FIRST BANCORP /NC/
Form PRE 14A
November 03, 2008

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934
(Amendment No. ______)

Filed by the Registrant x
Filed by a Party other than the Registrant o

Check the appropriate box:

x Preliminary Proxy Statement
o Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
o Definitive Proxy Statement
o Definitive Additional Materials
o Soliciting Material Pursuant to § 240.14A-12

FIRST BANCORP
(Name of Registrant as Specified in Its Charter)

N/A

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

x No fee required.
o Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

N/A

(2) Aggregate number of securities to which transactions applies:

N/A

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

N/A

(4) Proposed maximum aggregate value of transaction:

N/A

(5) Total fee paid:

N/A

o Fee paid previously with preliminary materials.

o Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

(1) Amount Previously Paid:

N/A

(2) Form, Schedule or Registration Statement No.:

N/A

(3) Filing Party:

N/A

(4) Date Filed:

N/A

341 North Main Street
Troy, North Carolina 27371-0508
Telephone (910) 576-6171

Notice of Special Meeting of Shareholders
To Be Held Thursday, December 11, 2008

To Our Shareholders:

A special meeting of shareholders of First Bancorp (the "Company") will be held at the James H. Garner Conference Center, 211 Burnette Street, Troy, North Carolina (see map on outside back cover) on Thursday, December 11, 2008 at 10:00 a.m. local time, for the purpose of considering and acting on the following matters:

1. A proposal to amend the Articles of Incorporation of the Company to authorize 5,000,000 shares of a new class of preferred stock, no par value.

2. Such other business as may properly come before the meeting, or any adjournment thereof.

Only shareholders of record as of the close of business on November 7, 2008 are entitled to notice of and to vote at the special meeting and any adjournment thereof.

Whether or not you expect to be present at the meeting, please complete, date and sign the enclosed form of proxy and return it promptly in the enclosed envelope. If you attend the meeting, your proxy will be returned to you upon request. You may also vote by telephone or on the Internet, as described in the proxy statement and on the proxy card.

Please note that the attached form of proxy requests you to indicate whether you plan to attend the special meeting. For planning purposes, we would appreciate your response to this question. If you initially indicate that you are not planning to attend and later want to, or do not indicate one way or the other, you are still welcome and invited to attend the meeting.

The proxy statement accompanying this notice sets forth additional information concerning the proposals to be considered at the special meeting. You are urged to study this information carefully.

By Order of the Board of Directors

Anna G. Hollers
Secretary

November 14 , 2008

First Bancorp
341 North Main Street
Troy, North Carolina 27371-0508
Telephone (910) 576-6171

PROXY STATEMENT

INTRODUCTION

This proxy statement is furnished to the shareholders of First Bancorp (sometimes referred to herein as the "Company") in connection with the solicitation of proxies by the Company for use at the special meeting of shareholders of the Company to be held on Thursday, December 11, 2008 at 10:00 a.m. local time, at the James H. Garner Conference Center, 211 Burnette Street, Troy, North Carolina (see map on outside back cover), and at any adjournment thereof. Action will be taken at the special meeting on the items described in this proxy statement and on any other business that properly comes before the meeting. This proxy statement and accompanying form of proxy are first being mailed to shareholders on or about November 14, 2008.

The accompanying proxy is for use at the special meeting if a shareholder either will be unable to attend in person or will attend but wishes to vote by proxy. Most shareholders have a choice of voting by completing the enclosed proxy card and mailing it in the postage-paid envelope provided, voting over the Internet or using a toll-free number. Each shareholder should refer to the proxy card or the information forwarded by the shareholder's bank, broker or other holder of record to see which voting options are available. Shareholders who vote over the Internet may incur costs, such as telephone and Internet access charges, for which the shareholder is responsible. The Internet and telephone voting facilities for eligible shareholders of record will close at 3:00 a.m. Eastern Daylight Time on December 11, 2008. Specific instructions to be followed by any shareholder interested in voting via the Internet or telephone are shown on the enclosed proxy card. The Internet and telephone voting procedures are designed to authenticate the shareholder's identity and to allow shareholders to vote their shares and confirm that their instructions have been properly recorded. In the event that the proxy card does not reference Internet or telephone voting information because the recipient is not the registered owner of the shares, the proxy card must be completed and returned in the self-addressed, postage-paid envelope provided.

Any shareholder giving a proxy may revoke it at any time before a vote is taken by (i) duly executing a proxy bearing a later date; (ii) executing a notice of revocation in a written instrument filed with the secretary of the Company; or (iii) appearing at the meeting and notifying the secretary of the intention to vote in person. Unless a contrary choice is specified, all shares represented by valid proxies received pursuant to this solicitation, and not revoked before they are exercised, will be voted as set forth in this proxy statement. In addition, the proxy confers discretionary authority upon the persons named therein, or their substitutes, with respect to any other business that may properly come before the meeting, which may include a motion to adjourn the meeting to a later time if a quorum is not present.

The presence, in person or by proxy, of the holders of a majority of the outstanding shares of the Company's common stock entitled to vote is necessary to constitute a quorum at the annual meeting. If a quorum is not present or represented at the meeting, the shareholders present and entitled to vote have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present or represented. At any such adjourned meeting at which a quorum is present or represented, any business may be transacted that might have been transacted at the meeting as originally notified. All shares represented by properly executed proxies returned to the Company, including those on which no voting instructions are indicated (including broker non-votes) and those on which shareholders have abstained from voting, will be counted as present for purposes of determining if a quorum is present.

We will bear the entire cost of preparing this proxy statement and of soliciting proxies. Proxies may be solicited by our employees, either personally, by special letter, or by telephone, but they will not receive additional compensation for doing so. We have retained the services of The Altman Group, Inc. to assist us in the solicitation of proxies from banks, brokers, nominees and intermediaries. We estimate that we will pay this firm a fee of approximately $8,500 for their services. We also will request brokers and others to send solicitation material to beneficial owners of stock and will reimburse their costs for this purpose.

Only shareholders of record as of the close of business on November 7, 2008 will be entitled to vote at the meeting or any adjournment thereof. At such time, there were [16,546,964] shares of common stock issued and outstanding. Shareholders are entitled to one vote for each share of common stock held.

PROPOSAL 1 – TO CREATE A NEW CLASS OF PREFERRED STOCK

Under our articles of incorporation as currently in effect, we do not have authority to issue preferred stock. Our board of directors has adopted, and recommended that our shareholders approve, an amendment to our articles of incorporation to authorize 5,000,000 shares of preferred stock, no par value. If this amendment is approved by our shareholders, the first sentence of Article IV of our articles of incorporation will be amended by adding in substance the following language at the end of that sentence: “and 5,000,000 shares of preferred stock with no par value, which shares of preferred stock shall be established by the Board of Directors of the corporation as provided herein in one or more classes or series within a class.” Also, the following language in substance will be added immediately after the first sentence of Article IV:

“The Board of Directors is expressly authorized to establish one or more classes of preferred stock, or one or more series within a class of preferred stock, by fixing and determining the preferences, limitations and relative rights (within the limits of Chapter 55 of the North Carolina Business Corporation Act), including dividend, liquidation, conversion, voting, redemption and other rights, preferences and limitations of the class or series of shares so established, as shall be stated and expressed in the resolution establishing such class or series and providing for the issuance thereof adopted by the Board of Directors pursuant to the authority to do so that is hereby expressly vested in it, including, without limiting the generality of the foregoing, the following:

(a) the designation of such class or series;

(b) the dividend rate, if any, thereof, the conditions and dates upon which such dividends shall be payable, the preference or relation of such dividends to dividends payable on any other class or classes of capital stock of the corporation or series within a class, and whether such dividends shall be cumulative or noncumulative;

(c) whether the shares of such class or series shall be subject to redemption by the corporation, and, if made subject to such redemption, the times, prices, rates, adjustments and other terms and conditions of such redemption;

(d) the terms and amount of any sinking or similar fund provided for the purchase or redemption of the shares of such class or series;

(e) providing that the shares of such class or series may be convertible into or exchangeable for shares of capital stock or other securities of the corporation or of any other corporation and the times, prices, rates, adjustments and other terms and conditions of such conversion or exchange;

(f) the extent, if any, to which the holders of the shares of such class or series shall be entitled to vote as a class, series or otherwise with respect to the election of directors or otherwise;

(g) the restrictions and conditions, if any, upon the issue or reissue of any additional preferred stock ranking on a parity with or prior to such shares as to dividends or upon dissolution;

(h) the rights of the holders of the shares of such class or series upon the dissolution of, or upon the distribution of assets of, the corporation, which rights may be different in the case of voluntary dissolution than in the case of involuntary dissolution; and

(i) any other preferences, limitations or relative rights of shares of such class or series consistent with this Article IV and applicable law."

We believe it advisable and in our best interests to have the flexibility to issue preferred shares in the future to raise capital and for other corporate purposes, which could include acquisitions. The preferred shares will be shares for which the preferences, limitations and relative rights, including voting rights, are determined by our board of directors from time to time without the necessity of obtaining shareholder approval. Having preferred shares available for issuance will enable us to respond promptly to market conditions and other opportunities without incurring the delay and expense associated with calling a shareholders' meeting to approve a contemplated stock issuance. As such, if our shareholders vote in favor of this proposed amendment, our board of directors will have the power to issue preferred shares from time to time without further action by our shareholders, except as may be required by applicable law or the requirements of any market on which our shares are then traded. Other than the possibility of participating in the Capital Purchase Program recently announced by the U.S. Department of the Treasury as described below under "Capital Purchase Program," we have no plans, agreements or understandings with anyone to issue shares of our preferred stock.

Although our board of directors has no present intention of doing so, we may issue preferred shares that could, depending on the terms of such series, make more difficult or discourage an attempt to obtain control of our company by means of a merger, tender offer, proxy contest or other means. When in the judgment of our board of directors this action will be in the best interests of our shareholders and the Company, such shares could be used to create voting or other impediments or to discourage persons seeking to gain control of our company. Such shares could be privately placed with purchasers aligned with our board of directors in opposing such action. In addition, our board of directors could authorize holders of a class or series of preferred shares to vote either separately as a class or with the holders of our common stock on any merger, share exchange, sale or exchange of assets or other extraordinary corporate transaction. The existence of the additional authorized shares could have the effect or discouraging unsolicited takeover attempts. The issuance of new shares also could be used to dilute the stock ownership of a person or entity seeking to obtain control of our company.

Under North Carolina law, our shareholders do not have the right to dissent and obtain payment for the "fair value" of their shares in connection with this proposed amendment to our articles of incorporation. Moreover, if this amendment is approved, our shareholders will not have the right to dissent and obtain payment for the "fair value" of their shares in connection with any issuance of shares of preferred stock subsequently authorized by our board of directors.

The proposal to amend our articles of incorporation to authorize 5,000,000 shares of preferred stock will be approved if the number of votes cast in favor of the proposed amendment exceed the number of votes cast opposing the proposed amendment. Abstentions and broker non-votes, as well as the failure to return a signed proxy card, will not be counted as a vote for or against the proposed amendment and will not affect voting on this proposal, assuming that a quorum is present. Our board of directors has unanimously recommended that you vote "FOR" this proposal. Unless indicated to the contrary on your proxy card, we will vote any properly submitted proxies "FOR" this proposed amendment to the articles of incorporation.

Capital Purchase Program

The United States government recently enacted the Emergency Economic Stabilization Act of 2008 to attempt to restore liquidity and stability to the financial system in the United States. Pursuant to the Act, on October 14, 2008 the United States Department of the Treasury (DOT) announced a voluntary Capital Purchase Program to encourage United States financial institutions to raise additional capital to increase the flow of financing to United States businesses and consumers and to support the United States economy in general. Under this Program, the DOT has announced that it will purchase up to $250 billion of senior preferred shares in qualifying U.S. financial institutions, as determined by the DOT. We are eligible to participate in this Program. Although we believe that our capital position is sound, we believe that the Program will allow us to raise additional capital on favorable terms in comparison with other available alternatives. Accordingly, we currently plan to file an application with the federal banking regulators to participate in the Program. We cannot assure you that we will be selected to participate in the Program. Moreover, if we are so selected, we are unable at this time to determine the amount of capital that will be made available to us under the Program.

To participate in the Program, an eligible financial institution must apply with its primary banking regulator(s) on or before November 14, 2008. Our primary banking regulators are the Board of Governors of the Federal Reserve System (FRB) and the Federal Deposit Insurance Corporation (FDIC). The DOT, in consultation with each applicant's primary banking regulator, will determine whether a financial institution will be permitted to participate in the Program and the amount of capital to be allocated to that financial institution. Each financial institution selected to participate in the Program (a "participating institution") may sell senior preferred shares to the DOT ("Program preferred shares") in an amount not less than 1% nor more than 3% of its risk-weighted assets, as determined by the DOT. Under these guidelines, we would be permitted to apply to issue Program preferred shares generating gross proceeds to us of approximately $21 million to $65 million based on our September 30, 2008 financial statements. We intend to apply for the maximum amount of $65 million.

The Program preferred shares constitute Tier 1 capital and:

- rank senior to common stock,
- for bank holding companies like us, pay cumulative quarterly dividends at the rate of 5% per annum for five years and 9% per annum thereafter,
- entitle their holder(s) to elect two directors if the participating institution fails to pay dividends on the Program preferred shares for six quarterly dividend periods, whether or not consecutive, and
- will otherwise be non-voting, other than having class voting rights on the issuance of any shares ranking senior to the Program preferred shares, any amendment to the terms of the Program preferred shares or any merger, exchange or similar transaction which would adversely affect the rights of the Program preferred shares.

A participating institution may not redeem Program preferred shares during the first three years after issuance except with the proceeds from a “qualified equity offering” generating gross proceeds of not less than 25% of the issue price of the Program preferred shares. A “qualified equity offering” means an offering of Tier 1 qualifying perpetual preferred stock or common stock for cash. After the third anniversary of issuance, a participating institution may redeem Program preferred shares without limitation. In all cases, the redemption price will be 100% of the issue price plus, for bank holding companies like us, all accrued and unpaid dividends to the date of redemption.

So long as any of the Program preferred shares are outstanding, a participating institution may not:

- without the consent of the DOT, until the third anniversary of the date of issuance of the Program preferred shares, increase the amount of dividends paid on any shares ranking junior to the Program preferred shares, unless the DOT has transferred the Program preferred shares to third parties;
- without the consent of the DOT, redeem any other shares until the third anniversary of the date of issuance, other than shares repurchased in connection with any employee benefit plans, unless prior to that time the DOT has transferred the Program preferred shares to third parties, or
- pay dividends on or redeem any shares ranking junior to the preferred stock, unless all accrued dividends on the Program preferred shares have been paid in full.

A participating institution also is required to issue to the DOT a 10-year warrant to acquire a number of shares of common stock having a market price equal to 15% of the original issue price of the Program preferred shares. If the participating institution is able, prior to December 31, 2009, to raise additional capital through a “qualified equity offering” generating gross proceeds of not less than 100% of the original issue price of the Program preferred shares, the number of shares covered by the warrant will be automatically reduced by 50%. The Program preferred shares, warrants and underlying warrant shares will be freely transferable by the DOT, and a participating institution will be required to take all steps reasonably requested to facilitate the transfer of the Program preferred shares and related warrant and warrant shares, including by filing a shelf registration statement with the SEC covering the resale by the DOT of these securities.

A participating institution is required to comply with certain executive compensation and corporate governance requirements so long as the Program preferred shares are outstanding. These requirements generally will:

limit the amount of severance paid to its CEO, CFO and three other most-highly compensated executive officers to no more than three times the officer's average W-2 compensation over the five years prior to separation;

- require its compensation committees to periodically evaluate the institution's compensation program with the assistance of its chief risk officer to ensure that no incentive compensation plan could lead the covered officers to take unnecessary and excessive risks that could threaten the value of the company;

- require any bonus plan to provide that any covered officer must surrender any bonus or incentive compensation paid on account of inaccurate financial statements; and

- prohibit any participating institution from taking a deduction for federal tax purposes for compensation paid to any of the covered officers in excess of $500,000 in any year.

We do not believe that these requirements would materially affect our existing executive compensation and corporate governance practices.

The foregoing summarizes the material provisions of the Program as it would apply to us and was prepared based solely on a summary of the Program published by the DOT. The terms of the Program are subject to change by the DOT and expressly subject to the detailed terms of the Program agreements prepared by the DOT to evidence the purchase and sale of Program preferred shares.

Our ability to participate in the Capital Purchase Program requires us to submit an application to the FRB and the FDIC by the close of business on November 14, 2008. We currently intend to apply to participate in the Program. We cannot assure you that we will be approved to participate in the Program. Moreover, if we are approved to participate in the Program, we are unable at this time to determine the amount of capital that will be made available to us under the Program. Regardless of whether we ultimately participate in the Program, we nevertheless believe it advisable and in our best interests to have authorized shares of preferred stock available should other opportunities arise in the future that are in our best interests to pursue.

STOCK OWNERSHIP OF MANAGEMENT AND OTHER BENEFICIAL OWNERS

The following table sets forth information as of November 7, 2008 regarding the ownership of our outstanding shares of common stock by each of our directors and executive officers, as well as by our directors and executive officers as a group. As of November 7, 2008, no person or "group" of persons acting together was known to us to beneficially own more than 5% of our outstanding common stock.

		Common Stock Beneficially Owned (1)			
Name	Position with Company	Number of Shares Owned (excluding options)	Number of Shares That May Be Acquired within 60 Days by Exercising Options	Total Number of Shares Beneficially Owned	Percent of Class
Directors					
Jerry L. Ocheltree	President, CEO/Director	13,564(2)	3,000	16,564	*
Jack D. Briggs	Director	110,315(3)	16,750	127,065	*
R. Walton Brown	Executive Vice President/Director	27,822(4)	15,000	42,822	*
David L. Burns	Director	79,583(5)	15,750	95,333	*
John F. Burns	Executive Vice President/Director	75,863(6)	3,167	79,030	*
Mary Clara Capel	Director				