

# AGENDA

## ITEM

12. b.



Town of Clinton  
27 Baker Street

426-8511 phone

Clinton, ME 04927

426-8323 fax

## RESOLUTION 08-13

# BOARD OF SELECTMEN DECLARATION OF EMERGENCY AND EMERGENCY APPROPRIATION

WHEREAS, the Town of Clinton Police Department 2004 Chevrolet Impala police cruiser has been disabled on a number of occasions and did not pass the state inspection. The vehicle has 117,922 miles on it and has experienced continuing serious maintenance problems including a requirement to completely replace the brake system, exhaust system, rubber seals on the front axle and other reoccurring problems; and

WHEREAS, the condition of the vehicle makes it unable to be safely operated, especially at high speeds in emergency situations, it affects the life, health, property and public peace of the citizens of the Town of Clinton as well as the staff of the Police Department. It is not a safe or dependable vehicle for emergency responses, going to scenes of accidents, providing aid and pursuit in enforcement activities; and

WHEREAS, the Town of Clinton Home Rule Charter, at § 5.06(b) authorizes four (4) Selectmen to make an emergency appropriation upon a finding that a public emergency exists effecting life, health, property or the public peace.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SELECTMEN OF THE TOWN OF CLINTON, that a public emergency effecting life, health, property or public peace exists because of the condition of the Clinton Police Department police cruiser and therefore the Board authorizes an emergency appropriation of \$25,000 to be used for the purchase of a new police cruiser and related accessory equipment from Quirk Ford, Augusta, Maine, and to fund the purchase from the Municipal Police Reserve Account, #2-735-02, for \$9,000 and the balance from the Police Department General Account, #06-020-26, for \$16,000, subject to the passage of separate resolutions authorizing the expenditures from two said accounts and the transferring of \$16,000 from the Debt Service Account, #13-010-11 to the Police Department Account, #06-020-26.

Sealed with the Seal of the Town of Clinton on this eighth day of July in the year Two Thousand eight.

\_\_\_\_\_  
Jeffrey Towne

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

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

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



**DYER GOODALL AND DENISON, P.A.**

Attorneys at Law  
61 Winthrop Street  
Augusta, Maine 04330

Electronic Mail: [cgoodall@mainelanduselaw.com](mailto:cgoodall@mainelanduselaw.com)

Clifford H. Goodall  
Mary A. Denison

Linda Smith Dyer  
(1948 - 2001)

July 3, 2008

Telephone  
(207) 622-3693

Fax:  
(207) 622-4417

Board of Selectmen  
Town of Clinton  
27 Baker Street  
Clinton, ME 04927-0219



**FAXED**

7/3/08

12:05 PM

CMZ

Re: Authority to Transfer Funds to use Reserve Accounts  
and Purchase Police Cruiser

Dear Board of Selectmen:

**QUESTION**

Does the Town of Clinton Board of Selectmen have the authority, after the Town Meeting has set the budget, to determine that an emergency exists; to make an emergency appropriation; transfer unencumbered account balances from the Debt Service Account to the Police Department Account; and to authorize the use and withdrawal from the Police Reserve Account and Police Department Account funds for the purchase of a new police cruiser?

**ANSWER**

Yes, because the Town of Clinton, in 2001, adopted a Charter under the Constitution of Maine, Article VIII, Part 2nd and 30A M.R.S.A. 2101 ex seq. The answer to the question is found in the Charter is § 5.06(b, d, e) which set out authority and procedures for amending the Town's budget after it has been adopted by the voters. Also of importance is § 5.04(c), which authorizes the Selectmen to create and set the purpose and authority to use and withdraw funds for reserve accounts.

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July 3, 2008

Town of Clinton Board of Selectman

## DISCUSSION

### **Police Reserve Account:**

In the Town of Clinton Charter, at § 5.04(c), the Board of Selectmen has the authority to create reserve accounts. This includes the authority to determine the intent and purpose of the reserve account, how it is going to be funded and it also includes the authority for the Board of Selectmen to use the reserve account and to withdraw funds from it for the purposes of the account.

As is done annually, the Board of Selectmen, by Resolution 08-04, created fifteen designated capital reserve funds, including the Police Department Vehicle and Equipment Fund, which is Account 2-735-02.

This Resolution, as required by the Charter, authorizes the Board of Selectmen to use the funds and to withdraw the funds from the account. The balance, at the time that the fund was re-created and reaffirmed by this Resolution was \$9,064.52.

Given the provisions of the Charter, the Selectmen have the authority, by Resolution, to withdraw and to use this balance in the Police Reserve Account for the purchase of a new police cruiser.

### **Transfer of Appropriation:**

Under the Charter, at § 5.06(d), the Board of Selectmen has the authority to transfer any unencumbered account balance between general accounts. § 5.06(e) limits the transferring authority as far as the Debt Service general account is concerned. It limits transfers out of the Debt Service general account to only an amount equal to an unencumbered balance of the Debt Service Account and balances not needed to pay debts required by law.

At the annual 2008 Town Meeting, the voters approved a general Debt Service Account of \$76,664.00 of which \$16,000.00 was designated for a police cruiser, Account No. 13-01-11. This is unencumbered because the Town did not pass Article 16 for the purchase of two police cruisers using a lease/purchase arrangement. As a result, the Selectmen have the authority, under the cited sections of the Charter, to transfer this \$16,000.00, Count No.13-01-11, out of the general Debt Service Account and into the Police Department general account, where it can be used for the purchase of a vehicle.

### **Emergency Appropriation:**

Before the funds in the Reserve Account and the \$16,000.00 to be transferred into the Police Department general account can be used for the purchase of a new police cruiser, at least four of

Page 3

July 3, 2008

Town of Clinton Board of Selectman

the Board of Selectmen have to vote affirmatively for a separate resolution that states that a public emergency exists that effects the life, health, property and the public peace of the Town of Clinton because the existing police cruiser to be replaced, cannot pass inspection because of its age and condition is dangerous, not only to the police officers who must drive it at high speeds but also because it is not dependable it cannot be relied upon to protect the life, property and public peace of the Town of Clinton. The Selectmen also need to vote on a separate resolution to appropriate \$16,000.00 from the Police Account and the balance of the Police Reserve Account for a total of \$25,000.00 for the purchase of a new police cruiser and the related accessory equipment in order to meet the declared emergency situation.

### PROCEDURE

I recommend that the first resolution to be voted upon by the Board should be the Emergency Appropriate Resolution, which takes four votes to pass. If this does not pass then the transferring of funds and the expenditure of the Reserve Account resolution would not be necessary. If the four Selectmen determine that the emergency exists and pass that resolution, then they should vote next on the resolution to transfer the unencumbered balance in the Debt Service Account of \$16,000.00 to the Police Department general account. Next, they should vote on the resolution authorizing the expenditure of the Police Reserve Account for the new police cruiser.

If all three resolutions pass, then the cruiser can be purchased.

I have enclosed suggested wordings of the resolutions that need to be put into your regular resolution format.

I hope this information is helpful.

Best regards,



CLIFFORD H. GOODALL

CHG/bas



**RESOLUTION 08-\_\_**

**BOARD OF SELECTMEN AUTHORIZATION  
TO TRANSFER FUNDS IN THE AMOUNT OF THE UNENCUMBERED  
BALANCE OF THE DEBT SERVICE ACCOUNT, #13-010-11, TO THE  
POLICE DEPARTMENT GENERAL ACCOUNT, #6-\_\_-\_\_ TO  
PURCHASE A POLICE CRUISER**

WHEREAS, the Board of Selectmen, under the Town of Clinton Home Rule Charter §§ 5.06(d, e), has the authority to transfer unencumbered balances between general accounts, including an unencumbered balance of the Debt Service Account; and

WHEREAS, the Debt Service Account, #13-010-11 has an unencumbered balance of \$16,000.00, which will not be used to pay any debt incurred by the Town or required by the law to be paid.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SELECTMEN OF THE TOWN OF CLINTON, that the Town Manager may transfer the unencumbered balance of \$16,000.00 from the Debt Service Account, #13-010-11, between general accounts to the Police Department General Account, #06-\_\_-\_\_ and authorizes the Town Manager to use said funds and to sign documents to complete the purchase of a new police cruiser and related accessory equipment from Quirk Ford, Augusta, Maine, and to fund a portion of the purchase from the Police Department Account #6-\_\_-\_\_ for \$16,000.00

 **DRAFT****RESOLUTION 08-\_\_****BOARD OF SELECTMEN DECLARATION OF EMERGENCY  
AND EMERGENCY APPROPRIATION**

WHEREAS, the Town of Clinton Police Department 2004 Chevrolet Impala police cruiser has been disabled on a number of occasions and did not pass the state inspection. The vehicle has 117,922 miles on it and has experienced continuing serious maintenance problems including a requirement to completely replace the brake system, exhaust system, rubber seals on the front axle and other reoccurring problems;

WHEREAS the condition of the vehicle makes it unable to be safely operated, especially at high speeds in emergency situations, it effects the life, health, property and public peace of the citizens of the Town of Clinton as well as the staff of the Police Department. It is not a safe or dependable vehicle for emergency responses, going to scenes of accidents, providing aid and pursuit in enforcement activities; and

WHEREAS the Town of Clinton Home Rule Charter, at § 5.06(b) authorizes four Selectmen to make an emergency appropriation upon a finding that a public emergency exists effecting life, health, property or the public peace.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SELECTMEN OF THE TOWN OF CLINTON, that a public emergency effecting life, health, property or public peace exists because of the condition of the Clinton Police Department police cruiser and therefore the Board authorizes an emergency appropriation of \$25,000.00 to be used for the purchase of a new police cruiser and related accessory equipment from Quirk Ford, Augusta, Maine, and to fund the purchase from the Municipal Police Reserve Account, #2-735-02, for \$9,000.00 and the balance from the Police Department general account for \$16,000.00, subject to the passage of separate resolutions authorizing the expenditures from two said accounts and the transferring of \$16,000.00 from the Debt Service Account, #13-010-11 to the Police Department account.

 **DRAFT**

**RESOLUTION 08-\_\_**

**BOARD OF SELECTMEN AUTHORIZATION TO USE  
MUNICIPAL POLICE RESERVE ACCOUNT**

**WHEREAS, the Town of Clinton Home Rule Charter at § 5.04(c) authorizes the Town of Clinton Board of Selectmen to determine the use and withdrawal of funds from reserve accounts; and**

**WHEREAS, the Town of Clinton Selectmen created, pursuant to the Town of Clinton Home Rule Charter § 5.04(c), by resolution 08-04, the reserve account #2-735-02 Police, with a balance of \$9,064.52, to be used for the purchase of a Police Department vehicles and equipment.**

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SELECTMEN OF THE TOWN OF CLINTON that the Town Manager is authorized to sign documents to complete the purchase of a new police cruiser and related accessory equipment from Quirk Ford, Augusta, Maine, and to fund a portion of the purchase from the Municipal Reserve Fund Account, #2-735-02 Police for \$9,000.00.**

To: Board of Selectman  
Town of Clinton

July 1, 2008

Thru: James Rhodes  
Town Manager  
Town of Clinton

From: Charles A. Runnels   
Chief of Police  
Town of Clinton

Subject: Request for immediate replacement of 2004 Chevrolet cruiser .

The 2004 Chevrolet Impala police cruiser is now disabled again, and this time it is more serious and expensive. The following problems were found in an inspection of the vehicle on June 30, 2008. The vehicle failed the inspection for the following reasons:

1. Needs a complete new set of brakes, everything needs to be replaced.
2. Needs a new exhaust system
3. Needs repair and new rubber boot seals to the front axle. This is a front wheel drive vehicle and this axle is critical to safe operation.
4. One new tire

The cost of these repairs by the estimate of Powers Auto is approximately \$ 500.00. In checking the records for the late year this vehicle has required maintenance in the amount of \$1882.83. With this additional \$ 500.00 the repair costs for the year would be \$2382.83. The entire maintenance budget is only \$2500.00. The vehicle has at this moment 117922 miles on it, so our maintenance problems are only going to get worse. I believe not only for safety concerns , but also for cost effectiveness this vehicle should be replaced before we sink anymore money into it.

I contacted Quirk Ford in Augusta and they have a police package 2008 Crown Victoria coming in the middle of July. This vehicle is not spoken for and we can purchase it \$ 22,503.00, I recommend that the town purchase this vehicle. There will be an additional cost for change over, putting radios, lights and other equipment in the vehicle. This cost will be about \$1500.00. However, without the police package where the wiring is put in and the holes for the light bar and other equipment are put in on the assembly line the cost would be about \$2500.00 for change over. There will also be a cost for stenciling the vehicle. Total cost will not exceed \$25,000.00.

As of now there is \$9000.00 in a cruiser replacement account. Also \$16000.00 was approved in the FY 08/09 Municipal Operating Budget Account 13-010-11 Police Cruiser. Between these two accounts there is enough to buy the new cruiser and pay for change over and stenciling.

In closing we must act quickly as the department is working with only one car. If anything happens to this car we will be unable to function. A decision has to be made as soon as possible to spend 20% if this years maintenance budget to fix a badly worn out car or buy a new one.

**AGENDA**

**ITEM**

**12. c.**



Town of Clinton  
27 Baker Street

426-8511 phone

Clinton, ME 04927

426-8323 fax

## RESOLUTION 08-14

BOARD OF SELECTMEN AUTHORIZATION TO TRANSFER FUNDS IN THE AMOUNT OF THE UNENCUMBERED BALANCE OF THE DEBT SERVICE ACCOUNT, #13-010-11, TO THE POLICE DEPARTMENT GENERAL ACCOUNT, #06-020-26, TO PURCHASE A POLICE CRUISER

WHEREAS, the Board of Selectmen, under the Town of Clinton Home Rule Charter §§ 5.06(d,e), has the authority to transfer unencumbered balances between general accounts, including an unencumbered balance of the Debt Service Account; and

WHEREAS, the Debt Service Account, #13-010-11, has an unencumbered balance of \$16,000, which will not be used to pay any debt incurred by the Town or required by law to be paid.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SELECTMEN OF THE TOWN OF CLINTON, that the Town Manager may transfer the unencumbered balance of \$16,000 from the Debt Service Account, #13-010-11, between general accounts to the Police Department General Account, #06-020-26, and authorizes the Town Manager to use said funds, trade-in the 2004 police cruiser, and to sign documents to complete the purchase of a new police cruiser and related accessory equipment from Quirk Ford, Augusta, Maine and to fund a portion of the purchase from the Police Department Account, #06-020-26, for \$16,000.

Sealed with the Seal of the Town of Clinton on this eighth day of July in the year Two Thousand eight.

\_\_\_\_\_  
Jeffrey Towne

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

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

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



**DYER GOODALL AND DENISON, P.A.**

Attorneys at Law  
61 Winthrop Street  
Augusta, Maine 04330

Electronic Mail: [cgoodall@mainelanduselaw.com](mailto:cgoodall@mainelanduselaw.com)

Clifford H. Goodall  
Mary A. Denison

Telephone  
(207) 622-3693

Linda Smith Dyer  
(1948 - 2001)

Fax:  
(207) 622-4417

July 3, 2008

Board of Selectmen  
Town of Clinton  
27 Baker Street  
Clinton, ME 04927-0219



**FAXED**  
7/3/08

12:05 PM

*CM 92*

Re: Authority to Transfer Funds to use Reserve Accounts  
and Purchase Police Cruiser

Dear Board of Selectmen:

**QUESTION**

Does the Town of Clinton Board of Selectmen have the authority, after the Town Meeting has set the budget, to determine that an emergency exists; to make an emergency appropriation; transfer unencumbered account balances from the Debt Service Account to the Police Department Account; and to authorize the use and withdrawal from the Police Reserve Account and Police Department Account funds for the purchase of a new police cruiser?

**ANSWER**

Yes, because the Town of Clinton, in 2001, adopted a Charter under the Constitution of Maine, Article VIII, Part 2nd and 30A M.R.S.A. 2101 ex seq. The answer to the question is found in the Charter is § 5.06(b, d, e) which set out authority and procedures for amending the Town's budget after it has been adopted by the voters. Also of importance is § 5.04(c), which authorizes the Selectmen to create and set the purpose and authority to use and withdraw funds for reserve accounts.

Page 2

July 3, 2008

Town of Clinton Board of Selectman

## DISCUSSION

### **Police Reserve Account:**

In the Town of Clinton Charter, at § 5.04(c), the Board of Selectmen has the authority to create reserve accounts. This includes the authority to determine the intent and purpose of the reserve account, how it is going to be funded and it also includes the authority for the Board of Selectmen to use the reserve account and to withdraw funds from it for the purposes of the account.

As is done annually, the Board of Selectmen, by Resolution 08-04, created fifteen designated capital reserve funds, including the Police Department Vehicle and Equipment Fund, which is Account 2-735-02.

This Resolution, as required by the Charter, authorizes the Board of Selectmen to use the funds and to withdraw the funds from the account. The balance, at the time that the fund was re-created and reaffirmed by this Resolution was \$9,064.52.

Given the provisions of the Charter, the Selectmen have the authority, by Resolution, to withdraw and to use this balance in the Police Reserve Account for the purchase of a new police cruiser.

### **Transfer of Appropriation:**

Under the Charter, at § 5.06(d), the Board of Selectmen has the authority to transfer any unencumbered account balance between general accounts. § 5.06(e) limits the transferring authority as far as the Debt Service general account is concerned. It limits transfers out of the Debt Service general account to only an amount equal to an unencumbered balance of the Debt Service Account and balances not needed to pay debts required by law.

At the annual 2008 Town Meeting, the voters approved a general Debt Service Account of \$76,664.00 of which \$16,000.00 was designated for a police cruiser, Account No. 13-01-11. This is unencumbered because the Town did not pass Article 16 for the purchase of two police cruisers using a lease/purchase arrangement. As a result, the Selectmen have the authority, under the cited sections of the Charter, to transfer this \$16,000.00, Count No.13-01-11, out of the general Debt Service Account and into the Police Department general account, where it can be used for the purchase of a vehicle.

### **Emergency Appropriation:**

Before the funds in the Reserve Account and the \$16,000.00 to be transferred into the Police Department general account can be used for the purchase of a new police cruiser, at least four of

Page 3

July 3, 2008

Town of Clinton Board of Selectman

the Board of Selectmen have to vote affirmatively for a separate resolution that states that a public emergency exists that effects the life, health, property and the public peace of the Town of Clinton because the existing police cruiser to be replaced, cannot pass inspection because of its age and condition is dangerous, not only to the police officers who must drive it at high speeds but also because it is not dependable it cannot be relied upon to protect the life, property and public peace of the Town of Clinton. The Selectmen also need to vote on a separate resolution to appropriate \$16,000.00 from the Police Account and the balance of the Police Reserve Account for a total of \$25,000.00 for the purchase of a new police cruiser and the related accessory equipment in order to meet the declared emergency situation.

### PROCEDURE

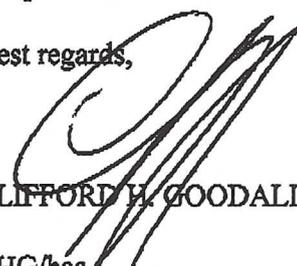
I recommend that the first resolution to be voted upon by the Board should be the Emergency Appropriate Resolution, which takes four votes to pass. If this does not pass then the transferring of funds and the expenditure of the Reserve Account resolution would not be necessary. If the four Selectmen determine that the emergency exists and pass that resolution, then they should vote next on the resolution to transfer the unencumbered balance in the Debt Service Account of \$16,000.00 to the Police Department general account. Next, they should vote on the resolution authorizing the expenditure of the Police Reserve Account for the new police cruiser.

If all three resolutions pass, then the cruiser can be purchased.

I have enclosed suggested wordings of the resolutions that need to be put into your regular resolution format.

I hope this information is helpful.

Best regards,



CLIFFORD H. GOODALL

CHG/bas

 **DRAFT**

**RESOLUTION 08-\_\_**

**BOARD OF SELECTMEN AUTHORIZATION  
TO TRANSFER FUNDS IN THE AMOUNT OF THE UNENCUMBERED  
BALANCE OF THE DEBT SERVICE ACCOUNT, #13-010-11, TO THE  
POLICE DEPARTMENT GENERAL ACCOUNT, #6-\_\_-\_\_ TO  
PURCHASE A POLICE CRUISER**

WHEREAS, the Board of Selectmen, under the Town of Clinton Home Rule Charter §§ 5.06(d, e), has the authority to transfer unencumbered balances between general accounts, including an unencumbered balance of the Debt Service Account; and

WHEREAS, the Debt Service Account, #13-010-11 has an unencumbered balance of \$16,000.00, which will not be used to pay any debt incurred by the Town or required by the law to be paid.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SELECTMEN OF THE TOWN OF CLINTON, that the Town Manager may transfer the unencumbered balance of \$16,000.00 from the Debt Service Account, #13-010-11, between general accounts to the Police Department General Account, #06-\_\_-\_\_ and authorizes the Town Manager to use said funds and to sign documents to complete the purchase of a new police cruiser and related accessory equipment from Quirk Ford, Augusta, Maine, and to fund a portion of the purchase from the Police Department Account #6-\_\_-\_\_ for \$16,000.00

 **DRAFT****RESOLUTION 08-\_\_****BOARD OF SELECTMEN DECLARATION OF EMERGENCY  
AND EMERGENCY APPROPRIATION**

WHEREAS, the Town of Clinton Police Department 2004 Chevrolet Impala police cruiser has been disabled on a number of occasions and did not pass the state inspection. The vehicle has 117,922 miles on it and has experienced continuing serious maintenance problems including a requirement to completely replace the brake system, exhaust system, rubber seals on the front axle and other reoccurring problems;

WHEREAS the condition of the vehicle makes it unable to be safely operated, especially at high speeds in emergency situations, it effects the life, health, property and public peace of the citizens of the Town of Clinton as well as the staff of the Police Department. It is not a safe or dependable vehicle for emergency responses, going to scenes of accidents, providing aid and pursuit in enforcement activities; and

WHEREAS the Town of Clinton Home Rule Charter, at § 5.06(b) authorizes four Selectmen to make an emergency appropriation upon a finding that a public emergency exists effecting life, health, property or the public peace.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SELECTMEN OF THE TOWN OF CLINTON, that a public emergency effecting life, health, property or public peace exists because of the condition of the Clinton Police Department police cruiser and therefore the Board authorizes an emergency appropriation of \$25,000.00 to be used for the purchase of a new police cruiser and related accessory equipment from Quirk Ford, Augusta, Maine, and to fund the purchase from the Municipal Police Reserve Account, #2-735-02, for \$9,000.00 and the balance from the Police Department general account for \$16,000.00, subject to the passage of separate resolutions authorizing the expenditures from two said accounts and the transferring of \$16,000.00 from the Debt Service Account, #13-010-11 to the Police Department account.

 **DRAFT**

**RESOLUTION 08-\_\_**

**BOARD OF SELECTMEN AUTHORIZATION TO USE  
MUNICIPAL POLICE RESERVE ACCOUNT**

WHEREAS, the Town of Clinton Home Rule Charter at § 5.04(c) authorizes the Town of Clinton Board of Selectmen to determine the use and withdrawal of funds from reserve accounts; and

WHEREAS, the Town of Clinton Selectmen created, pursuant to the Town of Clinton Home Rule Charter § 5.04(c), by resolution 08-04, the reserve account #2-735-02 Police, with a balance of \$9,064.52, to be used for the purchase of a Police Department vehicles and equipment.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SELECTMEN OF THE TOWN OF CLINTON that the Town Manager is authorized to sign documents to complete the purchase of a new police cruiser and related accessory equipment from Quirk Ford, Augusta, Maine, and to fund a portion of the purchase from the Municipal Reserve Fund Account, #2-735-02 Police for \$9,000.00.

**AGENDA**

**ITEM**

**12. d.**



Town of Clinton  
27 Baker Street

426-8511 phone

Clinton, ME 04927

426-8323 fax

## RESOLUTION 08-15

### BOARD OF SELECTMEN AUTHORIZATION TO USE MUNICIPAL POLICE RESERVE ACCOUNT

WHEREAS, the Town of Clinton Home Rule Charter § 5.04(c) authorizes the Town of Clinton Board of Selectmen to determine the use and withdrawal of funds from reserve accounts; and

WHEREAS, the Town of Clinton Board of Selectmen created, pursuant to Clinton Home Rule Charter § 5.04 (c), by resolution 08-04, the reserve account #2-735-02 police, with a balance of \$9,064.52, to be used for the purchase of Police Department vehicles and equipment.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SELECTMEN OF THE TOWN OF CLINTON, that the Town Manager is authorized to sign documents to complete the purchase of a new police cruiser and related accessory equipment from Quirk Ford, Augusta, Maine, and to fund a portion of the purchase from the Municipal Reserve Account, #2-735-02 Police for \$9,000.

Sealed with the Seal of the Town of Clinton on this eighth day of July in the year Two Thousand eight.

\_\_\_\_\_  
Jeffrey Towne

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

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

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



**AGENDA**

**ITEM**

**12.e.**

CERTIFICATE OF APPOINTMENT  
(Title 30, M.R.S.A. 2253)

# Selectmen's Office

MUNICIPALITY OF CLINTON

July 8, A.D. 2008

To **Michael C. Schimpff** of Clinton the County of Kennebec and the State of Maine:  
There being a vacancy in the position of **Clinton Water District Trustee**, the  
Selectmen of the Municipality of Clinton do, in accordance with the provisions of the law  
of the State of Maine, hereby appoint you as a Water District Trustee within and for the  
Municipality of Clinton, such appointment to be effective from July 9, 2008 through June  
30, 2011.

Given under our hand this 8th day of July, 2008.

By The Board of Selectmen of Clinton, Maine

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

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

STATE OF MAINE

County of Kennebec

\_\_\_\_\_, 2008

Personally appeared the above named Michael C. Schimpff who has been duly  
appointed by the Selectmen as a Clinton Water District Trustee in said Municipality, and  
took the oath necessary to qualify him to discharge said duties for the term specified  
above according to law. Before me,

\_\_\_\_\_ Municipal Clerk

**This Certificate and the Certificate of Oath shall be returned  
to the Municipal Clerk for filing.**

July 02, 2008

James Rhodes, Manager  
Town of Clinton  
27 Baker Street  
Clinton ME 04927

Dear Mr. Rhodes,

My term as Trustee of the Clinton Water District expired June 30, 2008. I respectfully request that the Selectpeople of the Town of Clinton consider my reappointment for the term 2008 – 2011. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael C. Schimpff". The signature is written in a cursive style with a large, stylized initial "M".

Michael C. Schimpff

# AGENDA

## ITEM

13. a.

STATE OF MAINE  
KENNEBEC, ss.

DISTRICT COURT  
DISTRICT OF KENNEBEC  
DIVISION OF WATERVILLE

TOWN OF CLINTON, )  
County of Kennebec, and )  
State of Maine )

Plaintiff )

v. )

TEMPORARY RESTRAINING  
ORDER

LEONARD POULIN )  
of Town of Benton, County of )  
Kennebec, and State of Maine )

Defendant )

This Order is issued June <sup>30</sup>~~27~~, 2008 at 12:00 P.M.

Leonard Poulin and all of his employees, agents, assistants, contractors, subcontractors and anyone else associated with him in any way or having anything to do with the gravel pit which is the subject matter of this temporary restraining order, are hereby ordered to cease and desist and no longer excavate any material and to transport from site any material from the land owned by Leonard Poulin this date identified as Lot 51 on Tax Map 1 of the Town of Clinton located on the Tardiff Road in the Town of Clinton.

The Court finds, without a hearing and without notice to the Defendant, based on the Complaint and the Affidavits filed by the Town of Clinton, that the Defendant, Leonard Poulin is in violation of the Town of Clinton Land Use Ordinance and Driveway/Entrance Rules and that he has never applied for the permits required by either Ordinance.

The Court also finds that it is more likely than not that the illegal driveway onto the Tardiff Road from the Poulin property does not have adequate sight distance to the north for large vehicles. The Court also finds that the driveway is significantly in excess of twenty-two feet wide, in violation of the Ordinance and that there are no culverts and

necessary drainage and stable construction material in the driveway where it meets the road. There is also no erosion control provided. As a result of these violations, the Court concludes that there is irreparable harm being caused to the Town's roads, to the Town's traffic safety, to the people that use and drive on the Tardiff Road and to the environment in the immediate vicinity. Unless the temporary restraining order is granted and Mr. Poulin applies for and receives the necessary permits.

The Court further finds that the gravel pit requires site plan review under the Town of Clinton Land Use Ordinance. In addition to the violation of no permit, the Court finds that there is irreparable harm in that the oil and fuel products are being handled in the pit area without adequate protection which can cause irreparable harm to the ground water and the drinking water of abutting property owners. The Court further finds that the failure to have two ponds, which are at least two feet deep in the pit, without the required fences by the Ordinance, is an attractive nuisance and a serious danger to the children that play in the area. The Court further finds that the gravel pit operation is as close as thirty-nine feet from the abutting property lines where the buffer is one hundred feet. That combined with the serious dust problems being created by the trucks and the lack of dust control and the illegal driveway, creates irreparable harm to the abutters from air pollution and to traffic safety to those on a very narrow rural road that the driveway enters onto.

The Court finds that the Defendant has refused to obey the CEO's stop work order and refuses to apply for permits.

This temporary restraining order is granted without notice because of the immediacy of the irreparable harm and threat to public health, safety and welfare and because of the attempt by the Town to stop the violations and stop the offensive activity, which has been ignored and avoided by the Defendant.

The Clerk shall schedule this matter for hearing on a preliminary injunction at the next earliest possible time.

Date: 6/30/08  
Chris

Judge, Waterville District Court

A true copy this 30 day of June

ATTEST: Judy Pelletier  
Clerk

STATE OF MAINE

DISTRICT COURT  
WATERVILLE  
Docket No. WATDC-CV-2008-00167

NOTICE OF HEARING

TOWN OF CLINTON  
Vs.  
LEONARD POULIN

To: CLIFFORD GOODALL  
DYER GOODALL AND FEDERLE LLC  
61 WINTHROP ST  
AUGUSTA ME 04330

This is to notify you that a hearing has been scheduled for MOTION PRELIMINARY  
INJUNCTION on 08/04/2008 at 01:00 in Room #1 at the above named court located at:

WATERVILLE DISTRICT COURT  
18 COLBY STREET  
WATERVILLE ME

If you wish to be heard, you must appear, in person or by counsel.

Date: 06/30/2008



Clerk

cc: LEONARD POULIN  
159 RIVER RD  
BENTON ME 04901

# AGENDA

## ITEM

13. b.

7. Fire extinguishers capable of dealing with electrical and wood fires shall be kept in all service buildings. A suitable ingress and egress shall be provided so that every campground may be readily serviced in emergency situations.

J. CLUSTER SUBDIVISION

The cluster provisions of the Subdivision Ordinance shall apply. (Note: Cluster development is required for all new subdivisions in the Rural District, unless it is determined not to be feasible or not to offer open space advantages. There is a two-plan requirement for all other districts.)

K. EXTRACTIVE ACTIVITIES

1. Any extractive industry which requires a permit from the Maine Department of Environmental Protection under the Site Location of Development Act shall obtain written approval from the Department of Environmental Protection in addition to approval by the Planning Board under the site plan review procedures of this Ordinance. Site plan approval by the Planning Board shall be conditioned upon State approval.
2. The Planning Board may require a performance guarantee sufficient to cover the cost of rehabilitation of the site at the conclusion of operations.
3. A buffer strip of not less than one hundred (100) feet shall be maintained between the location of any extraction of materials and all property lines.
4. All areas of standing water exceeding two (2) feet in depth shall be entirely enclosed by a fence.
5. No extraction of materials shall be permitted which creates a slope steeper than two (2) feet horizontal to one (1) foot vertical.
6. Operation of equipment and extraction of materials from the site shall be permitted only Monday through Friday between the hours of 7:00 a.m. and 7:00 p.m., and Saturday between the hours of 8:00 a.m. and 7:00 p.m.
7. Suitable traffic control measures shall be made available by the operator at all access points to public roads.
8. Upon cessation of the extraction of materials or upon the expiration of the Planning Board approval, the site shall be rehabilitated in accordance with a plan approved and endorsed by the County Soil Conservation Service and approved by the Planning Board.

the like, shall be considered a part of construction.

Day Care: Homes and Centers licensed as such by the Maine Department of Human Services.

Density: The number of dwelling units per lot of land.

Development: Any man-made changes to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

District: A specified portion of the municipality, delineated on the land use map, within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

Dwelling: Any building or structure or portion thereof designed or used for residential purposes.

1. Single-Family Dwelling - Any structure containing only one (1) dwelling unit for occupation by not more than one (1) family.
2. Two-Family Dwelling - A building containing only two (2) dwelling units, for occupation by not more than two (2) families.
3. Multi-Family Dwellings - A building containing three (3) or more dwelling units, such buildings being designed exclusively for residential use and occupancy by three (3) or more families living independently of one another, with the number of families not exceeding the number of dwelling units.
4. Dwelling Unit - A room or suite of rooms used by a family as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, sleeping, bathing and sanitary facilities.

Essential Services: Facilities for the transmission or distribution of water, gas, electricity or essential communications or for the collection, treatment or disposal of wastes, including without limitation, towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories but not buildings.

Extractive Industries: The excavation, processing or storage of soil, topsoil, peat, loam, sand, gravel, rock or other mineral deposits, not including:

1. The excavation of material incidental to and at the site of approved construction of buildings, driveways or parking areas;

2. The excavation of material incidental to and at the site of construction or repair of streets; and
3. The excavation, processing or storage of less than ten(10) cubic yards of material on a lot within a one year period.

Family: One or more persons occupying a dwelling and living as a single housekeeping unit, as distinguished from a group occupying a tourist home, rooming house, hotel, motel or inn.

Filling: Depositing or dumping any matter on or into the ground or water.

Flood: A temporary rise in stream flow or tidal surge that results in water overflowing its banks and inundating adjacent areas.

1. Flood Insurance Rate Map: the official map on which the Federal Emergency Management Agency (FEMA) has delineated both the areas of special flood hazard and the risk premium zones.
2. Flood Plain: the lands adjacent to a body of water which have been or may be covered by the regional flood.
3. Regional Flood: the maximum known flood of a body of water; either the 100 year frequency flood, where calculated, or the flood of record.
4. Floodway: the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Forestry: The operation of timber tracks, tree farms, forest nurseries, the gathering of forest products, or the performance of forest services.

Frontage Road: The horizontal, straight-line distance between the intersections of the side lot lines with the road right-of-way.

Garage: An accessory building, or part of a principal building, including a car port, used primarily for the storage of motor vehicles as an accessory use.

Gasoline Service Station: Any place of business at which gasoline, other motor fuels or motor oil are sold to the public for use in a motor vehicle, regardless of any other business on the premises.

Hardship: See Undue Hardship.

Hazardous Material: Any gaseous, liquid or solid materials, either in pure form or incorporated into other materials, designated as hazardous by the Maine Department of Environmental Protection.

**TABLE OF LAND USES**

KEY: Y = YES, PERMITTED; BUILDING PERMIT ONLY

N = NO, NOT PERMITTED

Y\* = PERMITTED, BUT SUBJECT TO SITE PLAN REVIEW AND THE ISSUANCE OF A BUILDING PERMIT

USE/STRUCTURE	COMMERCIAL (C)	INDUSTRIAL/COMMERCIAL (IC)	LOW DENSITY (LD)	MEDIUM DENSITY (MD)	RURAL (R)	RESOURCE PROTECTION (RP)	POTENTIAL DEVELOPMENT (PD)
<b>RESIDENTIAL</b>							
Accessory Structure	Y	Y	Y	Y	Y	Y*	Y
Cluster Development	N	N	Y*	Y	Y	N	Y
congregate Housing	Y	N	Y	Y	N	N	N
Duplex, 2 Family Dwelling	Y	N	Y	Y	Y	N	Y
Home Occupation	Y	Y	Y	Y	Y	N	Y
Manufactured Housing (Certified)	Y	Y	Y	Y	Y	Y*	Y
Mobile Home Park	N	N	N	Y*	N	N	N
Multi-family Dwelling	Y*	N	Y*	Y*	N	N	N
Single-family Dwelling	Y	Y	Y	Y	Y	Y*	Y
<b>COMMERCIAL</b>							
Accessory Structures	Y	Y	Y*	N	Y*	N	Y*
Amusement Facility	Y*	Y*	N	N	Y*	N	Y*
Commercial Recreation	Y	Y	N	N	Y*	N	Y*
Automobile Graveyard, Junkyard	N	Y*	N	N	Y*	N	Y*
Automobile Repair, Body Shop, Sales, Car Wash	Y	Y	N	N	N	N	N

Animal Breeding or Care	N	Y*	N	N	Y	N	Y
USE/STRUCTURE	COMMERCIAL (C)	INDUSTRIAL/COMMERCIAL (IC)	LOW DENSITY (LD)	MEDIUM DENSITY (MD)	RURAL (R)	RESOURCE PROTECTION (RP)	POTENTIAL DEVELOPMENT (PD)*
Campground	N	N	N	Y*	Y*	N	Y*
Cemetery	N	N	N	Y	Y	N	Y
Extractive Industry	N	N	N	Y*	Y*	N	Y*
Farm Stands	Y	Y	Y	Y	Y	Y	Y
Forsetry	Y	Y	Y	Y	Y	Y	Y
Golf Course excluding miniature golf	N	N	N	Y*	Y*	N	Y*
Parks and Recreation	Y	Y	Y	Y	Y	Y	Y

\*\* Potential Development (PD) zone is the Floating District defined in the Comprehensive Plan. This district is designated for future rezoning within the village area depending on need. Applicants requesting rezoning within the Potential Development zone must demonstrate that:

(1) the proposed site is more appropriate for the proposed use than areas already zoned for such use, either because of the availability of water and sewer and other services, or the suitability

of the soils; or

(2) there is no available land in areas already zoned for the proposed use. The Potential Development zone is presently subject to the controls of the Rural Zone, but may be rezoned to another district upon the affirmative vote of the Town.

**DIMENSIONAL REQUIREMENTS**

Lots in all districts shall meet or exceed the following minimum requirements (additional area may be required by other provisions of this Ordinance)

DIMENSIONS	COMMERCIAL (C)	INDUSTRIAL/COMMERCIAL (IC)	MEDIUM DENSITY (MD)	LOW DENSITY (LD)	RURAL (R)	RESOURCE PROTECTION (RP)	POTENTIAL DEVELOPMENT (PD)*
Minimum lot area (sq ft.)							
With Public Sewer	7,500	2 acres	7,500	7,500	7,500		(same as in rural district)
Without Public Sewer	43,560	2 acres	20,000	1 acre	2 acres		