

**AGENDA**

**ITEM**

**5. f.**



## SOMERSET COUNTY COMMUNICATIONS CENTER

8 County Drive  
Skowhegan, Maine 04976

Phone: 207-474-6386  
Fax: 207-474-0879  
[www.SomersetCounty-ME.org](http://www.SomersetCounty-ME.org)

Michael T. Smith – Deputy Director  
Email: [mike.smith@somersetcounty-me.org](mailto:mike.smith@somersetcounty-me.org)

### PSAP Call Handling Agreement

Somerset County PSAP Transfer to Waterville Regional Communications Center  
for the Town of Clinton

This agreement made this 1<sup>st</sup> day of November, 2007 by and between Somerset County Communications Center, the "PSAP", and the Town of Clinton, the "Town", and collectively known as the "Parties".

**WHEREAS**, the installation of the Enhanced 9-1-1 telephone system will provide one common number to call to receive public safety assistance and is intended to assure the caller that his/her request for assistance will be answered and that the appropriate agency will be notified as a result of dialing 9-1-1; and

**WHEREAS**, the parties desire to formalize an arrangement whereby 9-1-1 calls are properly routed; and

**WHEREAS**, the parties desire to set forth in writing the terms and conditions of said arrangements for call handling;

**NOW THEREFORE**, the parties agree as follows:

1. It is the purpose of this agreement to establish call-handling procedures for 9-1-1 calls taken at the PSAP that must be transferred to the Town of Clinton's Dispatch-Only-Agency to assure that proper assistance will be rendered to a 9-1-1 caller.
2. Definitions

PSAP – Public Safety Answering Point as defined by the Emergency Services Communications Bureau.

Dispatch-Only-Agency – An entity, either public or private, which is duly authorized to dispatch emergency services within a designated area.

Relayed Transfer Method – A process by whereby the telephone answerer receives the call, takes the information from the caller and thereafter transfers essential information to the proper emergency responder. In this procedure, the caller does not speak to the emergency responder.



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3. The services provided as a result of this agreement are considered services to the general public and this agreement shall not be construed to create an employer-employee, principal-agent or co-partnership relationship between the parties.
4. The cost of operating the PSAP and the Town's Dispatch-Only-Agency shall remain the responsibilities of the respective agencies, except as outlined in Section 12.
5. This agreement applies to Enhanced 9-1-1 telephone calls that are answered by the PSAP and need to be rerouted to Town of Clinton's Dispatch-Only-Agency.
6. 9-1-1 calls will be handled in accordance with the provisions set forth in the PSAP Call Handling Agreement, Exhibit A, attached hereto.
7. TTY calls must be handled using the Relayed Transfer Method. In the event that the address of the location where the emergency services are required cannot be clearly identified, the PSAP receiving the call shall attempt to keep the 9-1-1 caller on the line until the Town's Dispatch-Only-Agency has identified the caller's location.
8. Being that both parties to this contract are Emergency Medical Dispatch agencies, and that they are both licensed as such with the State of Maine Emergency Medical Services Bureau, the PSAP shall reroute all 9-1-1 medical calls received for the Town's Dispatch-Only-Agency coverage area to said agency for Emergency Medical Dispatching. The PSAP does agree to EMD any calls that cannot be immediately transferred to the Town's Dispatch-Only-Agency for such purposes.
9. Relationship Between the Parties

In consideration of the mutual services provided herein, both parties agree that nothing contained herein is intended to be or should be construed in any manner as creating or establishing the relationship of co-partners between the parties hereto or as constituting an agency relationship in any manner whatsoever. The individual parties are and shall remain independent entities with respect to all services performed under this agreement. Each party represents that it has, or will secure all its expenses, all personnel required in performing its service obligation under this agreement and that the acts of its employees performing the service under this agreement shall be the acts of the employees of that entity alone. Each entity agrees that in the performance of this mutual service, its employees shall not require nor be entitled to any compensation, rights or benefits of any kind whatsoever from the other entity to this agreement, including, but not limited to, tenure rights, medical and hospital care, sick and vacation leave, disability, Worker's Compensation, Unemployment Compensation, or severance pay.



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### 10. Agreement of the Parties

Both parties entering into this agreement acknowledge that any modifications to this agreement must be by mutual consent, in writing, and will be treated as an amendment to this agreement.

11. Either party hereto may withdraw from this contract. Withdrawal shall be effective Thirty (30) days after receipt of written notice of withdrawal has been received, by certified mail, return receipt requested, by the withdrawing party to the other party of this agreement. If withdrawal is requested after January 1<sup>st</sup>, of any year, the per capita payment will not be refunded to the withdrawing agency.
12. The PSAP agrees to start receiving calls effective November 1, 2007, and there will be no charge for such services for the remainder of the calendar year 2007. Effective January 1, 2008 the PSAP shall charge the Town of Clinton the rate of \$1 per capita, per year, based on the most recent census, for PSAP services. Payment will be due prior to January 15, 2008.
13. This agreement shall be for a term of 12 months and will be renewed upon acceptable negotiations by each agency 30 days prior to expiration.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement on the 1st day of November, 2007.

\_\_\_\_\_  
PSAP

\_\_\_\_\_  
Town

\_\_\_\_\_  
County Commissioner, Chair

\_\_\_\_\_  
Selectman, Chair or Town Manager



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### PSAP Call Handling Agreement Exhibit A

Municipality Contact: James W. Rhodes, Town Manager, Town of Clinton, Maine

Municipality Telephone Number: 426-8511

1. Upon receipt of a call requiring transfer to a Town's Dispatch-Only Agency, the PSAP call taker shall dial the primary 7-digit unpublished, unlisted number designated by the Town's Dispatch-Only Agency.
2. The Town's Dispatch-Only Agency must maintain an adequate amount of 7-digit unpublished, unlisted numbers to assure that the PSAP call taker can complete the call transfer.
3. The PSAP call taker shall, while transferring a call to the Town's Dispatch-Only Agency, stay on the line with the caller until a definite connection has been made and after insuring that the call transfer has been completed.
4. If the call transfer cannot be accomplished, the call taker shall call an alternate emergency number provided by the Town's Dispatch-Only Agency. If the call still cannot be completed, the PSAP shall take the following information:
  - i.) Type of incident/action request.
  - ii.) Verify location information and where emergency services are needed.
  - iii.) Verify telephone number and ask name of caller.
  - iv.) Time of incident.
5. It may be the judgment of the PSAP call taker that circumstances require immediate or direct contact with the Town's Dispatch-Only Agency via mobile radio to relay a message. When possible the format described above in (4) shall be used.
6. The Town's Dispatch-Only Agency will continually maintain and provide to the PSAP a list of resources to enable the PSAP to contact substitute emergency services if that becomes necessary in order to handle the emergency.
7. The parties shall cooperate expeditiously to resolve any discrepancies regarding address or MSAG database information in accordance with ESCB Rules and policies.
8. If it is determined at a later date that it is necessary to provide other communications equipment or procedures so as to be able to accomplish the purpose of this Agreement,



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amendments to this Agreement may be executed identifying the cost obligations of each party for such additional equipment.

9. In the event of a conflict between the parties relating to the terms of this agreement, the agency heads shall meet to attempt to reach an amicable resolution. In the event that an amicable resolution is not achieved, the ESCB shall mediate the conflict by recommending a resolution.

# AGENDA

## ITEM

5. g.



Town of Clinton  
27 Baker Street

426-8511 phone

Clinton, ME 04927

426-8323 fax

## RESOLUTION 07-20

### ACCEPTANCE OF TOWN MANAGER'S SUBMISSION OF THE 5-YEAR CAPITAL IMPROVEMENT PROGRAM

WHEREAS, Town Charter, Article V, Section 5.04 (a) specifies that the Town Manager shall prepare and submit to the Board of Selectmen and Budget Committee a five year Capital Improvement Program at least two (2) months prior to the final date for submission of the budget to the Board of Selectmen and Budget Committee; and

WHEREAS, the FY 08 / 09 proposed Municipal Budget is scheduled for submission to the Board of Selectmen on January 8, 2008 and the Budget Committee on January 7, 2008; and

WHEREAS, the 5-Year Capital Improvement Program is scheduled to be submitted to the Budget Committee on October 29, 2007.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SELECTMEN OF THE TOWN OF CLINTON, that the Town Manager's submission of the 5-Year Capital Improvement Program to the Board of Selectmen is accepted.

Sealed with the Seal of the Town of Clinton on this twenty-third day of October in the year Two Thousand Seven.

\_\_\_\_\_  
Jeffrey Towne, Chairman

\_\_\_\_\_  
Chester Nutting

\_\_\_\_\_  
Stephen Hatch

\_\_\_\_\_  
Joseph Massey

\_\_\_\_\_  
Randy Clark



TOWN OF CLINTON  
FIVE-YEAR CAPITAL IMPROVEMENT PLAN SUMMARY SHEET

	A	B	C	D	E	F	G	H	I
1				FY 08-09					
2	10/16/2007	Reserve Fund	Equipment	Funding					
3	<b>Departments:</b>	<b>Balance</b>	<b>Rotation</b>	<b>Source</b>	<b>FY 08-09</b>	<b>FY 09-10</b>	<b>FY 10-11</b>	<b>FY 11-12</b>	<b>FY 12-13</b>
4									
5	<b>Administration</b>								
6	1. Highway Garage	\$ -	N/A	Surplus to Reserve	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00
7	2. Town Office Roof	\$ -	N/A	Surplus to Reserve	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00
8									
9	<b>Fire Department</b>								
10	1. Pumper Truck (1968) Acq 2001	\$ 30,852.18	10 years	Surplus to Reserve	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00
11	2. Communications Upgrade	\$ -	5-7 years	Surplus to Reserve	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00
12	3. Turnout Gear Replacement	\$ -	5-10 years	Surplus to Reserve	\$ 6,000.00	\$ 9,450.00	\$ 9,900.00	\$ 10,350.00	\$ 9,125.00
13									
14	<b>Police Department</b>								
15	1. Police Cruiser 2004	\$ 8,150.52	3 years	Lease Purchase	\$ 6,000.00	\$ 9,000.00	\$ 10,000.00	\$ 11,000.00	\$ 12,000.00
16	2. Police Cruiser 2005		3 years	Lease Purchase	\$ 6,000.00	\$ 9,000.00	\$ 10,000.00	\$ 11,000.00	\$ 12,000.00
17									
18	<b>Transfer Station</b>								
19	1. Concrete Slab	\$ -	N/A		\$ -	\$ 7,500.00	\$ -	\$ -	\$ -
20	2. Forklift 2006	\$ 4,734.78	10 Years	Surplus to Reserve	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00
21	3. Recycling Equipment	\$ 2,902.22	12 Years	Surplus to Reserve	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00
22	4. Backhoe / Loader 1993		10 years	Surplus to Reserve	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00
23									
24	<b>Highway Department</b>								
25									
26	1. Truck (2004)	\$ 113.16	5 years	Surplus to Reserve	\$ 12,000.00	\$ 12,000.00	\$ 12,000.00	\$ 12,000.00	\$ 12,000.00
27	2. Tractor (1993)	\$ 11,056.61	10 years	Surplus to Reserve	\$ 15,000.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00
28	3. Backhoe / Loader (1999)	\$ 11,356.09	10 years	Surplus to Reserve	\$ 30,000.00	\$ 30,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00
29	4. Sander / Hopper (2004)	\$ -	8 years	Surplus to Reserve	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00
30									
31	<b>Road Commissioner</b>								
32	1. Road Reconstruction / Paving		N/A	Annual Budget	\$ 190,000.00	\$ 210,000.00	\$ 220,000.00	\$ 220,000.00	\$ 220,000.00
33									
34	<b>Parks &amp; Recreation Board</b>								
35	1. Gazebo		N/A	Surplus to Reserve	\$ 20,000.00	\$ -	\$ -	\$ -	\$ -
36									
37	<b>Library Department</b>								
38	1. Repairs to Library Building	\$ 57,344.31	N/A	Library Trust Fund	\$ 18,000.00	\$ 18,000.00	\$ 18,000.00	\$ 18,000.00	\$ 18,000.00
39									
40	<b>Cemetery Committee</b>								
41	1. Repairs to Headstones	\$ -	N/A	Surplus to Reserve	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00
42									
43	<b>TOTALS</b>				\$ 437,000.00	\$ 441,450.00	\$ 426,400.00	\$ 428,850.00	\$ 429,625.00
44	<b>Source of Funds</b>								
45	TAXES				\$ 130,000.00				
46	STATE URIP FUNDS				\$ 60,000.00				
47	SURPLUS				\$ 217,000.00				
48	LIBRARY TRUST FUND				\$ 18,000.00				
49	LEASE PURCHASE (DEBT SERVICE)				\$ 12,000.00				
50	<b>TOTAL</b>				\$ 437,000.00				



Town of Clinton

27 Baker Street

426-8511 phone

Clinton, ME 04927

426-8323 fax

## SUMMARY OF CHARTER BUDGET PROCESS

- 6/26/07 Board of Selectmen appointed the members of the 2007 / 2008 Budget Committee.
- 9/20/07 Town Manager requested Department Heads to review their Capital Improvement Program (CIP) and submit additions / deletions / changes by 10/12/07 to Town Manager.
- 10/15/07  
To  
10/19/07 Town Manager develops / assembles Capital Improvement Program
- 10/23/07 Town Manager submits Capital Improvement Program to the Board of Selectmen.
- 10/29/07 Town Manager submits Capital Improvement Program to the Budget Committee.
- 10/29/07 Budget Committee determines meeting schedule to review and make recommendation for the Capital Improvement Program.
- 10/30/07 Town Manager requests Department Heads / Boards / Committees to submit their written requested budgets by 11/30/07.
- 12/3/07  
To  
12/28/07 Town Manager develops / assembles proposed budget for FY 08/09.
- 1/7/08 Town Manager submits proposed budget for FY 08/09 to the Budget Committee.
- 1/8/08 Town Manager submits proposed budget for FY 08/09 to the Board of Selectmen.
- 1/7/08  
to  
3/7/08 Budget Committee considers the proposed budget and makes recommendations.
- 3/11/08 Chair, Budget Committee transmits a copy of the budget, together with its recommendations, to the Board of Selectmen.
- 3/25/08  
to  
4/22/08 Board of Selectmen consider the proposed budget.



*Town of Clinton  
27 Baker Street*

*426-8511 phone*

*Clinton, ME 04927*

*426-8323 fax*

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- 4/14/08** Board of Selectmen conduct Public Hearing on the proposed budget.
- 4/22/08** Board of Selectmen vote on the proposed budget and warrant articles.
- 5/27/08** Board of Selectmen conduct public hearing on the approved warrant articles for the budget.
- 6/10/08** Town Meeting vote to adopt the budget.

# AGENDA

## ITEM

5. h.



Town of Clinton  
27 Baker Street

426-8511 phone

Clinton, ME 04927

426-8323 fax

**NOTICE OF HEARING**  
Pursuant to 17 M.R.S.A. §§ 2851-2859  
(Dangerous Buildings)

TO: Lincoln Alward  
PO Box 56  
Madison, Maine 04950

You are hereby notified that the Municipal Officers of the Town of Clinton, Maine will hold a public hearing on Tuesday, November 13, 2007 at 6:30 PM in the Selectmen's Room, Clinton Town Office, 27 Baker Street, Clinton, Maine to determine whether the building/structure owned by you and located on land at 481 Mutton Lane, Clinton, Maine described as a residential structure and shown on Map 8, Lot 1 of the current Tax Maps of the Town of Clinton, Maine on file at the Clinton Town Office, 27 Baker Street, Clinton, Maine, is dangerous or a nuisance within the meaning of 17 M.R.S.A. § 2581.

If the Municipal Officers so determine, they may order abatement of said dangerous / nuisance building including but not limited to demolition and removal of said building / structure. If their order is not timely complied with and no appeal is taken, the Municipal Officers may undertake said abatement at municipal expense and recover all such expenses, including reasonable attorney's fees, by means of a special tax or civil action.

Dated: October 23, 2007

By the Municipal Officers of the Town of Clinton, Maine

\_\_\_\_\_  
Jeffrey Towne, Chairman

\_\_\_\_\_  
Chester Nutting

\_\_\_\_\_  
Stephen Hatch

\_\_\_\_\_  
Joseph Massey

\_\_\_\_\_  
Randy Clark

STATE OF MAINE  
Kennebec County, ss

Date: \_\_\_\_\_.

Personnally appeared before me the above named Jeffrey Towne, Stephen Hatch, Randy Clark, Chester Nutting, and Joseph Massey and each acknowledged the foregoing instrument to be his free act and deed.

\_\_\_\_\_  
Notary Public



## Full Highlighted Search Result

**Query Title 17 Section 2851 on document *Title 17 - §2851. Dangerous buildings***

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<< **Title**>> 17 - §2851. Dangerous buildings Prev: Chapter 91 §2808 Next: Chapter 91 §2852

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Legislature << **Title**>> 17: CRIMES Chapter 91: NUISANCES Subchapter 4: DANGEROUS BUILDINGS

### §2851. Dangerous buildings

Whenever the municipal officers in the case of a municipality, or the county commissioners in the case of the unorganized or deorganized areas in their county, find that a building or structure or any portion thereof or any wharf, pier, pilings or any portion thereof that is or was located on or extending from land within the boundaries of the municipality or the unorganized or deorganized area, as measured from low water mark, is structurally unsafe; unstable; unsanitary; constitutes a fire hazard; is unsuitable or improper for the use or occupancy to which it is put; constitutes a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; or is otherwise dangerous to life or property, they may after notice and hearing on this matter adjudge the same to be a nuisance or dangerous and may make and record an order prescribing what disposal must be made of that building or structure. [1997, c. 6, §1 (amd).]

1. Notice. The notice must be served on the owner and all parties in interest, as defined in << **Title**>> 14, section 6321, in the same way service of process is made in accordance with the Maine Rules of Civil Procedure.[1997, c. 6, §1 (amd).]

2. Notice; how published. When the name or address of any owner or co-owner is unknown or is not ascertainable with reasonable diligence, then the notice must be published once a week for 3 successive weeks prior to the date of hearing in a newspaper generally circulated in the county, or if none, in the state paper.[1997, c. 6, §1 (amd).]

3. Order. The order made by the municipal officers or county commissioners must be recorded by the municipal or county clerk, who shall cause an attested copy to be served upon the owner and all parties in interest in the same way service of process is made in accordance with the Maine Rules of Civil Procedure. If the name or address cannot be ascertained, the clerk shall publish a copy of the order in the same manner as provided for notice in subsection 2.[1997, c. 6, §1 (amd).]

4. Proceedings in Superior Court. In addition to proceedings before the municipal officers or the county commissioners, the municipality or the county may seek an order of demolition by filing a complaint in the Superior Court situated in the county where the structure is located. The complaint must identify the location of the property and set forth the reasons why the municipality or the county seeks its removal. Service of the complaint must be made upon the owner and parties-in-interest in accordance with the Maine Rules of Civil Procedure. After hearing before the court sitting without a jury, the court shall issue an appropriate order and, if it requires removal of the structure, it shall award

costs as authorized by this subchapter to the municipality or the county. Appeal from a decision of the Superior Court is to the law court in accordance with the Maine Rules of Civil Procedure.[1997, c. 6, §1 (amd).]

**Section History:**

PL 1965, Ch. 284, § (RPR). PL 1967, Ch. 401, §1 (AMD). PL 1973, Ch. 143, §1 (AMD). PL 1979, Ch. 27, §1-3 (AMD). PL 1997, Ch. 6, §1 (AMD).

The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public. If you need legal advice, please consult a qualified attorney.

Office of the Revisor of Statutes 7 State House Station

State House Room 108

Augusta, Maine 04333-0007

This page created on: 2006-11-01

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*Office of the Revisor of Statutes  
State House, Room 108  
Augusta, Maine 04333  
(207) 287-1650 Fax: (207) 287-6468*

*Disclaimer*

*Contact the Office of the Revisor of Statutes*

# TOWN OF CLINTON

27 BAKER STREET  
CLINTON, ME 04927

Ph: 426-8511

Fax: 426-8323

Mr. Lincoln Alward  
PO Box 56  
Madison, Maine 04950

October 10, 2007

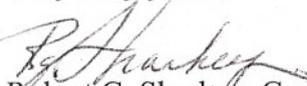
Dear Mr. Alward;

The dilapidated structure located on your property in Clinton as shown on Clinton Tax Map 8, Lot 1, 481 Mutton Lane is beyond economical repair and must be torn down and removed in accordance with Maine State Statute Title 17, Subsection 2851 Dangerous Buildings.

The Clinton Board of Selectmen will meet at 6:30 PM on October 23, 2007 to consider signing a Notice of Hearing to interested parties pursuant to Maine State Statute Title 17 M.R.S.A. Sub Section 2851, Dangerous Buildings.

You, or your Representative is invited to attend this meeting and offer any information that may favor your position.

Very truly yours,

  
Robert G. Sharkey, Code Enforcement Officer

Cc: James Rhodes, Clinton Town Manager

MAILED CERT.  
10-10-07

Note: Certified Mail Return Receipt.



## COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

Susan M Cooley 10/15/07

C. Signature

x Susan M Cooley

 Agent Addressee

D. Is delivery address different from item 1?

 Yes

If YES, enter delivery address below:

 No

1. Article Addressed to:

Mr. LINCOLN ALWARD  
P.O. Box 56  
MADISON, ME 04950

3. Service Type

 Certified Mail

4. Restricted Delivery? (Extra Fee)

 Yes

2. Article Number (Copy from service label)

7104 2230 1690 2922 7335

Please note: This packet is intended for general information purposes only and should not take the place of a thorough review of pertinent statutes, consultation with legal counsel, or other specific guidance on this subject.

## Dangerous Buildings

[PDF & Interactive PDF forms - How to Use and Download](#)

### This packet includes the following attachments:

- [Title 17 M.R.S.A. §§ 2851-2859](#) [Use the arrows to move within the sections]
- [Title 14 M.R.S.A. § 6321](#)
- [Rule 4, Maine Rules of Civil Procedure July 2005 edition](#)  [Go to page 21 in this PDF document for Rule 4]
- [Sample Notice of Hearing](#)  
- [Sample Findings and Order](#)  
- [Sample Consent to Removal](#) 
- [Sample Acknowledgment and Return of Service](#)  

### Important issues and considerations include:

#### I. Securing Structures

If a building poses a serious threat to public health and safety, a municipality may secure it pending the abatement proceedings discussed below, and may recover its expenses from the owner (17 M.R.S.A. § 2856). Notice must be served on the owner and all parties-in-interest in accordance with 17 M.R.S.A. § 2851(1), but notice need not be given in advance if prompt action to secure the structure is necessary.

#### II. Local Process; Alternative Summary Process

State law provides three methods for abating the nuisance and public safety threat posed by a dangerous building. Under the first method, the municipal officers (selectpersons or councilors) may, after notice and hearing, find that a building or structure, or portion thereof, is unsafe and is therefore a nuisance or dangerous and must be disposed of (17 M.R.S.A. § 2851). Notice of the hearing must be served on the owner and upon all parties-in-interest as defined in 14 M.R.S.A. § 6321 (mortgagors, holders of the fee interest, mortgagees, lessees under recorded leases, lienors and attaching creditors, all as shown by Registry of Deeds records and documents referred to therein). Published notice is required where the name or address of any owner or co-owner is unknown (17 M.R.S.A. § 2851(2)). The notice must be recorded in the Registry of Deeds by the municipal clerk (17 M.R.S.A. § 2857). After the hearing, the municipal officers may issue an order: "prescribing what disposal must be made of that building or structure" (17 M.R.S.A. § 2851). Most often, the order is for abatement of structural defects within a specific period of time or removal of the structure. However, nothing in the statute limits municipal remedies, and it may order a building demolished. Neither the statute nor due process of law

requires the municipality to first list the defects and allow a reasonable time for repairs before demolition. *Kirkpatrick v. City of Bangor*, 1999 ME 73, 728 A.2d 1268. The municipal clerk must record the order in the Registry of Deeds and must also serve an attested copy of the order upon the owner and all parties-in-interest (17 M.R.S.A. § 2851(3)). An appeal may be taken to Superior Court from the decision of the municipal officers. If no appeal is filed, the municipal officers may order the building or structure to be repaired or removed (17 M.R.S.A. §§ 2852-2853).

The second method of abatement is an alternative to proceeding before the municipal officers. Instead, a municipality may seek an abatement and/or demolition order directly from Superior Court (17 M.R.S.A. § 2851(4)). After a hearing, the Court may order abatement/demolition and may award costs to the municipality.

The third method of abatement is a "summary" (immediate) process that may be used in cases involving an immediate and serious threat to public health, safety and welfare (17 M.R.S.A. § 2859). To use the summary process, the building inspector (or other official named in the statute) must file a verified complaint with the Superior Court. The court may act "ex parte" to set a hearing date (within 10 days of the filing) and order the owner(s) to appear. Upon hearing, the court may order abatement/removal and may assess costs. There is no appeal from the court's judgment, although the owner may, within 30 days, contest costs and seek damages for wrongful removal if provable.

### **III. Acknowledgment; Return of Service**

On a legal document, an "acknowledgment" attests to the authenticity of a signature and is required in order to record the document at the county Registry of Deeds. A "return of service" evidences that a copy of the document was actually served on a person by someone with authority to do so. All of the suggested forms in this packet should include an acknowledgment for each signature and should be recorded in the Registry of Deeds (17 M.R.S.A. §§ 2851, 2857 and 2858). Any notice or order required to be served on an owner or party-in-interest should also include a return of service (17 M.R.S.A. §§ 2851 and 2856). Service must be made by mail or by a sheriff or deputy in the same manner as a court summons is served (Rule 4, M.R.Civ.P.). Please note that while service on an out-of-state property owner may be made in the same manner in which service is made in Maine, the person serving the order on an out-of-state property owner must be one authorized to do so under the laws of the state where service is attempted.

### **IV. Records**

In any proceeding before the municipal officers, a full record of testimony and deliberations should be kept (either a clearly audible tape recording or a written verbatim transcript). Documentary evidence (such as photos and inspection reports) also should be compiled and preserved. This record is essential to sustaining the municipal officers' decision if it is appealed. Proof of expenses (such as time cards and invoices) also will be important if a municipality itself undertakes the abatement and seeks to recover its costs.

### **V. Special Tax**

If municipal expenses of abatement are not paid by the owner(s) within 30 days of demand, these costs may be recovered by assessing a "special tax" against the land (17 M.R.S.A. § 2853). The tax must be included in the "next annual warrant" to the collector and may be collected in the same manner as property taxes (including by automatic lien foreclosure).

### **VI. Additional Concerns**

As the discussion above indicates, a determination that a structure is a dangerous building requires careful consideration by the municipal officers and strict compliance with the requirements of State law, including complex notice provisions. A title search is recommended to identify all parties-in-interest entitled to notice of the proceedings. Moreover, demolition of property is a drastic measure that may result in liability for damages for wrongful removal. The

municipality should take care to protect the due process rights of the owner or parties-in-interest by providing a meaningful opportunity to be heard and to address municipal concerns. See *Kirkpatrick v. City of Bangor*, 1999 ME 73, 728 A.2d 1268; *Michaud v. City of Bangor*, 196 A.2d 106 (Me. 1963). Therefore, we strongly urge municipal officers to consult with local counsel before commencing such a proceeding. The municipality may recover the cost of legal advice as part of the "special tax" assessed against the property. (See *City of Brewer v. Michael W. Conners*, 2004 Me. Super. LEXIS 135 (No. CV-03-2, Me. Super. Ct., Pen. Cty., May 28, 2004), in which the Court awarded the City both its costs for demolishing the dangerous buildings and its attorney's fees and costs for bringing the action.)

Finally, and again in consideration of the complexity of the formal procedures outlined above, a municipality should first attempt to resolve the issue of an unsafe building informally by sending a letter by certified mail, return receipt requested, to the property owner setting forth the problem and explaining that unless the problem is resolved to the municipality's satisfaction within a specified number of days, the municipality will commence proceedings to have the building or structure demolished. Municipalities should be aware that any negotiated consent which allows the municipality to demolish property and assess a special tax against the property must include written consent by all parties-in-interest. Notices of the consent must be recorded in the Registry of Deeds (17 M.R.S.A. § 2858).

Date of last revision: 8/04

The statutes referenced here may have been amended during the last legislative session, and we will update them when the text becomes available.



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### Query *Title 17 Section 2852* on document *Title 17 - §2852. Appeal; hearing*

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#### §2852. Appeal; hearing

An appeal from a decision of the municipal officers or county commissioners must be to the Superior Court, pursuant to the provisions of the Maine Rules of Civil Procedure, Rule 80B. [1997, c. 6, §2 (amd).]

#### Section History:

PL 1965, Ch. 284, § (RPR). PL 1979, Ch. 27, §4 (RPR). PL 1997, Ch. 6, §2 (AMD).

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#### §2853. Municipal officers may order nuisance abated

If no appeal is filed, the municipal officers of such municipality shall cause said nuisance to be abated or removed in compliance with their order, and all expenses thereof shall be repaid to the municipality by the owner or co-owner within 30 days after demand or a special tax may be assessed by the assessors against the land on which said building was located for the amount of such expenses and such amount shall be included in the next annual warrant to the tax collector of said town for collection, and shall be collected in the same manner as other state, county and municipal taxes are collected. [1967, c. 401, § 2 (amd).]

In the case of any claim for expenses incurred in the abatement or removal of any wharf, pier, pilings or any portion thereof which extends beyond the low water mark, the special tax authorized by this section shall apply to the land from which such wharf, pier or pilings extended or to which they were adjacent, provided the owner of the land is also the owner of the said wharf, pier, pilings or portion thereof. [1973, c. 143, § 2 (new).]

Expenses shall include, but not by way of limitation, the costs of << **title**>> searches, location reports, service or process, costs of removal of the structure, any costs incurred in securing the structure, pending its removal, and all other costs incurred by the municipality which are reasonably related to the removal of the structure. In addition to levying a special tax, the municipality may recover its expenses, including its reasonable attorney's fees, by means of a civil action brought against the owner. [1979, c. 27, § 5 (new).]

#### Section History:

PL 1965, Ch. 284, § (RPR). PL 1967, Ch. 401, §2 (AMD). PL 1973, Ch. 143, §2 (AMD). PL 1977, Ch. 707, §5-A (AMD). PL 1979, Ch. 27, §5 (AMD).

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**Abstract:** Prev.: Chapter 91 §2854. Next.: Chapter 91 §2856. Download Chapter 91. PDF. Word (RTF). Download Section 2855. Statute Search. List of Titles. Maine Law. Disclaimer. Revisor's Office. Maine Legislature. Title 17: CRIMES. Chapter 91: NUISANCES. Subchapter 4: DANGEROUS BUILDINGS 2855. Entry into force by town vote (REPEALED). Section History: PL 1965, Ch. 284, RP ). The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public. If you need legal advice, plea

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§2855. Entry into force by town vote (REPEALED)

### Section History:

PL 1965, Ch. 284, § (RP ).

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#### §2856. Securing dangerous structures

In addition to other proceedings authorized by this subchapter, a municipality shall have the right to secure structures which pose a serious threat to the public health and safety and to recover its expenses in so doing as provided in this subchapter. If a building is secured under this section, notice, in accordance with section 2851, subsection 1, shall be given. This notice need not be given before securing the structure if the threat to the public health and safety requires prompt action. [1979, c. 27, § 6 (new).]

#### Section History:

PL 1979, Ch. 27, §6 (NEW).

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#### §2857. Recording of notice

The municipal clerk shall cause an attested copy of the notice to be recorded in the Registry of Deeds located within the county where the structure is situated. Recording of this notice shall be deemed to put any person claiming under the owner of a structure subject to proceedings under this subchapter on notice of the pendency of the proceedings. [1979, c. 27, § 6 (new).]

#### Section History:

PL 1979, Ch. 27, §6 (NEW).

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§2858. Consent to removal

The owner and parties-in-interest of a dangerous structure may consent to its removal and to the recovery of the expenses incurred by a municipality by means of a special tax as set forth in this subchapter. Notices of the consent shall be recorded in the Registry of Deeds located in the county where the structure is situated. [1979, c. 27, § 6 (new).]

Section History:

PL 1979, Ch. 27, §6 (NEW).

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#### §2859. Summary process

In cases involving an immediate and serious threat to the public health, safety or welfare, in addition to any other remedies, a municipality may obtain an order of demolition by summary process in Superior Court, in accordance with this section. [1981, c. 43 (new).]

1. Commencement of action. A municipality, acting through its building inspector, code enforcement officer, fire chief or municipal officers, shall file a verified complaint setting forth such facts as would justify a conclusion that a building or structure is "dangerous," as that term is defined in section 2851; and shall state therein that the public health, safety or welfare requires the immediate removal of that building or structure.[1981, c. 43 (new).]

2. Order of notice. Whenever a complaint is filed under this section, the justice before whom it is brought, acting ex parte, shall promptly issue an order:

A. Requiring the owner and all parties-in-interest, as that term is defined in the statutes governing foreclosure by civil action, to appear and show cause why the building or structure should not be ordered demolished; [1981, c. 43 (new).]

B. Specifying the method of service of the order and the complaint; [1981, c. 43 (new).]

C. Setting a time and place for hearing the complaint, which shall be the earliest possible time but not be later than 10 days from the date of filing; and [1981, c. 43 (new).]

D. Fixing the time for filing an answer to the complaint if the court determines that an answer is required. [1981, c. 43 (new).][1981, c. 43 (new).]

3. Enlargement of time; default. The court may for good cause shown enlarge the time for the hearing. If the owner or parties-in-interest, or any of them, fail to answer, if an answer is required, or fail to appear as directed, or to attend the hearing at the time appointed or as enlarged, the court shall order a default judgment to be entered with respect to the owner or parties-in-interest.[1981, c. 43 (new).]

4. Hearing. After hearing, the court shall enter judgment. If the judgment requires removal of the building or structure, the court shall award costs to the municipality as authorized by this subchapter. The award of costs may be contested and damages sought in a separate action to the extent permitted by subsection 7.[1981, c. 43 (new).]

5. Appeal. No judgment requiring demolition issued pursuant to this section may be appealed. The

owner of a building or structure which is the subject of an order issued under this section, or a party-in-interest, may appeal the award of costs, if any, or seek damages for wrongful removal pursuant to subsection 7.[1981, c. 43 (new).]

6. Stay. No judgment authorizing demolition may be stayed pending appeal, unless the court first determines that granting a stay would not pose a significant risk to the public health, safety or welfare. [1981, c. 43 (new).]

7. Damages. Any complaint that either seeks damages for the wrongful removal of a building or structure or challenges the award of costs must be filed no later than 30 days from the date of the judgment or order that is the subject of the appeal. The damages that may be awarded for wrongful demolition are limited to the actual value of the structure at the time of its removal. The provisions of << Title>> 14, section 7552 do not apply. If the municipality should prevail, the court may award it its costs in defending any appeal which may include, but are not limited to, reasonable attorney's fees. [1995, c. 450, §6 (amd).]

#### Section History:

PL 1981, Ch. 43, § (NEW).

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***Commencement of foreclosure by civil action***

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Chapter 713: MISCELLANEOUS PROVISIONS RELATING TO FORCLOSURE OF REAL PROPERTY MORTGAGES Subchapter 6: FORECLOSURE PROCEEDINGS BY CIVIL ACTION

§6321. Commencement of foreclosure by civil action

After breach of condition in a mortgage of first priority, the mortgagee or any person claiming under him may proceed for the purpose of foreclosure by a civil action against all parties in interest in either the Superior Court or the District Court in the division wherein the mortgaged premises or any part thereof is located, regardless of the amount of the mortgage claim. The method of foreclosure of real estate mortgages provided by this section is an alternative method to those provided in sections 6201 and 6203 and is specifically subject to the order of priorities set out in section 6205. [1983, c. 447, §2 (amd).]

After breach of condition of any mortgage other than one of the first priority, the mortgagee or any person claiming under him may proceed for the purpose of foreclosure by a civil action against all parties in interest, except for parties in interest having a superior priority to the foreclosing mortgagee, in either the Superior Court or the District Court in the division wherein the mortgaged premises or any part thereof is located. Parties in interest having a superior priority shall not be joined nor will their interests be affected by the proceedings, but the resulting sale under section 6323 shall be of the defendant or mortgagor's equity of redemption only. The plaintiff shall notify the priority parties in interest of the action by sending a copy of the complaint to the parties in interest by certified mail. [1981, c. 429, §3 (new).]

The foreclosure must be commenced in accordance with the Maine Rules of Civil Procedure, and the mortgagee shall also record a copy of the complaint or a clerk's certificate of the filing of the complaint in each registry of deeds in which the mortgage deed is or by law ought to be recorded and such recording thereafter constitutes record notice of commencement of foreclosure. The complaint must allege with specificity the plaintiff's claim by mortgage on such real estate, describe the mortgaged premises intelligibly, state the existence of public utility easements, if any, that were recorded subsequent to the mortgage and prior to the commencement of the foreclosure proceeding and without mortgagee consent, state the amount due on the mortgage, state the condition broken and by reason of such breach demand a foreclosure and sale. Service of process on all parties in interest and all proceedings must be in accordance with the Maine Rules of Civil Procedure. "Parties in interest"

include mortgagors, holders of fee interest, mortgagees, lessees pursuant to recorded leases or memoranda thereof, lienors and attaching creditors all as reflected by the indices in the registry of deeds and the documents referred to therein affecting the mortgaged premises, through the time of the recording of the complaint or the clerk's certificate. Failure to join any party in interest does not invalidate the action nor any subsequent proceedings as to those joined. Failure of the mortgagee to join, as a party in interest, the holder of any public utility easement recorded subsequent to the mortgage and prior to commencement of foreclosure proceedings is deemed consent by the mortgagee to such easement. Any other party having a claim to the real estate whose claim is not recorded in the registry of deeds as of the time of recording of the copy of the complaint or the clerk's certificate need not be joined in the foreclosure action, and any such party has no claim against the real estate after completion of the foreclosure sale; provided that any such party may move to intervene in the action for the purpose of being added as a party in interest at any time prior to the entry of judgment. [1991, c. 744, §1 (amd).]

For purposes of this section, "public utility easements" means any easements held by: public utilities, as defined in << Title>> 35-A, section 102; sewer districts as defined in << Title>> 38, section 1251; or sanitary districts as formed under << Title>> 38, chapter 11. [1991, c. 744, §2 (new).]

#### Section History:

PL 1975, Ch. 552, §5 (NEW). PL 1977, Ch. 564, §69 (AMD). PL 1981, Ch. 429, §2,3 (AMD). PL 1983, Ch. 447, §2 (AMD). PL 1991, Ch. 744, §1,2 (AMD).

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**NOTICE OF HEARING**  
**Pursuant to 17 M.R.S.A. § § 2851-2859**  
**(Dangerous Buildings)**

TO: \_\_\_\_\_ (owner's name)  
\_\_\_\_\_ (address)  
\_\_\_\_\_

You are hereby notified that the Municipal Officers of the City/Town of \_\_\_\_\_

Maine will hold a hearing on \_\_\_\_\_  
(date) at \_\_\_\_\_ (time) at \_\_\_\_\_ (place) to determine whether the building/structure owned  
by you and located on land owned by \_\_\_\_\_ described as \_\_\_\_\_  
\_\_\_\_\_ (type of premises) and shown on Map \_\_\_\_\_, Lot \_\_\_\_\_  
of the current Tax Maps of the City/Town of \_\_\_\_\_, Maine on file at \_\_\_\_\_  
(place), is dangerous or a nuisance within the meaning of 17 M.R.S.A. § 2851. If the Municipal  
Officers so determine, they may order abatement of said nuisance including but not limited to  
demolition and removal of said building/structure. If their order is not timely complied with and  
no appeal is taken, the Municipal Officers may undertake said abatement at municipal expense  
and recover all such expenses, including reasonable attorney's fees, by means of a special tax or  
civil action.

Dated: \_\_\_\_\_ Municipal Officers City/Town of \_\_\_\_\_, Maine

/s/ \_\_\_\_\_ /s/ \_\_\_\_\_  
/s/ \_\_\_\_\_

STATE OF MAINE  
\_\_\_\_\_ County, ss

Date: \_\_\_\_\_.

Personally appeared before me the above-named \_\_\_\_\_,  
\_\_\_\_\_, and \_\_\_\_\_  
and each acknowledged the foregoing instrument to be his/her free act and deed.

\_\_\_\_\_  
Notary Public/Attorney at Law

**FINDINGS AND ORDER**

Pursuant to 17 M.R.S.A. §§ 2851-2859  
(Dangerous Buildings)

TO: (owner's name) \_\_\_\_\_

(address) \_\_\_\_\_

On \_\_\_\_\_ (date) at \_\_\_\_\_ (time) at \_\_\_\_\_ (place), the Municipal Officers of the City/Town of \_\_\_\_\_, Maine held a hearing to determine whether the building/structure owned by you and located on land owned by \_\_\_\_\_, described as \_\_\_\_\_ (type of premises) and shown on Map \_\_\_\_\_, Lot \_\_\_\_\_ of the current Tax Maps of the City/Town of \_\_\_\_\_, Maine on file at \_\_\_\_\_ (place), is dangerous or a nuisance within the meaning of 17 M.R.S.A. § 2851. Notice of said hearing was duly served on said owner(s) and all parties in interest. The following persons were present and testified:

\_\_\_\_\_. Based on their testimony and other evidence presented and made part of the record, the Municipal Officers find the following facts:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_. Based on the foregoing findings, the Municipal Officers conclude that said building/structure is dangerous or a nuisance because (specify applicable conditions as described in 17 M.R.S.A. § 2851):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_. Therefore, pursuant to 17 M.R.S.A. § 2851, you are hereby ORDERED to (specify action):

\_\_\_\_\_  
\_\_\_\_\_ said abatement to be completed within \_\_\_\_\_ days of service of this order.

This decision may be appealed to Superior Court under the Maine Rules of Civil Procedure, Rule 80B. If this order is not timely complied with and no timely appeal is taken, the Municipal Officers may undertake said abatement at municipal expense and recover all such expenses, including reasonable

attorney's fees, by means of a special tax or civil action.

Dated: \_\_\_\_\_ Municipal Officers City/Town of \_\_\_\_\_, Maine

/s/ \_\_\_\_\_ /s/ \_\_\_\_\_

/s/ \_\_\_\_\_

STATE OF MAINE

\_\_\_\_\_ County, ss. Date: \_\_\_\_\_

Personally appeared before me the above-named \_\_\_\_\_,  
\_\_\_\_\_, and \_\_\_\_\_ and each acknowledged the  
foregoing instrument to be his/her free act and deed.

\_\_\_\_\_  
Notary Public/Attorney at Law

**CONSENT TO REMOVAL**  
**Pursuant to 17 M.R.S.A. §§ 2851-2859**  
**(Dangerous Buildings)**

I, \_\_\_\_\_, of \_\_\_\_\_,  
(owner) (address)

for myself, my successors, heirs and assigns, hereby consent to the removal by the City/Town of \_\_\_\_\_, Maine, or its agents, of the building/structure owned by me and located on land owned by \_\_\_\_\_,

described as \_\_\_\_\_ and shown on Map adf \_\_\_\_\_,  
(type of premises)

Lot dfa \_\_\_\_\_ of the current Tax Maps of the City/Town of \_\_\_\_\_, Maine on file at \_\_\_\_\_ (place)

I further admit liability to the City/Town of \_\_\_\_\_, Maine for all expenses reasonably related to said removal, not to exceed \$ fdfsafda and consent to recovery of said expenses by means of a special tax as set forth in 17 M.R.S.A. §§ 2851-2859 or civil action. I further waive any claim whatsoever arising out of said removal or relating to recovery of the expenses thereof.

Dated: \_\_\_\_\_ /s/ \_\_\_\_\_

Agreed:  
\_\_\_\_\_  
(party in interest)

Dated: \_\_\_\_\_ Municipal Officer \_\_\_\_\_, ME  
City/Town of \_\_\_\_\_

STATE OF MAINE

Date:

\_\_\_\_\_ County, ss.

Personally appeared before me the above-named \_\_\_\_\_,

\_\_\_\_\_, and \_\_\_\_\_,

and each acknowledged the foregoing instrument to be his/her free act and deed.

\_\_\_\_\_  
Notary Public/Attorney at Law

# ACKNOWLEDGMENT and RETURN OF SERVICE

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## STATE OF MAINE

(county), ss.

Personally appeared the above-named \_\_\_\_\_ and acknowledged the foregoing instrument to be his/her free act and deed (in his/her said capacity).

/s/ \_\_\_\_\_  
Justice of the Peace/Notary Public

## RETURN OF SERVICE

## STATE OF MAINE

(county), ss.

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I made service of the within notice/order

upon \_\_\_\_\_ by delivering a copy thereof to

\_\_\_\_\_  
(name) (address)

Service \$ \_\_\_\_\_

Acknowledgment \_\_\_\_\_ /s/ \_\_\_\_\_  
Sheriff/Deputy Sheriff

Travel, miles one way \_\_\_\_\_

Postage \_\_\_\_\_

Amount \$ \_\_\_\_\_

# AGENDA

## ITEM

5. i.



Town of Clinton  
27 Baker Street

426-8511 phone

Clinton, ME 04927

426-8323 fax

**RESOLUTION 07-21**  
**ACCEPTANCE OF AUDIT REPORT**  
*For*  
**YEAR ENDING JUNE 30, 2007**

WHEREAS, Town Charter, Article V, Section 5.16 Annual Audit, subsection (c) Action of the Board of Selectmen requires acceptance of the annual audit report by resolution ; and

WHEREAS, the Board of Selectmen received the draft audit report on October 9, 2007 for their review.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SELECTMEN OF THE TOWN OF CLINTON, that the Audit Report is accepted.

Sealed with the Seal of the Town of Clinton on this twenty-third day of October in the year Two Thousand Seven.

\_\_\_\_\_  
Jeffrey Towne, Chairman

\_\_\_\_\_  
Chester Nutting

\_\_\_\_\_  
Stephen Hatch

\_\_\_\_\_  
Joseph Massey

\_\_\_\_\_  
Randy Clark

