

DECEMBER 1, 2009 CITY COUNCIL MEETING

The City Council of the City of Clinton, North Carolina, met in regular session at 7:00 PM on December 1, 2009, in the City Hall Auditorium. Mayor Starling presided. Councilmembers Harris, Strickland, Stefanovich, Becton, 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 Todd Solice; planning and community development director Jeff Vreugdenhil; planner Mary Rose; public works director Chris Doherty; recreation director Judi Nicholson and police chief Mike Brim were present. Absent was human resource manager Lisa Carter. Present also was Chris Berendt of The Sampson Independent.

Rev. Lynn Blackburn, Pastor of Clinton Family Worship Center, 103 Raiford Street, Clinton, NC, gave the invocation.

ELECTIONS

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Becton, the following Abstract of Canvass was unanimously accepted:

<u>Mayor</u>	<u>Polls</u>	<u>One Stop</u>	<u>Total</u>
Lew Starling	54	4	58
Write In	1		1
<u>City Council—District 1</u>			
Steve Stefanovich	7		7
Write In	0		
<u>City Council—District 3</u>			
Marcus Becton	5	1	6
Write In	0		
<u>City Council---District 5</u>			
Maxine Harris	1	1	2
Write In	0		

The Honorable Judge Russell Lanier administered the oath of office to Steve Stefanovich, District 1 councilmember, Marcus Becton, District 3 councilmember, Maxine Harris, District 5 councilmember, and Lew Starling, mayor.

Mayor Starling vowed to continue serving the City of Clinton and its citizens to the best of his ability. He further vowed to continue with the improvements previously discussed among the City Council and in the various meetings and workshops. Mayor Starling stated that he, as well as City Council

will continue to be alert and mindful of the City's money. He concluded by mentioning how well City Council works together.

CITY COUNCIL

Upon a motion made by Councilmember Strickland, seconded by Councilmember Turlington, Maxine Harris was unanimously elected mayor pro tem.

Mayor Pro Tem Harris thanked all for their vote of confidence. She stated that she will continue to do whatever it takes for the betterment of the City of Clinton. She stated that this is where her first interest lies. She further stated that City Council has learned to agree to disagree and she and the others have no problem in doing so.

Upon a motion made by Councilmember Becton, seconded by Mayor Pro Tem Harris, Dale Johnson was unanimously appointed city attorney.

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Becton, John Connet was unanimously appointed city manager.

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Becton, the minutes of the November 4, 2009 regular and November 12, 2009 special city council meetings were unanimously approved.

RECOGNITION

Parks and Recreation Director Judi Nicholson stated that the Clinton Parks and Recreation Department nominated Sherry Matthews, General Manager of The Sampson Independent to the North Carolina Parks and Recreation Association recently for assistance and service given to our Recreation Department. Ms. Nicholson stated that Ms. Matthews is always willing to assist and help promote youth recreation activities in the City of Clinton and Sampson County.

City Manager Connet stated that the ceremony was a wonderful event. He further stated that the Special Citation award presented to Ms. Matthews was the only award of that sort given at this annual meeting/banquet in Winston Salem on Tuesday, November 17, 2009.

Mayor Starling commended Sherry Matthews for her great accomplishments and the accomplishments of The Sampson Independent. He presented the Special Citation Award to Ms. Matthews from the North Carolina Parks and Recreation Association for her efforts.

PUBLIC HEARING -- AMENDING NC GS 160A-426 UNSAFE BUILDINGS

Mayor Starling opened a public hearing on amending North Carolina General Statutes 160A-426, Unsafe Buildings Condemned in Other Localities to Include Residential Buildings or Structures.

City Manager Connet stated that during the 2009 legislative session, the General Assembly adopted legislation that allowed all municipalities in North Carolina to utilize G. S. 160A-426 for unsafe residential structures. He stated that in order to utilize this statute, the City must conduct a public hearing and adopt an ordinance allowing G.S. 160A-426 to apply to residential buildings. City Manager Connet recommended to City Council the adoption of the ordinance.

No one else appeared to be heard, and the hearing was closed.

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Strickland, the following ordinance #2009.12.01 amending North Carolina General Statutes 160A-426, Unsafe Buildings Condemned in Other Localities to Include Residential Buildings or Structures was unanimously adopted:

ORDINANCE #2009.12.01

**AN ORDINANCE AMENDING NC G.S. 160A-426, UNSAFE BUILDINGS
CONDEMNED IN OTHER LOCALITIES, TO INCLUDE RESIDENTIAL
BUILDINGS OR STRUCTURES**

WHEREAS, North Carolina General Statute 160A-425.1 was effective and applicable to the City of Clinton as recent as September 30, 2009; and

WHEREAS, at the 2009 North Carolina General Assembly Session, North Carolina General Statute 160A-425.1 was repealed by Session Law 2009-263; and

WHEREAS, North Carolina General Statute 160A-426(d) specifies that a city may expand subsections (b) and (c) of General Statute 160A-426 to apply to residential buildings by the adoption of an ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Clinton, North Carolina, that General Statute 160A-426. **Unsafe buildings condemned in other localities**, Subsections (b) and (c), is rewritten as follows:

I.

160A-426. Unsafe buildings condemned in other localities.

(a) Residential Building and Nonresidential Building or Structure. – Every building that shall appear to the inspector to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes, shall be held to be unsafe, and the inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of the building.

(b) Residential Building and Nonresidential Building or Structure. – In addition to the authority granted in subsection (a) of this section, an inspector may declare a residential building or nonresidential building or structure within a

community development target area to be unsafe if it meets both of the following conditions:

- (1) It appears to the inspector to be vacant or abandoned.
- (2) It appears to the inspector to be in such dilapidated condition as to cause or contribute to blight, disease, vagrancy, fire or safety hazard, to be a danger to children or to tend to attract persons intent on criminal activities or other activities that would constitute a public nuisance.

(c) If an inspector declares a residential building or nonresidential building or structure to be unsafe under subsection (b) of this section, the inspector must affix a notice of the unsafe character of the structure to a conspicuous place on the exterior wall of the building. For the purposes of this section, the term "community development target area" means an area that has characteristics of a development zone under G.S. 105-129.3A, a "nonresidential redevelopment area" under G.S. 160A-503(10), or an area with similar characteristics designated by the city council as being in special need of revitalization for the benefit and welfare of its citizens.

II.

This ordinance shall be effective upon adoption.

P & Z – OFF MARTHA LANE -- WILCARE FACILITIES, INC.

Mayor Starling opened a public hearing on a request by Wilcare Facilities, Inc. for the rezoning of approximately 1.2 acres located off Martha Lane, from I-1 Light Industrial to R-8 Residential.

Planning Director Vreugdenhil explained the request and gave the staff and Planning and Zoning Board recommendation to approve the request upon the findings of fact and zoning consistency statement. No one else appeared to be heard, and the hearing was closed.

Upon a motion made by Mayor Pro Tem Harris, seconded by Councilmember Becton, a request by Wilcare Facilities, Inc. to rezone approximately 1.2 acres off Martha Lane from I-1 Light Industrial to R-8 Residential, was unanimously approved.

NUISANCE PROPERTY – DAVID & LENORA BYRD – 124 ROYAL LANE

Planning and Zoning Director Vreugdenhil stated that the Planning and Zoning Department is presently working with Mr. David Byrd, of 124 Royal Lane, regarding this matter -- violation of Section 15-86 Nuisance Vehicle, and Section 11-6 Open Space Violation. He asked that City Council continue this item until the January 5, 2010 city council meeting.

City Council granted Planning and Zoning Director Vreugdenhil's request for continuation until the January 5, 2010 city council meeting.

FIRE DEPARTMENT

City Manager Connet stated that Fire Chief Todd Solice submitted a roster of personnel who have completed the required training by the State of North Carolina. He stated that these individuals will be entitled to benefits provided by the State for line of duty injury or death.

Upon a motion made by Mayor Pro Tem Harris, seconded by Councilmember Becton, and unanimously passed, the following were certified as being eligible firefighters in accordance with North Carolina G.S. 58-86-25: Mark A. Barcomb, Matthew Boone, Matthew Booth, Edmon Boyette, Claude A. Buchanan, Joshua W. Coombs, Michael Cottle, Joe B. Dixon, Jr., Timothy Clay Donald, Ronald Ellis, Brandon D. Gainey, David B. Hairr, William E. Hall, Olen G. Jackson, Bradley Johnson, Jimmy Lewis, Rommie A. Melvin, Benjamin N. Miller, Christopher L. Norris, Robert T. Owen, Lawrence Parrish, William M. Parrish, George Raynor, Michael D. Smith, Todd A. Solice, Clark T. Strickland, Richard W. Taylor, Joshua B. Tyson, and Harold Woodall.

STREET CLOSING

Upon a motion made by Councilmember Turlington, seconded by Councilmember Becton and unanimously passed, approval was given for the temporary closing of the following streets on December 12, 2009 from 9:00 AM to 11:00 AM: College Street from Warsaw Road down Vance, Fayetteville, Chestnutt, West Main, and Lisbon Streets and onto Morrisey Boulevard.

The closing is necessary so the Christmas parade can be held.

WTP IMPROVEMENTS

City Manager Connet stated that following the special meeting held on November 12, 2009, staff followed up with USDA and local banks regarding financing for the water plant expansion project. He stated that quotes were received from RBC, BB&T, First Citizens Bank, and USDA. City Manager Connet stated that USDA had the lowest interest rate of 3.37%; however, this rate was for forty years and includes potential grant funding. He stated that USDA would not penalize the City for paying the loan off early, which would be the City's recommendation.

City Manager Connet requested permission to move forward with completing the preliminary engineering report, environmental documents, and USDA funding application. He stated that grant money is limited; however, no additional work would be completed until it was determined how much grant money would be available for the project. He further stated that once the exact amount of grant money was determined, City Council would then be asked to approve moving forward with the water treatment plant improvements

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Strickland, and unanimously passed, approval was given to complete the preliminary engineering report, environmental documents, and USDA funding application.

SUBDIVISION—WILCARE FACILITIES, INC.

Upon a motion made by Councilmember Turlington, seconded by Councilmember Becton, a preliminary plat for a six lot, approximately 5.71 acres, subdivision off Martha Lane developed by Wilcare Facilities, Inc. was unanimously approved.

SOLID WASTE COLLECTION DAY CHANGE

Public Works Director Doherty asked City Council to approve changing the solid waste collection day from Monday to Friday to eliminate the truck and crew from going back during the week to collect yard debris at a home a second time. He stated changing to the end of the week will save on fuel as well as staff time.

Public Works Director Doherty stated that an educational campaign to inform all the residents will take place. He stated that yard waste will be collected whether or not it is containerized. He stated the change if approved would begin on February 1, 2010.

Upon a motion made by Councilmember Becton, seconded by Councilmember Turlington, the request to change solid waste collection day from Monday to Friday effective February 1, 2010 unanimously passed.

CITY CODE -- ORDINANCE-- CHAPTER 11, GARBAGE AND TRASH

Public Works Director Doherty stated that text changes were required to be made to the City Code, Chapter 11. He stated that new sections are necessary to allow the City Code to show how the City of Clinton is actually performing the various duties and its collection practices. He stated that these changes better clarify and define what is being done in regards to garbage and trash.

Upon a motion made by Councilmember Becton, seconded by Councilmember Turlington, the following ordinance #2009.12.02 was unanimously adopted:

#2009.12.02

AN ORDINANCE AMENDING CHAPTER 11, OF THE CITY CODE

Be it ordained that the Clinton City Code of 1987 is hereby amended by amending/ adding the below sections to read as follows:

Sec. 11-1. Definitions.

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

Construction and Demolition Debris~~Building rubbish~~ shall mean debris ~~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.

Recyclables shall mean items included in local approved recycling programs that includes but not limited to selected glass, newsprint and inserts, magazines, aluminum, cardboard, plastics and other items to be determined recyclable by the public works director.

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, and dust, ~~tree, bush and hedge branches, cuttings and trimmings.~~

Yard Waste shall mean grass, weeds, leaves, tree trimmings, plants, shrubbery, pruning, and such similar materials which are generated in the maintenance of yards and gardens, and which are collected separately from other solid waste materials and placed at the curbside for collection.

Sec. 11-1.1 Ownership of materials.

All solid waste, wet and dry garbage, recyclable materials, yard waste, bulky trash, large appliances, and similar related items, which are properly containerized and placed by an owner or occupant of a property at curbside for collection, are deemed to be abandoned by such person and become the property of the city or its authorized agent.

Sec. 11-3. Type of receptacles required.

(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 (October 15 through January 15). No tree limbs, shrubs or other material shall be mixed with leaves. The leaves shall be collected on the regularly schedule collection day, days designated for such collection.

(k) The city shall provide recycling collection or drop off for residents, The city will provide containers for service. The fee for service shall be adjusted from time to time by city council as deemed appropriate.

(l) City owned trash containers placed adjacent to city streets and in public places are for the exclusive use of the transient public, pedestrians and motorists. City owned containers

shall not be used by adjacent business enterprises or other privately owned establishments in lieu of having and paying for solid waste collection.

Sec. 11-4. Precollection practices.

(f) Any person desiring to place yard waste 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, which is defined as beyond normal home maintenance. The public works director or designee will make the determination. Large accumulations can be collected for a fee, as established by the city council, per load, property owner or tenant 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)~~ fifty (50) pounds. Rubbish must be at the curb by 7:00 a.m. 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 tenant or 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 subsection 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.

Sec. 11-5. Collection practices.

The public works director shall establish collection routes and schedules and may alter these routes and schedules from time to time. The public works director shall give the public notice of any collection day change after council approval.

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

(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.

i) Collection personnel shall not provide service if denied reasonable access by parked cars, equipment, fixed objects, low hanging wires, or other obstructions.

Sec. 11-12. Scattering, littering, throwing, and sweeping, on streets and sidewalks.

(a) It shall be unlawful for any person to throw, place or deposit, sweep, pour or drain onto, blow or allow to be blown or scattered onto, any of the streets, sidewalks, roads, alleys, or constant flowing or intermittent flowing streams of the city or onto any other occupied, vacant or improved property in the city any ashes, cinders, oil, grease, detergents, or industrial, commercial, construction, destruction, property clearance or domestic waste, washing or cleaning solution, containers, paper, refuse, abandoned furnishings or fixtures, litter or rubbish of any kind, yard debris, sand and/or dirt from any building construction or washing and cleaning of cement trucks into catch basins, or the spilling of such materials on any street or city right-of-way,

(b) It shall be unlawful for any person to allow the premises occupied by him or the roadways, walks, constant flowing or intermittent flowing streams or stream beds, including pits, depressions, or other areas where water is likely to accumulate, on such premises to fill with or to contain any garbage, litter, rubbish or other refuse as referred to in this chapter.

APPOINTMENTS

Upon a motion made by Councilmember Becton, seconded by Councilmember Strickland, Hugh N. Carr, Robert Werner, and Bennie F. Peterson were unanimously reappointed to the Planning and Zoning Board for a five-year term ending January 2015 contingent upon their acceptance.

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Strickland, John Naylor, Glenn Clark, and Burl Williamson were unanimously reappointed to the Board of Adjustment for a three-year term ending January 2013 contingent upon their acceptance.

Upon a motion made by Councilmember Strickland, seconded by Councilmember Stefanovich, Councilmember Marcus Becton, Rev. Willie Bowden, Dee Bryant, Patty Cherry, Nettie Pernel, Gloria Edwards, Pat Denton, Jeff Shipp, Susie Bauman, Susan Bristow, Dr. Gene Hales, Sherry Matthews, and Betty Fortner, were unanimously reappointed to the All-America City Committee for a two-year term ending January 2012.

REPORTS

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

City Manager Connet briefed City Council on the 2008-2009 Audit stating that it was submitted on October 31, 2009 and has been approved.

RESOLUTION—CLOSED SESSION

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

RESOLUTION TO ENTER CLOSED SESSION

Be It Resolved that the regular meeting of the City Council of the City of Clinton, North Carolina held at 7:00 PM on December 1, 2009 entered closed session as allowed by G. S. 143-318.11(a)(4) to discuss matters relating to economic development.

Council re-entered regular session at 7:52 PM. Mayor Starling reported that City Council was briefed on an economic development matter; however, no action was taken.

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Becton, and approved unanimously, the meeting adjourned at 7:53 PM.