City of Clinton.

- c. The area described is so situated that the City of Clinton will be able to provide the same services within the proposed satellite corporate limits that it provides within the primary corporate limits;
- d. The area is not a subdivision; and
- e. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, does not exceed ten percent (10%) of the area within the primary corporate limits of the City of Clinton; and

WHEREAS, the City Council of the City of Clinton further finds that the petitions are otherwise valid, and that the public health, safety and welfare of the City of Clinton and of the area proposed for annexation will be best served by annexing the area described.

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

Section 1. By the virtue of the authority granted by G.S. 160A-58.7, the following described noncontiguous property owned is hereby annexed and made part of the City of Clinton, as of January 1, 2009:

BEGINNING at a stake on the Southern right-of-way line of N. C. Highway No. 403 (Faison Highway), said stake being located North 70 degrees 17 minutes 09 seconds East 2249.18 feet and South 22 degrees 31 minutes 20 seconds East 50.00 feet from N. C. G. S. Station "Tractor" having N. C. Grid Coordinates of X = 2,205,807.990 and Y = 457,967.171 (1983 N. A. Datum); running thence from said beginning point with the Southern right-of-way line of N. C. Highway No. 403 (Faison Highway) 50 feet from the center line and with the Northern line of Lot No. 3 of the Robinson Property owned by Robinson and Son Machine, Inc. (see Deed Book 1033 Page 781), North 67 degrees 28 minutes 40 seconds East 60.00 feet to an existing iron stake; thence the same course continued with the Southern right-of-way line of N. C. Highway No. 403 (Faison Highway) and the Northern line of Lot No. 2 owned by Walter Thomas Robinson (see Deed Book 1125 Page 396), North 67 degrees 28 minutes 40 seconds East 111.47 feet to an existing iron stake; thence the same course continued with the Southern right-of-way line of N. C. Highway No. 403 (Faison Highway) and the Northern line of Lot No. 1 owned by Ellen Robinson Jones and Patricia Robinson Hering (see Deed Book 1659 Page 772), North 67 degrees 28 minutes 40 seconds East 71.30 feet to an existing iron stake; thence the same course continued with the Southern right-of-way line of N. C. Highway No. 403 (Faison Highway) and with the Northern line of the Burgess Group Consolidated, LLC property (see Deed Book 1641 Page 996 and shown as Lot No. 1 in Map Book 59 Page 10), North 67 degrees 28 minutes 40 seconds East 240.00 feet to an existing iron pipe; thence with the Northern line of Quality Farm Equipment Company, Inc. (see Deed Book 1647 Page 430), North 71 degrees East 100.00 feet to a stake; thence the same course continued with the Northern line of Quality Land, LLC (see Deed Book 1554 Page 610 "Tract No. 2"), North 71 degrees East 100.00 feet to a stake; thence the same course continued with the Northern line of Quality Land, LLC (see Deed Book 1554 Page 610 "Tract No. 3") and with the Southern right-of-way line of said N. C. Highway No. 403 (Faison Highway),

North 71 degrees East 90.00 feet to a stake; thence with Quality Land, LLC (see Deed Book 1554 Page 610 "Tract No. 5") and continuing with the Southern right-of-way line of N. C. Highway No. 403 (Faison Highway), North 73 degrees East 272.19 feet to a stake at the point of intersection of the Southern right-of-way line of N. C. Highway No. 403 (Faison Highway) and Northwestern right-of-way line of Secondary Road No. 1751 (Pugh Road); thence with the Northwestern right-of-way line of Secondary Road No. 1751 (Pugh Road) (30 feet from the centerline) and with Quality Land, LLC (see Deed Book 1554 Page 610 "Tract No. 5"), the following courses and distances: South 19 degrees 55 minutes West 41.43 feet to a stake, South 19 degrees 55 minutes West 85.43 feet to stake, South 23 degrees 42 minutes West 97.10 feet to a stake, South 30 degrees 59 minutes West 96.32 feet to a stake, and South 37 degrees 45 minutes West 76.75 feet to a stake; thence with Quality Land, LLC (see Deed Book 1554 Page 610 "Tract No. 4"), South 41 degrees 35 minutes West 194.00 feet to a stake and South 48 degrees 15 minutes West 134.00 feet to an existing iron stake in the edge of Secondary Road No. 1751 (Pugh Road); thence with Quality Land, LLC (see Deed Book 1554 Page 610 "Tract No. 1"), South 48 degrees 15 minutes West 169.60 feet to an existing concrete monument, the Easternmost corner of the Robinson Property on the Northwest side of Secondary Road No. 1751 (Pugh Road); thence with Lot No. 4 of the Robinson Property now owned by Walter Thomas Robinson (see Deed Book 1125 Page 396 "Tract No. 2"), South 45 degrees 08 minutes 46 seconds West 415.20 feet to an existing concrete monument and North 21 degrees 38 minutes 38 seconds West 223.09 feet to an existing iron stake; thence with Lot No. 3 of the Robinson Property now owned by Robinson and Son Machine, Inc. (see Deed Book 1033 Page 781), North 21 degrees 38 minutes 38 seconds West 273.99 feet to an existing concrete monument, North 33 degrees 04 minutes 38 seconds East 64.23 feet to an existing iron pipe, and North 22 degrees 31 minutes 20 seconds West 124.75 feet to the point of **BEGINNING**, containing 9.94 acres, more or less, as computed from various maps and deeds of record during September, 2008 and may be found to be inaccurate when a complete survey is done. Note: In this description, all deeds and maps used for this description call for the right-of-way of N. C. Highway No. 403 (Faison Highway) to be 50 feet from the center line, but according to J. Keith Jackson with the N. C. D. O. T., the State of North Carolina is only claiming 30 feet from the center line.

Section 2. Upon and after January 1, 2009, the above-described property and its citizens shall be subject to all debts, laws, ordinances, and regulations in force in the City of Clinton and shall be entitled to the same privileges and benefits as other parts of the City of Clinton. Said property shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Clinton shall cause to be recorded in the office of the Register of Deeds of Sampson County, and in the Office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Sampson County Board of Elections, as required by G.S. 163-288.1.

Section 4. Notice of adoption of this ordinance shall be published once, following the effective date of annexation in a newspaper having general circulation in the City of Clinton.

RESOLUTION ORDERING CLOSING – NE SIDE OF 314 SAMPSON STREET

City Manager Connet stated that at the September 2, 2008 city council meeting, Council adopted a Resolution Declaring the Intention of the City Council to consider the closing of a 30' wide easement on the Northeast side of 314 Sampson Street. He stated that this is a continuation from last month's city council meeting. He stated that all interested parties are now satisfied with the closing subject to five stipulations that have been inserted into the resolution. City Manager Connet further recommended approval of the resolution

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Harris, the following resolution, along with the stipulations, was approved unanimously at 7:26 PM:

A RESOLUTION ORDERING THE CLOSING OF A PORTION OF A 30' WIDE EASEMENT ON THE NORTHEAST SIDE OF 314 SAMPSON STREET

WHEREAS, on the 2nd day of September, 2008, the City Council of the City of Clinton directed the City Clerk to publish the Resolution of Intent of the City Council to consider closing that portion of an easement thirty (30) feet wide located on the northeastern side of 314 Sampson Street, in the Sampson Independent newspaper once each week for four successive weeks, such resolution advising the public that a meeting would be conducted in the City Hall Auditorium on the 7th day of October, 2008; and

WHEREAS, the City Council on the 2nd day of September, 2008, ordered the City Clerk to notify all persons owning property abutting on that portion of an easement thirty (30) feet wide located on the northeastern side of 314 Sampson 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 she sent a letter to each of the abutting property owners advising them of the day, time and place of the meeting, enclosing a copy of the Resolution of Intent, and advising the abutting property owners that the question as to said closing that portion of an easement thirty (30) feet wide located on the northeastern side of 314 Sampson Street, would be acted upon, said letters having been sent by registered or certified mail; and

WHEREAS, the City Clerk has advised the City Council of the City of Clinton that adequate notices were posted on the applicable streets as required by N.C.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 portion of an easement thirty (30) feet wide located on the northeastern side of 314 Sampson Street, in the public hearing held on October 7, 2008; and

WHEREAS, it now appears to the satisfaction of the City Council that the closing of said portion of an easement thirty (30) feet wide located on the

northeastern side of 314 Sampson Street, is not contrary to the public interest, and that no individual owning property, either abutting the easement or in the vicinity of the easement in which the easement is located, will as a result of the closing be thereby deprived of a reasonable means of ingress and egress to his property;

NOW, THEREFORE, subject to the reservation of easements to the City of Clinton, private or public, recorded or unrecorded, that portion of said portion of an easement thirty (30) feet wide located on the northeastern side of 314 Sampson Street, is hereby ordered closed, and all right, title and interest that may be vested in the public to said area for street purposes are hereby released and quitclaimed to the abutting property owners in accordance with the provisions of NC.G.S. 160A-299.

The Mayor and the City Clerk are hereby authorized to execute quitclaim deeds or other necessary documents in order to evidence vesting of all right, title and interest in those persons owning lots or parcels of land adjacent to the easement, such title, for the width of the abutting land owned by them, to extend to the centerline of the herein closed easement (with utility purposes) in accordance with the provision of NC 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 to include the following stipulations:

1. Fifteen feet of the easement shall be closed for the entire length of the original 30' portion. (From Sampson Street to Louise Fann's eastern property line)
2. The remaining fifteen feet shall remain open to provide access to Mr. Bill Packard's and Mr. Randy Pope's property.
3. Disclaim that the eastern end of Ms. Fann's fence is located slightly within open portion of 15" easement adjacent to Randy Pope's property.
4. If the remaining portion of the original 30' easement is closed, it would revert to the property owners on the southern side of the easement. (Pope and Strickland's properties)
5. Mr. Lewis will be responsible for relocation of the driveway (if needed).

Councilmembers Becton, Turlington, Stefanovich, Harris, and Strickland all voted in the affirmative.

APPOINTMENTS

Upon a motion made by Councilmember Turlington, seconded by Councilmember Stefanovich, Glenda Bunker was unanimously reappointed to the Library Board for a two-year term ending December 2010.

Upon a motion made by Councilmember Strickland, seconded by Councilmember Turlington, Lawrence Hargrove was unanimously appointed to the Recreation Advisory Board to serve the unexpired term for the District 2 appointment ending June 2009. Previously, Brian DeMay served District 2. This is a three-year term.

DOWNTOWN SPECIAL EXTENSION REPORTS

City Manager Connet stated that in order to proceed with the extension of the Downtown Special Tax District, we are required to prepare a written report to describe our plan for extending services to the new areas. He stated that these reports were included in City Council's agenda packets and approval of the reports is being requested. He further stated that copies of these reports are in the City Clerk's office for the public to view.

Mayor Starling stated that the City's intent is to upgrade downtown. City Manager Connet asked that City Council call for a public hearing at the December 2, 2008, city council meeting. He further stated that property owners will be notified and changes will not be effective until July 1, 2009.

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Strickland, and unanimously passed, approval of the Special Tax District Extension Reports was given and a public hearing was called for the December 2, 2008, city council meeting.

PANDEMIC INFLUENZA CONTINUITY OF OPERATIONS PLAN (COOP)

Assistant City Manager Purvis stated that at the October city council meeting, City Council was given a copy of the Pandemic Influenza Continuity of Operations Plan (COOP) for their review. He stated that the plan addresses how the City will maintain continuity to ensure essential services in the event of a pandemic.

Upon a motion made by Councilmember Harris, seconded by Councilmember Strickland, the Pandemic Influenza Continuity of Operations Plan (COOP) was approved unanimously.

IDENTITY THEFT PREVENTION PROGRAM

Assistant City Manager Purvis presented the City of Clinton Identity Theft Prevention Program. He stated that the Federal Trade Commission is requiring all municipalities with utilities to adopt identity theft prevention policies and programs by November 2008.

Upon a motion made by Councilmember Becton, seconded by Councilmember Stefanovich, the Identity Theft Prevention Program was approved unanimously.

CITY CODE -- ORDINANCES-- IRRIGATION METERS

City Manager Connet stated that the drought of 2007-2008 prompted Governor Easley and General Assembly to introduce legislation that would build upon drought legislation adopted in 2002. He stated that new requirements for local governments are in place. He further stated that in order to comply with the new law, the approval of a new section to Chapter 22 Article III is recommended which governs the metering of water from municipal owned systems.

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

ORDINANCE #2008.11.3

BE IT ORDAINED by the City Council of the City of Clinton, North Carolina that the Clinton City Code of 1987 is hereby amended by adding a new section to be numbered Chapter 22, Article III, Sec. 22-42. Irrigation meters, which shall read as follows:

Section 22-42. Irrigation meters

Effective January 1, 2009, all new in-ground irrigation systems connected to the city's water system must be metered separately from primary water supply.

RESOLUTION – TAX ON GROSS RECEIPTS –HEAVY EQUIPMENT

City Manager Connet stated that Senate Bill 1852 removed certain heavy equipment from the property tax base, but provides a means for replacing the lost revenue through a gross receipts tax. He stated that we are requesting approval of a resolution establishing the gross receipt tax for rental of heavy equipment.

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

A RESOLUTION LEVYING A TAX ON GROSS RECEIPTS DERIVED FROM RETAIL SHORT-TERM LEASE OR RENTAL OF HEAVY EQUIPMENT

WHEREAS, the North Carolina General Assembly has ratified Senate Bill 1852, which has been designated as Session Law 2008-144 [the "Act"]; and,

WHEREAS, the Act repealed the property tax on certain heavy equipment leased or rented under retail short-term leases or rentals and authorized municipalities to replace the lost tax revenue through enactment of a local tax on gross receipts derived from the retail short-term lease or rental of that heavy equipment.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Clinton, North Carolina that:

Section 1. Definitions. In addition to the common meanings of words, the following definitions shall be applicable herein:

(a) "Customer" shall mean any person that leases or rents heavy equipment on a short-term lease or rental basis.

(b) "Finance Officer" shall refer to that individual appointed pursuant to (G.S. § 159-24) (the provisions of the municipal charter) to serve as a finance officer (or other reasonably descriptive title as provided in G.S. § 159-24) for the City of Clinton and any other person authorized to carry out the duties and functions of such individual.

(c) "General Statutes" shall refer to the North Carolina General Statutes and any reference to a particular section thereof shall include the same as may be from time to time amended, modified, supplemented, revised or superseded.

(d) "Gross receipts" shall mean the amount that is or would be reported as gross receipts on a business's state income tax return, or on the federal income federal income tax return filed with the state income tax return if the state return does not separately state gross receipts for the most recently completed tax year. Taxes collected hereunder are not subject to the tax herein imposed and are not included in gross receipts.

(e) "Heavy equipment" shall mean earthmoving, construction, or industrial equipment that is mobile, weighs at least 1,500 pounds, and is either:

(i) A self-propelled vehicle that is not designed to be driven on a highway; or

(ii) Industrial lift equipment, industrial material handling equipment, industrial electrical generation equipment, or a similar piece of industrial equipment.

The term includes an attachment for heavy equipment, regardless of the weight of the attachment. [G.S. § 160A-215.2(a)(1)]

(f) "Lease or rental" shall mean a transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. The term does not include any of the following:

(i) A transfer of possession or control of property under a security agreement or a deferred payment plan that requires the transfer of title upon completion of the required payments.

(ii) A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars (\$100.00) or one percent (1%) of the total required payments.

(iii) The providing of tangible property along with an operator for a fixed or indeterminate period of time if the operator is necessary for the equipment to perform as designed. For the purpose of this subparagraph, an operator must do more than maintain, inspect, or set up the tangible personal property.

[G.S. § 105-164.3(17)]

(g) “Long-term lease or rental” shall mean a lease or rental made under a written agreement to lease or rent property to the same person for a period of at least three hundred sixty-five (365) continuous days. [G.S. § 105-187.1(3)]

(h) “Person” shall mean any individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, company, firm, or other legal entity.

(i) “Short-term lease or rental” shall mean any lease or rental that is not a long-term lease or rental. [G.S. § 160A-215.2(a)(2) and G.S. § 105-187.1(7)]

(j) “Taxpayer” means any person liable for the taxes imposed by this Resolution.

Section 2. Levy of Tax. A tax is hereby imposed and levied in an amount equal to eight tenths percent (0.8%) of the gross receipts derived from the short-term lease or rental of heavy equipment at retail. This tax on gross receipts is in addition to the privilege taxes authorized by G.S. § 160A-211. [G.S. § 160A-215.2(b)]

Section 3. Collection of the tax. Every person whose principal business is the short-term lease or rental of heavy equipment at retail shall collect at the time of the lease or rental, or at the time of the payment of the consideration therefore, the tax herein levied. A person is not considered to be in the short-term lease or rental business if the majority of the person’s lease and rental gross receipts are derived from leases and rentals to a person who is a related person as defined under G.S. § 105-163.010. The tax so collected shall be placed in a segregated account, and thereafter remitted to the Finance Officer in accordance with the provisions of this Resolution. The taxpayer shall include a provision in each retail short-term lease or rental agreement, or other documentation evidencing the transaction, stating that the percentage amount enacted by this Resolution of the total lease or rental price, excluding sales tax, is being charged as a tax on gross receipts. The amount of the tax shall be stated separately from the lease or rental and shown separately on the taxpayer’s records. The tax shall be paid by the customer to the taxpayer as trustee for and on the account of the City of Clinton. The taxpayer shall be liable for the collection thereof and for its payment to the Finance Officer and the taxpayer’s failure to charge or to collect said tax from the customer shall not affect such liability. [G.S. § 160A-215.2(b)]

Section 4. Report and Payment of Tax. Taxes levied under this Resolution are due and payable when a return is required to be filed. Every

taxpayer shall, within the time specified, submit a return to the Finance Officer on the form prescribed by the Finance Officer. A return must be signed by the taxpayer or the taxpayer's agent. Returns of taxpayers are due to the Finance Officer for each calendar quarter on or before the last day of the month following the end of the quarter in which the tax accrues. As provided in G.S. § 160A-208.1, a return shall not be considered a public record and information contained in a return may be disclosed only in accordance therewith. [G.S. § 160A-215.2(c)]

Section 5. Taxpayer to Keep Records. The taxpayer shall keep and preserve suitable records of the gross receipts received by such taxpayer in the conduct of business and such other books or accounts as may be necessary to determine the amount of the tax for which such taxpayer is liable under the provisions of this Resolution. It shall be the duty of the taxpayer to keep and preserve for a period of three years all such records of gross receipts and other books and accounts described. All records, books and accounts herein described shall be open for examination at all reasonable hours during the day by the Finance Officer or the Finance Officer's duly authorized agent.

Section 6. Tax Collector to Provide Forms. The Finance Officer shall design, prepare, print and make available to all taxpayers operating within the municipal boundaries of the City of Clinton forms and instructions for filing returns to insure a full collection of and an accounting for taxes due. The failure of any taxpayer to obtain or receive forms shall not relieve such taxpayer from the payment of the tax at the time and in the manner provided.

Section 7. Situs. Gross receipts from the short-term lease or rental of heavy equipment are subject to the tax imposed by this Resolution if the place of business from which the heavy equipment is delivered is located within the municipal boundaries of the City of Clinton. [G.S. § 160A-215.2(b)]

Section 8. Penalties and Remedies. The provisions with respect to penalties and collection remedies that apply to the payment of sales and use taxes under Article 5 of Chapter 105 of the General Statutes shall be applicable in like manner to the tax authorized to be levied and collected under this Resolution, to the extent that the same are not inconsistent with the provisions hereof. The Finance Officer may exercise any power the Secretary of Revenue may exercise in imposing these penalties and remedies. [G.S. § 160A-215.2(d)]

Section 9. Severability. If any section, clause, or provision of this Resolution shall be found to be invalid, the validity of the remaining sections, clauses or provisions shall not be affected thereby.

Section 10. Authority. This Resolution is enacted pursuant to the provisions of G.S § 160A-215.2.

Section 11. Effective Date. This Resolution and the taxes are thereby levied and imposed shall become effective April 1, 2009.

AGREEMENT – SAMPSON COUNTY HISTORY MUSEUM, INC.

Assistant City Manager Purvis stated that in 2001, the City entered into an agreement with the History Museum for the property located at 212 Lisbon Street. He stated that currently, the City owns the house and real property and the museum owns the additional structures on the property. Assistant City Manager Purvis stated that over the last several years, the museum has constructed three exhibit buildings, which has placed it over the \$100,000 asset threshold for its 501(c) (3) status. He stated that the city has been asked to assume ownership of all structures built on the property. He further stated that it would cost approximately \$300 per year for insurance coverage. The log cabins are the property of Sampson County and will be removed if the lease is terminated.

City Manager Connet recommended amending the agreement to accept the new structures as assets of the City with the stipulation that the museum is responsible for all maintenance on these structures unless otherwise approved by City Council.

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Turlington, the approval of restructuring the lease agreement with the Sampson County History Museum, Inc. to assume ownership of the new structures with the stipulation that the Museum would be responsible for all maintenance on these structures unless otherwise approved by City Council passed unanimously.

CLINTON DOWNTOWN SPECIAL TAX DISTRICT INCENTIVE PROGRAM

City Manager Connet stated that at the October city council meeting, staff introduced a proposed Downtown Special Tax District Incentive Program which provides financial incentives for renovation and rehabilitation of properties in the downtown area. He presented a policy for approval and stated that the policy has been sent to the Sampson County Board of Commissioners for approval also.

Mayor Starling requested that Councilmembers Turlington and Harris be recused from this action because they both own property in the downtown area.

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Becton, Councilmembers Turlington and Harris were recused from voting upon this item.

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Becton, the approval of the Downtown Special Tax District Incentive Program passed unanimously with Councilmembers Turlington and Harris not participating in the vote.

ORDINANCE - BUDGET

City Manager Connet stated that for housekeeping purposes, City Council is asked to approve an amendment to the FY 2008-2009 Budget to move forward

revenue that was received late in the 2007-2008 Fiscal Year for a bill that was paid in this fiscal year and to cover nuisance housing demolition.

Upon a motion made by Councilmember Turlington, seconded by Councilmember Strickland, the following amendment #2008.11.4 was unanimously adopted:

**Budget Ordinance Amendment
2008.11.4**

Be It Ordained by the City Council of the City of Clinton, NC, that the following amendment be made to the Annual Budget Ordinance for the fiscal year ending June 30, 2009, and amended September 2, 2008, hereby amended as follows:

Section 1. To amend the General Fund, the expenditures are to be changed as follows:

Account #	Account Title	Increase	Decrease
10.5100.4500	Contracted Services	\$ 2,500.00	
10.5300.1400	Travel & Education		\$ 2,500.00
10.5300.1500	Maint. & Repair Bldg.		6,000.00
10.5300.1600	Maint. & Repair Equipment	5,000.00	
10.5300.4500	Contracted Services	6,000.00	
10.5600.7200	Fayetteville St. Sidewalk	15,000.00	
10.6600.1000	Misc Professional Services	50,000.00	
10.6600.6000	Housing Demolition	<u>15,000.00</u>	
TOTAL		\$ 93,500.00	\$ 8,500.00

Section 2. The revenues are to be changed as follows:

Account #	Account Title	Increase	Decrease
10.3160.0000	Lot Cleaning/Demolition	\$ 4,200.00	
10.3850.0000	NC Dot/Sidewalk	15,000.00	
10.3990.0000	Fund Bal Appropriation	<u>65,800.00</u>	
TOTAL		\$ 85,000.00	

Section 3. Copies of this budget amendment shall be furnished to the City Clerk, City Manager, and Finance Director for their direction.

SUBDIVISION - LIBERTY HEALTH CARE

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Strickland, a preliminary plat for a 3-lot subdivision off

Southwood Drive consisting of 15.06 acres requested by Liberty Health Care was unanimously approved.

RECREATION DEPARTMENT –TRACTOR AND MOWER PURCHASE

Assistant City Manager Purvis stated that the Recreation Department is requesting permission to purchase a tractor and mower with an initial cost of \$28,000 for the tractor and \$35,475 for the mower. He stated that this equipment will reduce cost and man-hours, as well as increase productivity. He further stated that the equipment will last approximately 15 years; however, will pay for itself in less than four years.

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Strickland, the approval to purchase the tractor and mower passed unanimously.

SAMPSON COUNTY FARM FRESH ASSOCIATION

Planning and Zoning Director Vreugdenhil stated that Homer Marshall, with Sampson County Farm Fresh Association request use of the Clinton City Market at least three days a week beginning in the spring of 2009. He stated that no action is being requested at this time because the details for the use of the facility are still being negotiated. He further stated that at this meeting, he would like to present to City Council the USDA feasibility study.

Homer Marshall appeared before City Council stating that farmers have agreed to grow crops to sell at the Clinton City Market.

City Manager Connet requested City Council to receive Mr. Marshall's request as information, receive the feasibility study, and delay action for thirty days until further review could take place.

Consideration of a request by Homer Marshall and Sampson County Farm Fresh Association to operate a farmer's market at Clinton City Market was continued until the December 2, 2008, city council meeting.

PERSONNEL POLICY -- AMENDMENT -- MILITARY LEAVE

City Manager Connet stated that Officer Robert Dalton will be leaving for active military duty in Iraq soon. He stated that it was discovered that the recently revised Personnel Policy was out of compliance with the Uniform Services Employment and Reemployment Rights Act (USERRA). City Manager Connet recommended amending the Personnel Policy to bring the City of Clinton into compliance with USERRA requirements.

Upon a motion made by Councilmember Harris, seconded by Councilmember Becton, the following amendment to Article VII. Holidays and Leaves of Absence Section 24. Military Leave of the Personnel Policy was unanimously adopted:

ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE
Section 24. Military Service Benefits and Guidelines

Regular employees who are members of an Armed Forces Reserve Organization or National Guard shall be granted military leave and benefits in accordance with the Uniform Services Employment and Re-employment Rights Act of 1994 (USERRA – 20 CFR Part 1002) or current applicable law.

REPORTS

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

City Manager reported to City Council the following top 10 taxpayers for the City of Clinton:

**TOP TEN TAXPAYERS & ASSESSED VALUATIONS FOR
2007-2008 FISCAL YEAR**

<u>TAXPAYER</u>	<u>ASSESSED VALUATIONS</u>	<u>TAX LEVY CITY OF CLINTON CODE C02</u>	<u>TAX ACCT. #</u>
1. Lundy Packing Co. Premium Standard Farms, Inc.	\$61,476,806	\$252,054.91	24487, 1007440, 1007441
2. Schindler Corporation	20,102,287	82,419.38	120223, 114817
3. Dubose Strapping, Inc. Dubose National Energy Service	10,041,710	41,171.00	120265, 24418, 29360, 184124,119077
4. Wal-Mart Stores, Inc.	8,279,714	33,946.83	24040, 178863
5. Progress Energy	7,302,740	29,941.23	187842
6. Carolina Telephone & Telegraph	6,983,663	28,633.01	187901
7. Sampson Health Care Facilities	6,944,244	28,471.40	882440, 155747, 24073
8. Lowe's	6,763,389	27,729.89	27239, 32771
9. Nestaway, Division of Axia Axia, Inc.	5,885,072	24,128.80	39641, 116566
10. Sampson Crossing	5,149,246	21,111.91	178864

City Manager Connet concluded his report with updating City Council concerning the Special Separation Allowance and five police officers. He stated that upon these five police officers leaving the City of Clinton, their sick leaves were not figured into their creditable length of service. City Manager Connet asked City Council to approve compensating these officers for this sick leave totaling approximately \$9,268.00.

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Harris, the request to approve five police officers for creditable length of service to include sick leave totaling approximately \$9,268.00 was unanimously approved.

PUBLIC COMMENTS

No one wished to be heard.

CONTINUATION

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Becton, and unanimously passed, the meeting was continued until November 20, 2008, at 6:00 PM in the City Hall Auditorium to hold a work session to develop a formal mission statement and specific goals to accomplish the mission as part of the 2009-2010 Fiscal Year.

Time: 7:50 PM

City Clerk

Mayor