



**TOWN OF INDIAN TRAIL  
TOWN COUNCIL REGULAR MEETING  
Tuesday, November 10, 2015  
6:30 PM-Civic Building**

**MINUTES**

The following members of the governing body were present:

**Mayor:** Michael L. Alvarez

**Council Members:** David Cohn, David W. Drehs, and Gary M. Savoie were all present at the start of the meeting; a quorum was present. Gordon Daniels arrived at 6:50 PM and his arrival point is noted in the body of these Minutes.

**Absent Members:** Christopher King.

**Staff Members:** Town Manager Joe Fivas, Town Clerk Kelley Southward, Town Attorney Keith Merritt, Director of Planning & Neighborhood Services Rox Burhans, Director of Community & Economic Development Kelly Barnhardt, Director of Engineering Scott Kaufhold, Senior Planner Gretchen Coperine, and Community Engagement Coordinator Julia Zweifel.

- 1. CALL TO ORDER/PLEDGE:** Mayor Alvarez called the meeting to order at 6:30 PM and led everyone in the Pledge of Allegiance to the Flag.
- 2. AGENDA ADDITIONS & DELETIONS:** *Councilman Drehs moved to add Council consideration of approval of a Veteran's Day Proclamation to Item #4-Presentations of the agenda; the motion carried unanimously.*

**3. APPROVAL OF AGENDA:** *Councilman Savoie moved to approve the agenda, as amended and the motion carried unanimously.*

**4. PRESENTATIONS:**

After Mayor Alvarez read the proposed Veteran's Day Proclamation he presented it to Mr. Chuck Deny whose father, Garland Deny, recently passed away. Mr. Garland Deny spent his life helping Veterans. Councilman Drehs, a Veteran, made a brief comment about Veteran's Day. He urged people to appreciate our veterans and have a nice holiday that celebrates these brave men and women of our armed forces.

**5. PUBLIC COMMENTS:**

- Ms. Samantha Towns of 104 Pine Lake Drive was the first speaker to address Council. Her comments pertained to item "c" of the Consent Agenda; the proposed Budget Amendments before Council this evening. She noted that there was only one meeting held each month this past summer and she felt there was not much public discussion of monetary/budget items. Item "c" of tonight's consent agenda includes almost \$5 million of budget transfers; some of the effective dates go back as far as June. Ms. Towns requested an explanation of the budget transfers. She asked that the consent agenda item be postponed until the public can be provided more information.
- Mr. Chuck Deny of 2301 Genesis Drive, Monroe addressed Council next. He thanked all those who served in our military for their service. He noted that the Town of Indian Trail had adopted a Proclamation in 2008 regarding support for a Veteran's Stamp; a project that his father had been working on for a long time. Mr. Deny relayed that folks can visit [www.stampoutptsd.com](http://www.stampoutptsd.com) for more information on the stamp, which was his father's initiative. Proceeds from the proposed Veteran's Stamp would go toward helping those veterans that suffer from PTSD. The idea is similar to the Breast Cancer Awareness stamp.
- Council Member Elect Mark Wireman of 2001 Sedgewick Road addressed Council next. He thanked the people of Indian Trail for voting for him; he looks forward to serving as a member of Council and working with his fellow Council members and Town staff.
- Cathi Higgins of 3004 Clover Hill Road congratulated Mayor Alvarez and Councilman Cohn on their re-elections and Mr. Wireman and Mrs. Stanton on winning their elections. She thanked Councilman Drehs and Councilman King for their service. She also thanked Councilman Savoie and Councilman Daniels for their service and is hopeful the next term will be good for everyone.

**6. LAW ENFORCEMENT UPDATE:**

Lt. Coble reported that there were 1,028 911 calls for service in Indian Trail in October; 1,401 self-initiated activities, 249 criminal reports were filed and 133 motor vehicle accidents were reported. The average call response time for October was 11 minutes, 1 second. He was part of a meeting with Town staff and NC DOT representatives last week where NC DOT said that they would address issues at three out of four intersections noted last month as having issues. Halloween patrols went well; there were 11 alcohol related driving offences on Halloween. Lt. Coble highlighted several

incidents from October including an issue of fraud at the Indian Trail Pharmacy. Councilman Drehs requested a status report of the town-initiated/proposed amendment to the service agreement for three new deputies. Lt. Coble was under the impression that everything had been approved at the County level and the agreement was with the County and Town Managers; Mr. Fivas said he has not seen the document. Lt. Coble said that it was likely with the County Manager and the Town should soon be in receipt of the amended agreement. Councilman Drehs noted that there are a lot of people/departments involved in hiring new deputies and he is hopeful that Council will continue to stay on top of ensuring the proposed amendments get approved and all the paperwork gets completed.

#### 7. CONSENT AGENDA:

- a. Approval of the October 13, 2015 Regular Meeting draft minutes
- b. Approval of the October 19, 2015 Special Meeting draft minutes (Open Session)
- c. Approval of Budget Amendments (**removed from Consent Agenda and moved to Business Items—see below**)
- d. Approval of Tax Month End Report—October 2015
- e. Approval of Tax Refunds in Excess of \$500.00
- f. Approval of Parks Annual Operating Hours
- g. Approval of NCDOT Speed Limit Changes
- h. Approval of Additional Signatories on Town Bank Accounts
- i. Approval of Parks & Recreation Organizational Chart

Councilman Cohn felt that Ms. Towns had brought up a valid point regarding the Budget Amendments included as item “c” of the Consent Agenda. Councilman Cohn said he’d like the transfers explained as well. Councilman Cohn requested that Consent Agenda, Item “c”-Approval of Budget Amendments be removed from the Consent Agenda to Business Items, Item “c” so that there could be some discussion before action is considered. *Councilman Drehs moved that Consent Agenda Item c-Approval of Budget Amendments be moved to Business Items, Item c; and that the remainder of the Consent Agenda be approved, as presented; the motion carried unanimously.*

At this point, Councilman Daniels arrived and took his seat with Council at the dais; it was approximately 6:50 PM.

#### 8. PUBLIC HEARINGS:

- a. **CZ2015-004 Austin Village: Proposed Zoning Map Amendment to Residential Zoning District SF-5-Conditioned to support development of approximately 51 single-family residential homes targeted towards senior housing on an approximate 14-acre site. Site is located on the north side of Chestnut Lane, west of Potter Road (portion of Parcel #07147130). Council consideration to approve Ordinance #0151110-222.**

Senior Planner Gretchen Coperine gave a detailed presentation of the proposed Zoning Map Amendment (**supporting documentation and reports attached hereto and made a part of these minutes**). Ms. Coperine noted that the Planning Board

(PB) reviewed this matter during their October 20<sup>th</sup> Meeting and prepared consistency statements; she read the following consistency findings from the PB for the record:

- *Land Use and Housing Goals #1, 2 and 5:* The proposed project promotes compatibility of land uses between neighboring properties and residential properties within surrounding municipalities, increases the diversity of housing options within Indian Trail, and proposes high quality design to promote attractive land development; and
- *Mobility and Transportation Goal #3:* The proposed development incorporates pedestrian amenities by providing pedestrian connectivity to the neighboring future commercial site, the Harris Teeter and other retail uses across Chestnut Lane as well as provides a multi-modal travel path along Chestnut Lane which connects throughout the community.

The request for this conditional zoning district (SF-5 within a Village Center Overlay District) is a reasonable request and is in the public interest because supports the goals of the adopted Comprehensive Plan and includes elements that benefit the general public in the areas of transportation, land use and housing.

Upon conclusion of the presentation, Mayor Alvarez opened the Public Hearing and there were several speakers.

- Mr. Eric Sowers of 6309 Highview Rd., Matthews, NC addressed Council as a representative for the developer. Mr. Sowers noted that there are approximately 78 million baby boomers at or approaching retirement. The single family homes proposed for Austin Village will be marketed to attract this demographic. Upon query from Mr. Daniels, Mr. Sowers said that the retirement age demographic is targeted but such is certainly not a requirement. Anyone is welcome there but the proposed lot and home sizes are desirable to this particular demographic. This demographic is also desirable to the area in that usually with this demographic there is no impact to schools, they don't typically travel during rush hour times and they desire the amenities found within a walking distance to the proposed neighborhood. To further clarify, Mr. Sowers does not believe the presence of children of any age would disqualify someone from living in the neighborhood. However, HOA covenants/restrictions will likely prohibit play equipment such as swings, slides, basketball goals and the like.
- Larry Vickery of 1400 Chestnut Lane, Indian Trail, NC was next to address Council. Mr. Vickery owns the subject property. Mr. Vickery said that he is very proud of this portion of the project; he first brought Austin Village to the Town in 2000. Mr. Vickery said that 52% of homebuyers in the US are classified as "seniors". These are folks that don't need a large home anymore and don't want big yards. The proposed 51 single family lot subdivision before Council this evening is perfect for meeting such needs/desires. It will create a huge tax base for the Town while having a low impact on traffic and schools. He believes the homes will sell for about \$350,000. In the mid

1940's Camp Sutton used this piece of property to train soldiers. When the war was over a brass knocker was cast for Austin and it still hangs there on the front door of the white house on the corner of the property. Mr. Daniels felt that the residential neighborhood would be a job-saver in the Austin Village business area.

- Abe Bush of 1212 Saint John's Ave, Matthews, NC addressed Council. Mr. Bush said he means no disrespect to Mr. Vickery but he is concerned that the proposed residential neighborhood will generate more traffic in the area, which is already very congested. Mr. Bush kindly opposed the project based upon the issues of density and traffic. However, he does prefer the proposed neighborhood to a big box store.

At this point Mayor Alvarez closed the public comments portion of the Public Hearing but did invite members from the development team to speak and answer any questions that Council may have.

- Councilman Daniels asked that if the project is approved, when would they expect to break ground. Mr. Brian Smith, Civil Engineer for the project came forth to address this question. Mr. Smith said that the permitting process would take 3-4 months. If the project is approved this evening they would break ground after the first of the New Year.
- Mayor Alvarez asked Ms. Coperine what uses are permitted on the property as it is currently zoned. Ms. Coperine noted that there is approximately 255,000 square feet that could currently be used for commercial purposes that include retail space, office space and live-work space. The proposed rezoning would change this 255,000 square feet from those commercial uses to the 51 single family homes. The proposed rezoning would be a huge reduction on land use impacts and the residuals such as traffic.
- Mr. Vickery was recognized again. He noted that when a previous phase of Austin Village was developed he spent \$1.6 million to make improvements to the intersection at Chestnut Lane and Potter Road. He noted that 255,000 square feet of retail space is the equivalent of 5 big box stores. The proposed rezoning to allow the 51 single family homes will generate a lot less traffic than what could currently be permitted. The proposed project is the highest and best use for the property.

Mayor Alvarez Closed the Public Hearing.

*Councilman Drehs moved to approve the consistency findings from the Planning Board, as presented by Ms. Coperine and the motion carried by way of a unanimous vote.*

*Councilman Daniels moved to approve Ordinance #0151110-222/CZ2015-004 Austin Village Zoning Map Amendment to Residential Zoning District SF-5-Conditioned, as presented; the motion carried unanimously.*

## **9. BUSINESS ITEMS**

**a. Council consideration of approval of Chestnut Square Park Irrigation/Well Upfit Contract.**

Upon query, Mr. Fivas noted that the wells for the irrigation at Chestnut Square Park are already dug. This contract is to have the equipment, such as the pumps, installed so that the wells are functional and the Town can stop paying a County Utility (water) fee just to water the grass on the fields. *Councilman Savoie moved to award the Irrigation/Well Upfit Contract for Chestnut Square Park to James E. Harris Construction Company Inc for the bid amount of \$111,621.40 and the motion carried by a unanimous vote of Council.*

**b. Council consideration of Stormwater Outfall Inventory & Dry Weather Screening Contract.**

The Town was issued a second cycle National Pollutant Discharge Elimination System (NPDES), Phase II, Municipal Separate Storm Sewer System (MS4) Permit on December 1, 2011; Permit # NCS000453 expires on November 30, 2016. Stormwater Outfall Inventory & Dry Weather Screening is a requirement of the Part II, Section D.2., subparts (b),(c),(d) & (e) of the NPDES MS4 permit. Under the town's Master Service Agreement with Woolpert, Inc., staff recommends issuing a Task Order in the amount of \$185,460.00 to fulfill this requirement. *Councilman Savoie moved to approve the Stormwater Outfall Inventory & Dry Weather Screening Contract, as presented; the motion carried by way of a unanimous vote.*

**c. Council consideration of Budget Amendments (as removed from the Consent Agenda to this item).**

Councilman Cohn inquired about the budget amendments related to the municipal complex/capital project ordinance. In particular, he asked about three of the budget amendments in the approximate of amounts of \$3.5 million, \$1.4 million and \$50,000. Mr. Fivas noted that the amendments were mechanics to carry out action previously approved by Council in June and to carry out directives of the Municipal Complex Capital Project Ordinance approved by Council in August. Basically, the amendments are simply moving funds from one fund or line item to another so that the funds can be used for the purposes approved by Council.

Councilman Cohn noted that amendment for \$50,000 was transferring this amount from the Powell Bill Fund to the Municipal Complex. Mr. Fivas noted that this was included in the Capital Project Ordinance for the Municipal Complex to be used for Powell Bill approved expenses associated with the project. Councilman Cohn said that residents have contacted him and provided him with pictures of roads that are in disrepair. He opined that Powell Bill funds should've been used to fix streets before being used for the Municipal Complex project.

*Councilman Savoie moved to approve the Budget Amendments of item 9c, as presented and the motion carried unanimously.*

**10. DISCUSSION ITEMS:**

There were no discussion items forthcoming.

**11. MANAGER'S REPORT:**

Mr. Fivas had no report.

**12. COUNCIL COMMENTS:**

- Councilman Cohn thanked everyone for coming out this evening for all those who voted in last week's municipal election. He felt that by the results of the election the people made a clear statement that they want a voice in Town Hall. During the campaign he met a lot of great people and overwhelming folks he spoke to were concerned about having a voice a town hall and developer money. Things got ugly at times during the campaign, which he felt was unfortunate that such would be the case in Indian Trail. In the end, the people spoke loud and clear and he looks forward to working with Council and making this a better Town. Council has to listen to what the people say; his ear is opened.
- Mayor Alvarez asked that everyone keep Mrs. Vickery in their thoughts and prayers. He also thanked all the Veterans for their service and reminded everyone that South Piedmont Community College will host a free breakfast for Veterans tomorrow and they will also have folks on hand to assist Veterans with filing various types of paperwork. Mayor Alvarez agreed with Councilman Cohn's remarks and added that he is both humbled and honored to serve another four years as the Mayor of Indian Trail. He congratulated Councilman Elect Wireman who was in the audience.
- Councilman Daniels said that he agrees with Councilman Cohn about the roads being an important issue. He added that he believes most residents know if they live on town road, state road or private road and they understand that the town is limited in what they can do for those who live on private and state roads. He thanked everyone in attendance for taking the time to come out this evening
- Councilman Savoie also thanked everyone for attending this evening as well as all those who ran for Council. He congratulated the election winners and said he looks forward to serving with them. He thanked Ms. Coperine for her wonderful presentation this evening and everyone on staff for all of their hard work. He wished everyone a happy Veteran's Day.
- Councilman Drehs said that roads are a very thorny issue and highlighted a particular situation on 1<sup>st</sup> Avenue. He said that folks on 1<sup>st</sup> and 2<sup>nd</sup> Avenue can get some assistance from the Town even though those are not municipal streets but it won't be easy. Again, streets are a very thorny issue but one that he believes is worth tackling. Councilman Drehs thanked everyone for the time he was given to serve on Council.

**13. CLOSED SESSION**

*Councilman Drehs moved that Council enter Closed Session pursuant N.C.G.S. 143-318.11(a)(3) to consult with the Attorney, to protect the attorney-client privilege to consider and give instructions concerning a potential or actual claim, administrative procedure, or judicial action to consider and give instructions concerning a judicial action titled Boggs Paving Company vs. The Town of Indian Trail and pursuant to N.C.G.S 143-318.11(a)(6) to consider the qualifications, competence, performance, condition of appointment of a public officer or employee or prospective public officer or employee or to hear or investigate a complaint, charge, or grievance by or against a public officer or employee; the motion carried unanimously and Council entered Closed Session.*

*Upon completion of Closed Session, Councilman Cohn moved that Council (re)enter Regular Session of the Meeting; the motion carried unanimously.*

*Councilman Daniels moved to suspend the agenda rules for the purpose of amending the agenda; the motion carried by a unanimous vote.*

*Councilman Savoie moved to add three additional items of business to the agenda: 1) Council consideration of a modification to the Town Manager's Employment Agreement; 2) Consider a Budget Amendment with respect to a transfer of funds; and 3) Appointment of an Interim Town Manager; the motion to add the three business items to the agenda carried by a vote of three (3) to one (1) with Councilman Cohn voting in the opposition.*

#### **14. BUSINESS ITEMS:**

##### **a. Council Consideration of a modification to the Town Manager's Employment Agreement.**

Mr. Merritt noted that during Closed Session Mr. Fivas presented council with a modification to his current Employment Agreement. The main modification is that the term of his employment would end November 30, 2015 at 5PM. If the term is not extended (by Council action) the modified Agreement includes payments to be made to Mr. Fivas. *Councilman Daniels moved to approve Mr. Fivas' modified Employment Agreement as discussed in Closed Session subject to pre-audit approval; the motion carried by a vote of three (3) to one (1) with Councilman Cohn voting in the opposition.*

##### **b. Council consideration of a Budget Amendment with respect to a transfer of funds.**

Based upon Mr. Fivas' modified Employment Agreement the Finance Department had prepared a Budget Amendment to transfer the funds to be able to make a payment(s) to Mr. Fivas in accordance with the modified Agreement. The Budget Amendment is a transfer of funds within the Administrative Department to move \$29,000 into the Salaries & Wages (10-00-4120-121-000) line item; the Budget Amendment is dated 11/10/2015 and attached hereto and made a part of these minutes. *Councilman Savoie moved to approve the Budget Amendment that*

*transfers funds within the Administration Department to make the payments to Mr. Fivas in accordance with his modified Employment Agreement; the motion carried unanimously.*

**c. Appointment of an Interim Town Manager.**

*Councilman Daniels moved that Town Clerk Kelley Southward be appointed Interim Town Manager effective at 5:00 PM on November 30, 2015 until such time as the new Council sees fit; the motion carried unanimously.*

Mr. Fivas was given the floor; he read a statement thanking his family, the Town of Indian Trail, Council and staff for the opportunity to serve the community for the past five and a half years.

**15. ADJOURNMENT:**

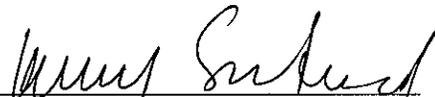
*Councilman Savoie moved to adjourn; the motion carried by a vote of three (3) to one (1) with Councilman Drehs opposing.*

(SEAL)



  
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Michael L. Alvarez, Mayor

Attest:

  
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Kelley Southward, Town Clerk