

NOVEMBER 14, 2006 CITY COUNCIL MEETING

The City Council of the City of Clinton, North Carolina met in regular session at 7:00 p.m. on November 14, 2006 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; finance director Betty Brewer; planning and community development director Jeff Vreugdenhil; police chief Mike Brim; public works director Chris Doherty; and recreation director Judi Nicholson were present.

Rev. James Goodman, New Jerusalem Worship Center, gave the invocation.

Upon a motion made by Councilmember Harris, seconded by Councilmember Becton, the minutes of the October 3, 26, and November 6, 2006 city council meetings were approved unanimously.

RECOGNITIONS

Mayor Pro Tem Harris recognized Dr. Ted Thomas, a member of the District 5 Steering Committee. Dr. Thomas expressed appreciation to the city for making an extra effort to assist in the special clean up period for District 5 held October 7, 2006. Irene Hill Thomas presented a plaque in appreciation to Mayor Starling, Raymond Williams presented a plaque in appreciation to City Manager Connet, Hilda Williams presented a certificate in appreciation to Councilmember Stefanovich, and Evelyn Raines presented a certificate in appreciation to Councilmember Strickland.

PARKING—WALL STREET

City Manager Connet reviewed a request continued from the October 3, 2006 meeting to change the two hour parking along Wall Street between Vance and Main Streets to one hour during the downtown construction period. Gary Hall appeared in support of the request. After discussion, and upon a motion made by Councilmember Stefanovich, seconded by Councilmember Strickland, the resolution was adopted unanimously:

Be It Resolved by the City Council of the City of Clinton, NC that the on street parking time limit along Wall Street between Vance Street and Main Street shall be one hour from November 15, 2006 until February 15, 2007;

Be It Further Resolved that the Official Traffic Map shall reflect this; and

Be It Further Resolved that the Chief of Police shall cause appropriate signs to be erected.

APPOINTMENTS

Notification was given on the December 31, 2006 expiration of Cecil Harris' term on the Library Board.

RESOLUTIONS—WATER

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

A RESOLUTION IN SUPPORT OF THE BLADEN BLUFFS REGIONAL SURFACE WATER SYSTEM

WHEREAS, the City Council of the City of Clinton (the Council) finds that the availability of water suitable for industrial use, irrigation, and human consumption is instrumental to the economic well-being of the region, particularly as it relates to the growth of industry and agriculture, and the development of commercial and residential properties; and

WHEREAS, the Council finds that the continued availability of such water requires management of long-range sustainable water supply sources; and

WHEREAS, the Council finds that the preservation of regional groundwater resources in Clinton and surrounding areas necessitates the evaluation of alternative water sources, including surface water; and

WHEREAS, the Lower Cape Fear Water & Sewer Authority (the Authority) is a non-profit public agency organized under the provisions of the North Carolina Water and Sewer Authorities Act; and

WHEREAS, the Authority is authorized to construct and operate water and sewer systems located within its service area consisting of Bladen, Brunswick, Columbus, New Hanover, and Pender Counties, and the City of Wilmington; and

WHEREAS, the Authority and Smithfield Packing Company, Inc. (SPC) signed a Memorandum of Understanding dated January 9, 2006 regarding the development, construction and operation of a raw water intake behind Lock and Dam Number 2 on the Cape Fear River and a raw water storage reservoir and a water treatment plant in Tar Heel, North Carolina and with the possibility of additional capacity to serve the needs of regional, local government and other industrial users (the Project); and

WHEREAS, the name of the Project shall be the Bladen Bluffs Regional Surface Water System; and

WHEREAS, the Authority and SPC have negotiated and executed a Project Development Agreement (the PDA) that specifies the rights and responsibilities of both parties with respect to the Project; and

WHEREAS, pursuant to the PDA, the Authority is responsible for obtaining all approvals relating to the construction and financing of the Project, including obtaining all required local, State and Federal, land-use, environmental and other regulatory approvals and water rights; and

WHEREAS, the preparation of an Environmental Assessment by the Authority and the issuance of a Finding of No Significant Impact (FONSI) by the North Carolina Department of Environment and Natural Resources is a prerequisite to the issuance of several required permits for the Project; and

WHEREAS, the construction of the Project and use of surface water for water supply purposes will require a reclassification (the Reclassification) of a portion of the Cape Fear River from a Class “C” surface water to a “WS-IV” water supply classification; and

WHEREAS, the Reclassification must be approved through rulemaking by the North Carolina Environmental Management Commission; and

WHEREAS, the Authority has initiated work on the Project by awarding contracts for the preparation of the Environmental Assessment and the Request for Reclassification; and

WHEREAS, the Authority intends to submit the Environmental Assessment and the Request for Reclassification for approval by appropriate State and Federal regulatory agencies.

NOW THEREFORE BE IT RESOLVED, that the Mayor and City Council of Clinton hereby endorse the Project and support the issuance of the required regulatory approvals, including the FONSI and the Reclassification.

RESOLUTION—FLOOD PLAIN

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Strickland, the following resolutions were adopted unanimously:

Flood Damage Prevention Ordinance Resolution – Intergovernmental Agreement

Interlocal Agreement Between SAMPSON County and the City of CLINTON

This resolution/agreement, made and entered into this the 1st day of January, 2007, by and between the City of CLINTON, a municipal corporation organized and existing pursuant to the laws of the State of North Carolina, Party of the First Part and hereinafter referred to as the CITY and SAMPSON County, a political subdivision of the State of North Carolina established and operating pursuant to the laws of the State of North Carolina, Party of the Second Part and hereinafter referred to as the COUNTY;

WITNESSETH:

WHEREAS, the CITY and the COUNTY, pursuant to the authority granted by the North Carolina General Statutes 160A-461, hereby covenant and agree as follows:

1. That the CITY hereby contracts with the COUNTY to use the services of the BUILDING INSPECTIONS Department of the COUNTY to assist the CITY in the administration of the COUNTY’S Flood Damage Prevention Ordinance within the corporate limits and extra-territorial jurisdiction of the CITY.

2. That the COUNTY'S Flood Damage Prevention Ordinance is hereby adopted by the CITY, through execution of this Interlocal Agreement, as well as by Resolution of the City Board, and the same shall apply within the corporate limits and extra-territorial jurisdiction of the CITY.
3. That the services of the SAMPSON County BUILDING INSPECTIONS Department shall be performed at no cost to the CITY. However, should any claims arise out of the services provided by the COUNTY under this agreement, the CITY agrees to indemnify and hold the COUNTY, its employees, agents and contractors harmless from any and all claims for liability, loss, injury, damages to persons or property, costs or attorney's fees resulting from any action brought against SAMPSON County, its employees, agents, contractors and Commissioners arising as a result of these services performed on behalf of the CITY that are the subject matter of this Agreement.
4. That all fees and charges associated with administering the Flood Damage Prevention Ordinance as adopted by the Board of County Commissioners, shall be collected by the COUNTY, shall be the sole property of the COUNTY, and no part thereof shall be payable to the CITY.
5. That all development to take place within the CITY'S corporate limits or extra-territorial jurisdiction shall be subject to the rules and regulations set forth in the aforementioned Flood Damage Prevention Ordinance. No building permits shall be issued for any property until the flood zone is determined and the necessary building standards are met. If the property is located within the one hundred (100) year floodplain and if the structure is to be constructed within the flood hazard area, preliminary and final elevation certificates will be required.
6. That the SAMPSON County BUILDING INSPECTIONS Department will use every effort to enforce the Flood Damage Prevention Ordinance, except that if any civil or criminal action becomes necessary, the CITY shall bring any legal action as may be required to effectively enforce said Ordinance, upon written notice from the SAMPSON County BUILDING INSPECTIONS Department of such violations.
7. That this Agreement shall continue until such time as either the CITY or COUNTY resolves to discontinue the Agreement and presents six (6) months written notice to the other party of said termination or upon mutual agreement of both parties.
8. This Agreement may only be modified in writing and executed by both parties.
9. That the effective date of this Interlocal Agreement shall be January 1, 2007.

IN WITNESS WHEREOF, the City of CLINTON has caused this Agreement to be signed in its name by its Mayor, attested by its Clerk, and its Official Seal to be hereunto affixed, and SAMPSON County has caused this agreement to be signed in its name by the Chair of the Board of Commissioners and attested by the Clerk of its Board and its Official Seal to be hereunto affixed, the day and year first above written.

RESOLUTION OF INTENT

WHEREAS, certain areas of City of Clinton (MUNICIPALITY) are subject to periodic flooding or flood-related erosion, causing serious damages to properties within these areas; and

WHEREAS, relief is available in the form of federally guaranteed flood insurance as authorized by the National Flood Insurance Act of 1968; and

WHEREAS, the Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, it is the intent of this BOARD to require the recognition and evaluation of flood or flood-related erosion hazards in all official actions relating to the land use, building construction repair and remodeling in areas having these hazards;

NOW, therefore, be it resolved, that this BOARD hereby:

Assures the Federal Insurance Administration (FIA) that it will enact as necessary and maintain in force in those areas having flood or flood-related erosion hazards adequate land use and control measures with effective enforcement provisions consistent with the criteria set forth in Parts 59, 60 and 65 of the National Flood Insurance Program Regulations (44 CFR); and

Vests Sampson County (OFFICIAL, OFFICE OR AGENCY) with the responsibility, authority, and the means to:

(a) Assist the FIA Administrator, as requested, in delineation of the limits of the area having special flood or flood-related erosion hazards.

(b) Provide such information as the FIA Administrator may request concerning present uses and occupancy of the floodplain or flood-related erosion areas.

(c) Cooperate with Federal, State and local agencies and private firms which undertake to study, survey, map, and identify floodplain or flood-related erosion areas, and cooperate with neighboring communities with respect to management of adjoining floodplain and/or flood-related erosion areas in order to prevent aggravation of existing hazards.

(d) Upon occurrence, notify the FIA Administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that all Flood Hazard Boundary Maps (FHBM) and Flood Insurance Rate Maps (FIRMs) accurately represent the community's boundaries, include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.

Appoints Sampson County (OFFICIAL, OFFICE OR AGENCY) to maintain for public inspection and to furnish upon request, for the determination of applicable flood insurance risk premium rates within all areas having special flood hazards identified on a FHBM or FIRMs, any certificates of flood-proofing, and information on the elevation (in relation to mean sea level) of the level of the lowest floor (including basement) of all new or substantially improved structures, and include whether or not such structures contain a basement, and if the structure has been flood proofed.

Agrees to take such other official action as may be reasonably necessary to carry out the objective of the program.

CITY COUNCIL

Upon a motion made by Councilmember Becton, seconded by Councilmember Strickland, and passed unanimously, the regular December council meeting was scheduled for December 12, 2006 at 7:00 p.m.

CITY CODE—CRIMINAL HISTORY CHECKS

Upon a motion made by Councilmember Harris, seconded by Councilmember Stefanovich, the following ordinance #2006.11.01 was adopted unanimously:

AN ORDINANCE AUTHORIZING CRIMINAL HISTORY CHECKS

WHEREAS, in order to protect the citizens of the city and their properties the City of Clinton, NC desires to provide for fingerprinting and criminal history checks on all final applicants for regular full and part-time positions in the city government; on all final applicants for all coaches, assistant coaches or other volunteers working directly with children participating in City of Clinton activities and events; persons applying for permits or license to operate adult establishments; dance halls; game rooms; massage parlors, and as a canvasser, pawn broker, peddler or itinerant merchant, precious metal dealer, or taxi driver.

NOW, THEREFORE, BE IT ORDAINED, the City Manager, or designee, shall conduct an investigation of final applicants for regular full and part-time positions in the city government; on all final applicants for all coaches, assistant coaches or other volunteers working directly with children participating in City of Clinton activities and events; persons applying for permits or license to operate adult establishments; dance halls; game rooms; massage parlors, and as a canvasser, pawn broker, peddler or itinerant merchant, precious metal dealer, or taxi driver . It shall be a precondition of employment, working directly with children in a volunteer capacity, or before a permit or license to operate a business within the city can be issued shall upon request provide fingerprints and all other necessary personal identification, including a birth certificate, social security number, and drivers license, if available, so the city manager or designee, my cause a thorough search to be made of local and state criminal records to determine if the applicant has a history of criminal convictions by use of the Division of Criminal Information Network (DCIN);

BE IT FURTHER ORDAINED, an evaluation of any crime for the purposes enumerated above will take into account the nature and circumstances of the offense and the time frame of the offense as it relates to either essential job functions or the position applied or in the conduct of business.

BE IT FURTHER ORDAINED, prior to denial or termination of employment as a full or part time employee, or volunteer or prior to denial of a permit or license to operate a business within the city based upon Criminal History Record Inquiry (CHRI) received from the city of Clinton police department, the Clinton City Manager or designee shall verify existence of a record by either obtaining a certified public record or by submitting a fingerprint card of the individual to the CIIS Section for verification that the CHRI record belongs to the individual;

BE IT FURTHER ORDAINED, the city of Clinton police department shall provide the findings from the use of the DCIN to the city manager, city clerk or human resource officer, provided that all necessary agreements with the State Bureau of Investigation Criminal Information and Identification Section have been executed;

BE IT FURTHER ORDAINED, that if any criminal history check reveals a prior record, the applicable clerk of court shall be contacted to obtain the record. The city of Clinton shall pay the applicable party the cost of obtaining a criminal history record check; and other than for employment or volunteer purposes, the applicant shall reimburse the city the cost of obtaining a criminal history check before a permit or license is issued.

BE IT FURTHER ORDAINED, all parties handling the sensitive information described herein shall comply with North Carolina State Law, particularly G. S. 160A-168, all federal laws, rules, regulations, and the Clinton City Ordinances, as they relate to the confidential handing of criminal record checks.

This ordinance shall become effective upon adoption.

CITY CODE

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Becton, the following ordinance #2006.11.02 was adopted unanimously:

Be It Ordained that Chapter 2, Article V, Division 3, Section 2-117 of the Clinton City Code of 1987 is hereby repealed.

CITY CODE—PANHANDLING

Upon a motion made by Councilmember Harris, seconded by Councilmember Stefanovich, the following ordinance #2006.11.03 was adopted unanimously:

AN ORDINANCE AMENDING CHAPTER 16 OF THE CODE OF ORDINANCES REGARDING REGULATION OF AGGRESSIVE PANHANDLING

BE IT ORDAINED by the Council of the City of Clinton as follows:

Section 1. Chapter 16, Article V, of the City Code is hereby revised to read as follows:

“ARTICLE V. REGULATION OF AGGRESSIVE PANHANDLING”

Sec. 16-1. Begging, panhandling, or soliciting contributions.

(a) Definitions:

- (1) *To beg, panhandle, or solicit contributions* shall be defined to include, without limitation, the spoken, written, or printed word or such other acts as are conducted in furtherance of the purpose of obtaining contributions;

- (2) *Accosting another person* shall be defined as approaching or speaking to someone in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act or damage to property in his immediate possession;
 - (3) *Intimidate another person* shall be defined as acting in such a way as would cause a reasonable person to fear bodily harm and therefore to do something he or she would not otherwise have done;
 - (4) *Forcing oneself upon the company of another person* shall be defined as:
 - (i) Continuing to request or solicit contributions in close proximity to the person addressed after that person has responded negatively;
 - (ii) Blocking the passage of the person addressed; or
 - (iii) Otherwise engaging in conduct which reasonably could be understood as intended to force a person to accede to demands.
 - (5) *Public place* shall be defined to include streets, highways, and roadways (including the shoulders and medians), sidewalks, alleys, and other public property, as well as city-owned and city-controlled property and private property open to the public unless permission to solicit has been obtained from the city or from the property owner or other person in authority.
 - (6) *Vocal appeal* shall be defined as begging, panhandling, or solicitation of contributions by spoken word or other verbal request. This shall not include the act of performing music with a sign or other indication that a contribution is being sought, without any vocal request other than in response to an inquiry.
 - (7) *Direct written appeal* shall be defined as begging, panhandling, or solicitation by handing to a person or attempting to hand to a person a written solicitation for immediate contributions.
 - (8) *Nighttime* shall be defined as the time from dusk to dawn.
- (b) No person shall beg, panhandle, or solicit contributions in a public place in a manner so as to intimidate another person or by accosting another person, or by forcing oneself upon the company of another person.
 - (c) No person shall beg, panhandle, or solicit contributions from another person within twenty (20) feet of an entrance or exit of any bank or financial institution or within twenty (20) feet of any automated teller machine.
 - (d) No person shall beg, panhandle, or solicit contributions in any public transportation vehicle owned or operated by the City of Clinton or at any station for such vehicle or within six (6) feet of a bus stop sign, bus stop shelter, or bus stop bench.

- (e) No person shall beg, panhandle, or solicit contributions while sitting or standing on a roadway or the shoulder or median of a roadway.
- (f) No person shall beg, panhandle, or solicit contributions in a public place by vocal appeal or direct written appeal during nighttime.

CITY CODE—FIRE

Upon a motion made by Councilmember Becton, seconded by Councilmember Turlington, the following ordinance #2006.11.04 was adopted unanimously:

Be It Ordained that Section 9-32 of the Clinton City Code of 1987 is hereby amended to read as follows: In the absence of the chief of the fire department or if he is prevented from attending to his duties through sickness or otherwise, the deputy chief assistant chief shall perform all duties required of the chief and he shall be clothed with the same authority as the chief.

That Section 9-35(2) and (3) of the Clinton City Code of 1987 is hereby amended to read as follows:

(2) *To act as police officers.* The chief, deputy chief, and captains of the fire department have all the powers of a police officer; it shall be their duty to arrest any person or violation of any law, any provision of this Code, or any ordinance of the city, within a distance of one hundred (100) yards of the fire.

(3) *To order electric current cut off.* The chief and deputy chief of the fire department may order the electric current to be cut off whenever they consider it necessary for the protection of life or property; and it shall be unlawful for any utility company to maintain current on their wires after receiving such a cut-off order.

That Section 9-38 of the Clinton City Code of 1987 is hereby repealed.

SUBDIVISIONS—JORDAN—BEULAH ROAD

Upon a motion made by Councilmember Strickland, seconded by Councilmember Harris, unanimous approval was given to a request by Brenda Jordan for a three lot subdivision located off Beulah Road.

PERSONNEL

Police Chief Brim requested paid leave while attending the FBI Academy from January 7, 2007 until March 17, 2007. Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Harris, the request was granted unanimously.

HOLIDAY SCHEDULE

Upon a motion made by Councilmember Harris, seconded by Councilmember Strickland, the following 2007 Holiday Schedule was approved unanimously: New Year's

Day January 1; M. L. King, Jr. Day January 15, 2007; Good Friday April 6, 2007; Memorial Day May 28, 2007, Independence Day July 4, 2007; Labor Day September 3, 2007; Veteran's Day November 12, 2007; Thanksgiving November 22 and 23, 2007; and Christmas December 24, 25, and 26, 2007. City Manager Connet reported December 25 and 26 will be observed as Christmas in 2006.

BUDGET—FEE SCHEDULE—RECREATION

Recreation Director Nicholson requested council to amend the 2006-07 Fee Schedule by adding a ten dollar youth recreation fee, not to exceed twenty dollars per family, to non resident youths.

Councilmember Becton asked how residency would be determined. Ms. Nicholson said the city GIS mapping will be used.

Councilmember Stefanovich asked the percentage of non resident youths recreation participants. Ms. Nicholson said about fifty percent are non residents, with some living outside Sampson County.

Councilmember Harris asked why the plan is being proposed at this time. Ms. Nicholson replied the department needs more revenue due to having to purchase additional equipment to adequately equip the outside participants.

Councilmember Stefanovich stated the proposal is trying to cover the increased costs.

Councilmember Strickland said this is not the right time to implement a fee.

Councilmember Strickland moved not to amend the 2006-07 Fee Schedule. Councilmember Becton seconded the motion. Motion passed 3-2 with Councilmember Stefanovich and Turlington voting against the motion.

PERSONNEL—FLEXIBLE BENEFIT PLAN

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Strickland, the following amendment to the Flexible Benefit Plan was adopted unanimously:

FLEXIBLE BENEFIT PLAN AMENDMENT

Be It Resolved by the City Council of the City of Clinton, NC that the Flexible Benefit Plan adopted December 11, 1990 is hereby amended as follows:

ARTICLE 4

AVAILABLE BENEFITS

4.01 Benefits available to be selected by eligible Employees shall be as indicated below:

Employee Medical Insurance
Dependent Medical Insurance

Employee Dental Insurance
 Dependent Dental Insurance
 Employee-paid Supplemental Insurance for employee and dependent
 Employee paid reimbursement accounts for miscellaneous medical expenses
 Dependent Child Care subject to IRS limits
 Cobra Continuation Insurance

ARTICLE 5

SALARY REDUCTION AND BENEFIT ELECTIONS

5.03 A Participant’s initial benefit election shall be made as a part of his Participant applicant. Therefore, a Participant may change his benefit election for any Plan Year by providing written notice, in a form acceptable by the Employer, during the month of November prior to the first day of the Plan Year (January 1) for which the change is to be effective. A Participant’s benefit election for any Plan Year shall be irrevocable during the Plan Year except that a Participant may revoke an election and make a new election on the account of and consistent with a change in the family status such as: marriage, divorce, death of spouse, birth, adoption, death (or loss) of eligible dependent; termination or commencement of spouse’s employment; significant change in cost or coverage; taking an unpaid leave of absence by employee or employee’s spouse, or changing from full-time to part-time for either the employee or the employee’s spouse. Any such change shall be effective on the first day of the month following the date the Employer receives the Participant’s written notice of change or election.

ORDINANCES—BUDGET

Upon a motion made by Councilmember Harris, seconded by Councilmember Stefanovich, the following budget ordinance amendment #2006.11.05 was adopted unanimously:

Budget Ordinance Amendment #2006.11.05

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, 2006.

Section 1. To amend the Water and Sewer Fund the expenditures are to be changed as follows:

Account Number	Title	Increase	Decrease
30-6600-7400	Capital Outlay	\$ 99,029	

Section 2. The following Water and Sewer revenues are anticipated to be available to fund these changes:

30-3990-0000	Fund Balance Appropriated	\$ 99,029	
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Section 3. Copies of this amendment shall be furnished to the City Clerk, City Manager and Finance Director for their direction.

REPORTS

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

City Manager Connet said condemnation ordinances for 522 Faison Highway and 107 Colonial Drive are no longer needed since the Faison Highway parcel was sold, and rehab is underway on the Colonial Drive parcel.

MISCELLANEOUS

Mayor Starling welcomed a Clinton High School civics class.

RESOLUTIONS—CLOSED SESSION

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

RESOLUTION TO ENTER CLOSED SESSION

Be It Resolved that the regular meeting of the City Council of the City of Clinton, North Carolina held November 14, 2006 enter closed session as allowed by G. S. 143-318.11 (a)(5) and (6) real estate acquisition and personnel.

Council re-entered regular session. Mayor Starling reported council was briefed on a personnel issue and instructed the city attorney on the purchase of land.

Upon a motion made by Councilmember Becton, seconded by Councilmember Turlington, and passed unanimously, the meeting adjourned at 8:17 p.m.

City Clerk

Mayor