



**Indian Trail
Town Council Regular Meeting
Tuesday, April 26, 2016
Civic Building—6:30 PM**

MINUTES

The following members of Town Council were present:

Mayor Michael Alvarez	Council Member Gary Savoie
Mayor Pro Tempore David Cohn	Council Member Gordon Daniels
Council Member Amy R. Stanton	Council Member Mark Wireman

(All members of Council were present)

The following members of staff were present:

Town Manager Scott Kaufhold, P.E., Town Attorney Keith Merritt, Town Clerk Kelley Southward, Director of Planning and Neighborhood Services Rox Burhans, Director Parks and Recreation Jason Tryon, Director of Finance Jim Wojtowicz, Contract Analyst/Executive Administrative Assistant Vicky Watts and Communications Coordinator Mike Parks.

Guests presents:

There were approximately 15 guests in the audience.

1. CALL MEETING TO ORDER & PLEDGE OF ALLEGIANCE

Mayor Alvarez called the meeting to order at 6:30 PM and led everyone in the Pledge of Allegiance to the Flag. Mayor Alvarez requested everyone remain standing while he congratulated Chase Coble for his recent advancement to Captain from Lieutenant with the Union County Sheriff's Office.

2. AGENDA ADDITIONS & DELETIONS

Action

Councilman Savoie moved to relocate item 9c-Approval of Crooked Creek Master Plan Concept 1B from the Consent Agenda to Old Business; make it item 12a and renumber the remainder Old Business accordingly.

3. MOTION TO APPROVE AGENDA

Action

Councilman Daniels moved to approve the Agenda, as amended above; the motion carried by a unanimous vote.

4. PRESENTATIONS/INTRODUCTIONS

- a) **Presentation by Scott Cole of NC DOT regarding a noise barrier wall for the Monroe Bypass. Action by Council to consider approving Resolution #R160426-1; a Resolution in Support of a Noise Wall to be Constructed at Certain Locations Along the Monroe Bypass Project.**

Mr. Scott Cole of NC DOT addressed Council. He noted that an environmental study was done in accordance with Federal and State regulations for environmental impacts, which include human environmental impacts, of the Monroe Bypass project. For the purposes of the study performed, a noise receptor is any structure that receives any level of noise and not necessarily excessive noise. A benefited receptor is any structure that receives a 5 decibel or more reduction in noise due to a noise abatement measure such as a noise barrier/wall. The Federal Highway Administration (FHWA) mandates that noise for roads measuring at 66 decibels and above be mitigated; this is a level of noise classified to be between moderate and loud when referring to noise from roads. Some mitigation devices commonly used are walls and berms but berms require a lot of right-of-way.

NC DOT is required to follow the criteria found in the FHWA's Traffic Noise Abatement Policy and Guidance Manual. The FHWA issues a model, which they frequently update, to determine the noise for the project life. In this case the Monroe project life is 20 years; ending 2035. The model forecasts the noise for car and truck traffic taking into consideration all types of factors including the coarseness of the asphalt. When the forecasted noise levels exceed 66 decibels or there is a substantial noise increase (10 decibels or greater) then mitigation measures must be implemented. There are different points along the Monroe Bypass where structures are affected by noise exceeding 66 decibels and therefore mitigation devices (i.e. barrier walls) have been proposed. There are other areas where the noise is slated to be less than 66 decibels and therefore no mitigation measures have been proposed. The area near/along the Bonterra neighborhood, which is approximately 600-800 feet from the Monroe Bypass is not slated to receive a noise mitigation device as the area is not projected to exceed 66 decibels of noise.

In the Noise Abatement Policy there is something called the "date of public knowledge". This is when the environmental study is approved. This is after public outreach and a public hearing process is complete; the study is approved and this is the date of public knowledge. Anything (structures) built before the date of public knowledge will be considered for noise mitigation/abatement. However, any structures built (i.e. building permits are issued) after the date of public knowledge DOT is not required to provide noise mitigation measures even if the 66 decibels are exceeded for these new structures. It falls in the "buyers beware" category since the public has knowledge of the study findings (the study is publically available). The date of public knowledge in this case is May 15, 2014.

Four noise barrier walls are slated for different areas along the entire Monroe Bypass; two of those walls are in Indian Trail. The first proposed wall in Indian Trail is #NW2C near the US 74 Business connector located near the Old Hickory Business Park continuing on towards Stinson Hartis Road ending almost at Strand Drive. The second proposed wall in Indian Trail for the Monroe Bypass is located near Hemby Bridge at the other end of Stinson Hartis Road continuing towards the interchange at Indian Trail-Fairview Road and ending near Faith Church Road.

Mr. Cole said he understands that there may be an issue that there is not a wall slated near the Bonterra neighborhood. His slides showed the difference in how far structures in Bonterra are from the Monroe Bypass versus those areas slated to receive a wall. Upon query by Councilman Daniels Mr. Cole noted that a noise study was not done for the entrance road to Bonterra as they only do studies for built structures and not for roads. Roads are not considered impacted noise receptors. Mr. Cole did not have the exact decibels forecasted for the structures in Bonterra; it is included in the 300+ page study but since a wall is not proposed it did not meet the 66 decibels. Councilman Cohn felt the biggest concern for residents in Bonterra, which is an influential area in Indian Trail, is that until the Monroe Bypass is built the exact amount of noise is unknown. NC DOT won't build a wall after the bypass is built; it would be up to the Town to build a wall if they felt it would be necessary for the residents of an area without a wall.

Mr. Cole noted that NC DOT does not create the model or the process for determining if a wall is necessary; it is a federal standard issued by the FHWA. So they have to follow the federal standards of how noise is evaluated and mitigated. Everyone is treated the same by using these federal regulations. Upon query Mr. Cole noted that property values are not considered in part of the evaluation process. The Monroe Bypass has been in planning for 20-25 years. Councilman Daniels asked if property values could be introduced as part of the process. Mr. Cole said it could be introduced for consideration for projects in the future. Mr. Merritt noted that log-rhythmic scales are different than folks may realize. When you talk about going from 60 decibels to 70 decibels (a 10 decibel difference) it is actually a doubling of noise. So basically, DOT or FHWA doesn't consider noise mitigation practices unless there is slated to be at least a doubling of noise; Mr. Cole concurred.

Councilman Wireman asked if any studies are done after the road is built to see if the forecasted findings are accurate or not. Mr. Coles said there are no such studies conducted after road construction. This is a Type I project and the policy for such clearly states that they do not retrofit after project construction. Mr. Wireman noted that it is concerning because without a study after the road is built we don't know how accurate the forecast was prior to construction. As a scientist he said it is important to re-evaluate original findings and forecasts so that future forecasts can be more accurate. Mr. Cole said the he is not an expert in noise analysis but he does have confidence in their policies and procedures for determining noise mitigation/abatement practices. He reiterated that national standards are used and he is certain that studies have been conducted to validate the data and forecasting measures in the policy and process. Councilman Wireman said he would like to see those studies or if they're available on-line he'd like to know where he could find them.

Councilman Cohn said he would have hoped a noise expert would have come to this presentation this evening. Mr. Cole said they thought about having the noise-team attend this evening but the standards and the study would remain the same regardless. Councilman Cohn asked about safety measures. Mr. Cole noted that the Monroe Bypass is a controlled access facility like the freeways so; there will be a controlled access fence at the right-of-way line. Councilman Cohn asked if public outcry made a difference; Mr. Cole said public outcry does have influence and helps them to learn about citizen concerns. There is a petition for a noise wall in the Bonterra area. Councilman Savoie asked for the environmental study; how far off are we from receiving a wall in the Bonterra area? Mr. Cole did not know off the top of his head and the experts in noise would be better suited to answer such a question. He estimated that the homes are probably set back twice as far as needed to warrant a noise barrier wall.

Mr. Cole asked if the Town of Indian Trail has concerns and wants DOT to consider looking at property values as a part of the study or any other issue then the Town should send a letter requesting DOT to consider such specific items. This way they have a paper trail of exactly what Indian Trail is requesting and when the request was made. Councilman Daniels agreed that any requests would be best addressed by putting them in writing.

Finally, Mr. Cole said his last point was that the residents in the vicinity of the areas slighted to receive a noise wall have the opportunity to vote for or against the wall. If they decide they don't want a wall then they can vote it down. There is a point-per ballot formula based upon how close a resident/property owner is to the proposed wall. For those property owners on the front row they get 3 points per ballot. Property owners on 2nd, 3rd, and 4th rows receive one point per ballot. Then residents on the front row get an additional point. So, if you are on the front row and you're a property owner and you reside there you would get 4 points for your vote. Renters on the front row get one point (but again the property owner gets 3). Other row residents get one point. Around July of this year, Indian Trail residents affected by the proposed two walls will be able to vote. Councilman Cohn said he didn't understand the purpose in those slated to receiving the wall

having the opportunity to vote; he felt those who aren't slated to receive a wall should have the right to vote in order to get one. If those slated to receive a wall vote it down would DOT construct in an area not slated to receive a wall? Mr. Cole said Indian Trail residents eligible for this vote could likely expect the voting to take place in July 2016.

5. PUBLIC COMMENTS

- Mr. Eugene Griggs 1706 Cottage Creek Trail (Traewyck subdivision) addressed Council once again regarding the drainage issues with his property and in the Traewyck subdivision. He asked if the Union County Public Utilities' 3 million gallon expansion at the Crooked Creek Wastewater Facility will have any impacts (positive or negative) on his neighborhood. Why is the Town giving up control to Union County so easily?
- Ms. Samantha Towns addressed Council regarding the April 16th Budget Workshop—she commended staff for all of their hard work. She asked that item 12f be eliminated from the agenda because if all Council members had attended the Budget meeting they would know that this item had been discussed and the reasons why a tax reduction was not being considered for the upcoming fiscal year. Indian Trail should be priority as far as political aspirations of Council members as they were elected here first.
- Mrs. Shirely Howe of 6205 Clearwater Drive said that she recently read a Letter to the Editor in the Charlotte Observer that made good sense her. It was about when voting for a local elected official the people are investing their hope and trust in that person. She opined that the Budget is similar to the Town's bible; guiding us through the fiscal year. She felt that it should be mandatory for all elected officials to attend the Budget Workshops. Without a full Council present it deprives the 38,000 residents of Indian Trail full representation for what is to be included in the budget. If staff is expected to give up their personal time away from their families then Council should be expected to the same. Budget items are now on this agenda—is this just someone searching for political exposure in the local paper? She urged Council to place their energy where it counts and do what they were elected to do.

6. PUBLIC COMMENTS FOR FY 2016/2017 BUDGET DEVELOPMENT

None forthcoming.

7. LAW ENFORCEMENT UPDATE

Captain Chase Coble gave report of heroic efforts of UCSO Deputies since the last meeting. One account taking place last Thursday when parents reported a 14-year old missing but felt the teen would return. Deputy Mike Kenary took it upon himself to check a spot known in the woods where teens tend to hang out. The 14-year old was found unresponsive at this spot by the Deputy Kenary; there was evidence of a drug overdose. The deputy carried the teen out of the woods and was able to administer Narcam—which Sheriff's Deputies had just begun to carry in their vehicles. The above-and-beyond efforts of the Deputy Kenary coupled with the availability of the Narcam likely saved the teen's life. There was a second incident of an overdose where Narcam was used to save a 25-year old was also highlighted by Captain Coble. Council members noted that these accounts truly showed that our deputies are heroes and they should be recognized. Captain Coble had an idea for public recognition at a future Council Meeting. Council further congratulated Captain Coble for accomplishing this rank with the UCSO.

8. DEPARTMENT UPDATES:

- a) **Department Head Update: Planning & Neighborhood Services—Rox Burhans**
Mr. Burhans informed Council of two upcoming rezoning projects. Both applications have recently been submitted and have not gone before the Planning Board yet. So, this is an advanced heads-up for matters that would make their way to Council in several months.

First, the Virginia Trace project is located at the corner of Oakwood Lane and Unionville Indian Trail Road. Currently the property is located in an unincorporated area of Union

County so an annexation would be required. A conditional zoning would also be necessary for the project to be approved as requested. The proposed project consists of approximately 92 single family home lots on the approximate 40-acre site. Upon a query Mr. Burhans relayed that he does not know the price point for the proposed lots/homes and that is not something required in the application process. Exact lot sizes are also unknown at this point but they will likely be relatively small lots. Mr. Burhans encouraged Council members to meet with him individually to go over the details of the proposed project as it goes through the required process. The applicant for this project is M/I Homes and Mr. Burhans projected it could be before Council as early as late summer 2016. The application was just received about 2 weeks ago.

Second, there is a proposed project referred to as the Hawfield project because it's located off of Hawfield Road which is a gravel road just before you get to the Sheridan Community on Wesley Chapel Road. The project falls within two jurisdictions: Indian Trail and Wesley Chapel. This is a larger single family lot subdivision consisting of approximately 265 acres (163 acres in Indian Trail and 103 acres in Wesley Chapel). A total of 442 single family lots are proposed; 325 lots in Indian Trail and 117 lots in Wesley Chapel. The applicant is Queen City Property. Some of the property may be undevelopable due to creeks and possible wetlands. Detailed drainage studies would not be conducted until after rezoning is approved (if approved). This would be another conditional rezoning. A road is slated to go through the project connecting Wesley Chapel Road to Waxhaw Indian Trail Road. This application has only been in for about a week. Again, Mr. Burhans encouraged Council members to meet with him individually to discuss details of this proposed project. Councilman Wireman noted off the cuff he has a lot of concerns about various impacts such as roads and schools.

Finally, Mr. Burhans relayed that Mayor's Tree Initiative 2016 took place last week. They visited 8 schools and about 1,000 students were impacted. They planted 14 trees (full size) with the children at the 8 schools and each child was given a sapling to take home and plant with their family. This year there was a partnership with the Planning & Neighborhood Services and Parks & Recreation Departments. It was an "all hands on deck" project that makes a valuable contribution to the community. Councilwoman Stanton noted she was unable to attend due to her job but saw pictures on Facebook and could see the joy on the students faces.

- b) Department Head Update: Community Development & Communications—Mike Parks**
Mr. Parks noted that he attended some of the Tree Initiative programs last week at the schools and it was a rewarding experience.

Mr. Parks reported that we have about 5,000 followers on the Town's main Facebook page and about 1,000 on the Parks and Recreation FB page; all the other Town FB pages combined have about 1,000 followers. We have more than 1,000 followers on Twitter and about 3,000 folks participate in our Constant Contact list. About 12,000 newsletters are mailed to residents/property owners.

Now that he has been assigned some Community Development tasks, Mr. Parks has begun meeting with HOAs; he has attended one HOA meeting and scheduled meetings with several others over the next few months. Mr. Parks is also speaking with web designers/hosting companies about getting a new website for the town.

The Arbor Day/Earth Day event was held this past Saturday at Stallings; next year it will be Indian Trails turn to host the event. May 6th there will be a movie—"The Good Dinosaur" shown at Crossing Paths Park. Upon a query from Councilman Wireman Mr. Parks noted that he does not oversee Granicus.

9. CONSENT AGENDA

Action

- a) **Approval Budget Amendments #547-#551 and #554**
- b) **Approval of Classification Plan and Pay Scale**
- c) ~~Approval of Crooked Creek Park Master Plan Concept 1B~~ This item was removed from the Consent Agenda and added to item a of Old Business (11a) during Agenda Additions and Deletions.
- d) **Approval of a Resolution which allows employees and Council to participate in the NC Public Employee Deferred Compensation Plan under Internal Revenue Code 457(b)**

Councilman Wireman moved to approve the three items on the Consent Agenda; the motion carried unanimously.

10. PUBLIC HEARINGS

Action

– Please adhere to the following guidelines:

- Proceed to the podium, and state your name and address clearly;
- Be concise; avoid repetition; limit comments to three (3) minutes or less;
- Designate a spokesperson for large groups

There were no public hearings.

11. OLD BUSINESS ITEMS

Action

- a) **Council Consideration to approve Crooked Creek Park Master Plan Concept 1B.**

It was noted that this matter was discussed at length at the April 16, 2016 Budget Workshop and it was the consensus of Council to move forward with Concept 1B. Councilman Savoie noted that there were three concepts to choose from but 1B just seemed the most logical and had the most elements desired from the public input process. He further pointed out that it does not include a Miracle League baseball field but this is something that we still want in Indian Trail at Crooked Creek Park. He suggested that the Council earmark an area at the park that would be reserved for the Miracle League while they raise the funds necessary to build the field. Councilman Wireman agreed that the Miracle League field would be a great benefit to the Town. However, it has been relayed to him, and Mr. David Drehs in the audience who is spearheading this project confirmed, that it would take them a couple years to raise the funds to build the field. Councilman Wireman suggested we earmark the land for a specified period of time; he suggested two years so they can raise the funds. Mr. Drehs was recognized from the audience and suggested that coordination of efforts improve. It is difficult for him to raise funds for a Miracle League field when there is a gravel parking lot at the park.

Upon query from Councilman Wireman, Director of Parks & Recreation Jason Tryon noted that if Council approves moving forward with Master Site Plan Concept 1B there is not a Miracle League field space reserved in that area. However, there is still plenty of undeveloped space on the opposite side of the park where the Miracle League field could go. Councilman Cohn suggested that Mr. Drehs get a plan together for the Miracle League field and present it to Council. Mr. Drehs asked if he could present his plan at the next Town Council meeting. Councilman Cohn said that Town Council supports donating the land at the park for the Miracle League but they are going to have to do the ground work and the planning and show Council for what they are asking. Currently, Council has nothing to discuss or consider because no plan has been presented.

Councilman Cohn moved to approve Crooked Creek Park Master Plan Concept 1B; the motion carried by way of a unanimous vote.

Further, there was a consensus by Council to include a presentation by Mr. Drehs for the Miracle League field at the next Council Meeting; to include on the agenda.

b) Council consideration to approve By-Laws for a new Economic Development Committee (staff was directed to draft new By-Laws by Council)

It was noted by Councilman Wireman that these By-Laws require that the Economic Development Committee take direction from and report to the Town Council, which is different from the By-Laws of the former Economic Development Advisory Committee.

Councilman Wireman moved to approve the By-Laws for the new Economic Development Committee, as presented; the motion carried by a vote of four (4) to one (1) with Councilman Daniels voting in the opposition.

c) Council consideration to approve an outline for holding Town Hall Meetings once per quarter (staff was directed by Council to provide a plan of action for this meeting forum)

Councilman Wireman noted that there is proposal to have no more than two Council Members attend these quarterly meetings. The quarterly meetings are proposed to take place on Thursday evenings 7 PM to 8 PM or Saturday mornings 10 AM to 11 AM (alternating each quarter). The purpose is to make another opportunity for residents to become informed and share their concerns. The hope is to move the venues around town making it as convenient as possible for residents to participate. The first 15 minutes or so would be Council Members and staff providing updates of what has been happening in Town and take the rest of the hour to open the floor to residents to express concerns and ask questions. There would not be a quorum of Council present and therefore they would not be official town meetings; minutes would not be necessary. Councilman Savoie asked how Council members not present would know what was discussed. Councilman Wireman said that a summary report could be generated and distributed to the remainder of Council by either a member of staff that attends or the Council members that attend. The Town Clerk also noted that the digital recorder could be used but not Granicus as it would not be available at the various venues.

The initial meeting would be held on the evening of Thursday, May 26th 7 PM to 8 PM at the Town Civic Building (or possibly the Cultural Arts Center next to the Civic Building).

Councilman Wireman moved to approve the outline (memo) regarding Town Hall Meetings to be held once per quarter, as presented; the motion carried unanimously.

d) Council consideration to award bid for resurfacing contract

Mr. Kaufhold noted that 3 bids were received for this resurfacing contract and opened last week ranging from \$1.713 million to \$2.035 million. Roads to be resurfaced on this contract will include some of those that scored less than a 40 on the road condition survey; meaning that these are roads in such poor condition that maintenance will no longer extend their life. The roads are either dead or dying so the work to be done is reconstruction. Upon query from Mayor Alvarez, Mr. Kaufhold confirmed that this contract would include the improvements to VFW Lane as approved by Council earlier this year. Mr. Kaufhold reported that Red Clay Industries was the lowest, responsive, responsible bidder with a bid of \$1,713,741 and it is staff's recommendation to award the bid to them.

Councilman Wireman submitted a motion to award the resurfacing contract to Red Clay Industries as the lowest, responsive, responsible bidder for their bid amount of \$1,713,741 and the motion carried by way of a unanimous vote.

e) Council consideration of Operational & Fiscal Review Phase II Fee Proposal

Mr. Kaufhold said that he recommends Council proceed with Phase II with the cost not to exceed \$32,000; a copy of the proposed scope of work is attached hereto and made part of these official minutes.

Councilman Daniels asked if Phase I was complete and ready to published. Mr. Kaufhold noted that the work that was scoped out by Barker Jones & Co. for Phase I has been completed. Councilman Daniels asked if there was any chance in the future that Phase I would require more work. Mr. Kaufhold said such would be possible and it is noted under Phase II in the scope of work where it says: "Report Preparation and Presentation and Phase II Task Determination". Councilman Daniels said he like to see Phase I finished completely before considering funding for anything else. Councilman Wireman opined that the objective of Phase I work has been reached per the scope of work. The report may still be in somewhat of a draft form and need some adjusting but the core of the work is finished. In its current form we cannot officially release Phase I to the public but that should not preclude us from moving forward with Phase II at this time.

Councilman Cohn moved to approve moving forward with Phase II of the Scope of Work for the Operational and Fiscal Review proposed by Barker Jones & Co. with fees not to exceed \$32,000; the motion carried by a vote of four (4) to one (1) with Councilman Daniels voting in the opposition.

12. NEW BUSINESS ITEMS

a) Council consideration of selecting outside Counsel for review of Operational & Fiscal Review Phase I

Mr. Kaufhold noted that there were some questions regarding the draft results of Phase I of the Operational & Fiscal Review and a recommendation was made to have outside counsel review the draft results. Councilman Savoie asked that our Town Attorney, Keith Merritt, be fully involved in this process. Councilman Daniels agreed that Mr. Merritt should be included and should recommend the outside Counsel secured for the review. He asked Mr. Merritt if they were voting to seek or not seek outside counsel or selecting a specific person/firm at this time. Mr. Merritt said that was up to Council. Councilman Daniels said he would have a problem voting for a person that Mr. Merritt has not had any input in selecting.

Councilwoman Stanton prefaced her statements by saying she has nothing against Mr. Merritt but she believes that the draft report needs to be looked at from an attorney with no ties to anyone associated with the Town. She said that she has spoken with other municipalities that have had similar situations and their recommendation is to bring in someone who is completely unfamiliar with anyone involved in Town business. Councilman Daniels agrees that the special attorney be from outside of the Town and unrelated to Town business but that our attorney should be able to review this special attorney and make recommendation on their competence based upon his years of experience as an attorney.

Mayor Alvarez asked if this outside attorney would be representing Indian Trail or simply reviewing the findings of the Phase I Operational & Fiscal Review. Mr. Merritt clarified by stating that any attorney retained by the Town Council is representing the Town Council. He

agreed that outside counsel should review some things in the draft findings it is up to Town Council how to make the determination of what attorney to use.

Councilman Wireman said that he would traditionally agree that we would have our resident expert (Mr. Merritt) weigh-in on what attorney to select. However, it's been brought to his attention that there is potential for a conflict of interest in him having take part in the selection process based upon the particular matter. This could be discussed further in Closed Session if necessary. He believes Town Council may have to be completely independent in who and how outside counsel is chosen.

Councilman Cohn said he doesn't believe anyone is trying to keep Mr. Merritt out of it; once an attorney is chosen then Mr. Merritt could provide his blessing or have his say as to whether or not he feels the chosen counsel is a good attorney or not. However, he believes the attorney should come from completely outside town business and outside of Indian Trail.

Mayor Alvarez asked the Town Manager if an attorney has been recommended. Mr. Kaufhold said they have talked to some and there is one name they could bring forth but this is more of a discussion at this point. Councilman Savoie agreed that this should be done outside. Everyone here could probably provide a name that could be considered an outside attorney. However, he believes Mr. Merritt is the best person here that is capable of taking in names and doing some due-diligence on who would be the most qualified for this analysis. Councilman Cohn said he means no disrespect to Mr. Merritt but as he is hearing things the majority of Council doesn't want Mr. Merritt involved in the process of selecting the attorney for the purpose of keeping it as "clean" as possible. Councilman Cohn said he is more than willing to have Mr. Merritt provide his input to say whether or not a good attorney has been chosen.

Councilman Cohn moved that Council move forward in consideration of selecting outside Counsel for review of the Operational & Fiscal Review Phase I. The motion carried by a vote of three (3) to two (2) with Councilmen Daniels and Savoie voting in opposition.

Mr. Kaufhold asked Council how they would like to find out about the selection. Mr. Kaufhold reiterated that he has spoken with some attorneys. Councilman Daniels said that he would like to be included on the process moving forward. He clarified that included means that he be given the same information as any other/all other Council members are given. All Council members should have the same opportunity to submit names of attorneys to represent the Town.

Councilman Cohn said that Town staff has been asked many times to provide a list of contractors for Town Council to choose from; then Town Council makes the final decision. He felt like Councilman Daniels was giving conflicting accounts of what he's looking for: first he said he wanted Mr. Merritt to make the choice for outside counsel now he's asking to be included in the process. Both Councilmen Cohn and Wireman said they have not seen any list of potential attorneys. Councilman Wireman suggested Mr. Kaufhold send the list of attorneys that he has spoken to out to Mr. Merritt first and then send it out to Council with Mr. Merritt's comments. It should be sent to all Council members so that everyone is on equal terms.

Councilwomen Stanton said she had mentioned, in front of all Council members at last month's meeting when this item was discussed, an attorney that Waxhaw had used in a similar situation and she thinks perhaps Mr. Kaufhold may have contacted that attorney.

Mr. Kaufhold recommended that he send his list to Mr. Merritt tomorrow and Mr. Merritt can cross off those attorneys that he would not recommend using for this task. Then, Mr.

Kaufhold can forward the revised list to Council and Council can then make a decision at the next Regular Council Meeting. Councilman Wireman asked that Mr. Merritt provide reasons as to why he would not recommend someone if there is anyone on the list he doesn't recommend. Mr. Merritt noted that any thoughts he had would best be discussed in Closed Session. Councilman Daniels clarified his earlier statements saying that he was not insinuating a list already existed but rather was referring to a future list.

b) Council consideration of to approve Capital Project Ordinance Closeout for Unionville Road Sidewalk

Mr. Kaufhold noted that this item, as well as the next two items, is to closeout completed projects that have come in under budget but he would yield the floor to Mr. Wojtowicz for further explanation. Mr. Wojtowicz noted that 57% of this project was completed with a grant. Ms. Watts has done an excellent job of administering the grant and obtaining the reimbursements. The original budget was for \$1,237,615 but actual expenses were only \$893,771; leaving a surplus of \$347,854 which can be reallocated to a future project.

Councilman Cohn moved to approve the closeout for the Capital Project Ordinance for Unionville Road Sidewalk and the motion carried unanimously.

c) Council consideration to approve Capital Project Ordinance Closeout for Chestnut Parkway Extension Phase I

This project was budgeted for \$1,861,890 and actual funds expended were \$1,833,618 allowing for \$28,272 going back into the Powell Bill's fund balance. *Councilman Daniels moved to approve the Capital Project Ordinance Closeout for Chestnut Parkway Extension Phase I and the motion carried by a unanimous vote.*

d) Council consideration to approve Capital Project Ordinance Closeout for Chestnut Square Park

Mr. Wojtowicz said that parks where he came from were nowhere near as beautiful as Chestnut Square Park—he opined that it was a successful mission. Not only is it a beautiful park but it was completed under budget by \$305,711. The original budget was \$5,283,913 and actual expenses were \$4,978,202. *Councilwoman Stanton moved to approve the Capital Project Ordinance closeout for Chestnut Square Park, the motion carried by way of a unanimous vote.*

e) Council consideration of amendments to the Board & Committee Appointment Policy (Councilman Cohn)

The two amendments were briefly discussed and read by the Town Clerk; a copy of the Amended Board & Committee Appointment Policy is attached hereto and made a part of these minutes. Section II A and Section II H both had changes. Upon query from Councilman Wireman it was noted that the policy does address attendance. *Councilman Cohn moved to approve the amended Board & Committee Appointment Policy, as presented and the motion carried by a unanimous vote.*

f) Council consideration to schedule and advertise a Public Hearing at the May 10th Council Meeting to get public input on decreasing our Indian Trail Tax Rate from 18.5 cents to 17.5 cents due to having a total of \$32 Million in cash in our Town Fund Balance on Dec 31st and residents and businesses deserve a tax decrease with these excessive amount of accumulated funds. (Councilman Daniels)

Councilman Daniels said the Finance Director was asked at the April 16th Budget Meeting if a tax decrease was feasible and the answer was it was a possibility that could be on the table. Councilman Daniels said the Finance Director also said at that meeting that there was \$10 million in the budget and most of that was real. Councilman Daniels said that Indian Trail has 160% of the budget in fund balance; most places only have 12%. He said that he has done research and having a fund balance of 25%-50% of the budget allows enough for rainy day situations. Councilman Daniels said he's not asking for Council to vote on a tax decrease he's just asking for the public to give their opinions; to schedule a public hearing. If the public wants a decrease, he believes we have the ability to afford a tax decrease of 1 cent.

Councilman Daniels moved to schedule a Public Hearing for May 10, 2016, 6:30 PM at the Civic Building to gain public input on decreasing the tax rate and discussion ensued.

Councilman Savoie said if we do move forward with a public hearing he would like the Finance Director to provide financial impacts of the proposed decrease across the board. Council needs to be shown the budget with the tax rate proposed reduction as well as keeping the tax rate the same. Councilman Daniels agreed.

Councilman Cohn said that he wanted to know if the Finance Director had been contacted by any Council member on reducing the tax rate and the affects of such. Mr. Wojtowicz said he had not been contacted by any Council members regarding this matter.

Mr. Wojtowicz said that Indian Trail is financially healthy. Last year there was a re-assessment of property values done in Union County (where our property values come from). By law staff had to provide Council with the "revenue neutral" tax rate. Since our overall property values had decreased by \$53 billion the revenue neutral tax rate that was recommended was 18.83 cents but Council held the tax rate at 18.5 cents. So, we didn't increase taxes when could have under the premise of generating the same tax revenue after a reassessment. Further, 85% of our tax rate is fixed: 5 cents goes to the debt service capital reserve, almost another 5 cents goes to sanitation, more than 5 cents goes to law enforcement and we are looking to increase the number of officers we have in our contract. With so much happening in the Town right now, Mr. Wojtowicz said his professional opinion would be that it is not a good time to lower the tax rate.

Councilwoman Stanton said she wishes Councilman Daniels would've been present at the Budget Meetings so he could have heard what all is happening in town. We need to increase the law enforcement in town because the town is still growing. She wished this item was not even on the agenda and probably wouldn't be if Councilman Daniels had attended the last Budget Meeting.

Councilman Daniels asked Mr. Wojtowicz if he was aware that residential, commercial, and commercial with utilities were separated out. We survived our reduction in tax base from last year's reassessment. He said that earlier this year he asked that the budget be drafted showing both holding the tax rate at 18.5 cents and reducing it to 17.5 cents.

Councilman Savoie said he doesn't mind entertaining this thought but again, would like to see the numbers for both and the effects on the proposed budget for next fiscal year. He asked if potential revenues over the next couple years could be factored in as well; for businesses slated to locate in Indian Trail. Mr. Wojtowicz said a 1 cent reduction would generate about \$358,000 less than holding the tax rate at 18.5 cents. No projected offsets are included in that figure.

Councilman Cohn noted that in the proposed FY 16-17 Budget there is a staggered start for the four (4) proposed additional deputies to the UCSO contract. The start is staggered in order to keep costs down because adding four deputies is a huge fiscal impact and we'll have to absorb total annual costs in the FY 17-18 budget. Councilman Cohn said that in or about January of this year Councilman Daniels wanted to start four new deputies immediately without concern to the cost and now he wants to reduce the tax rate? Councilman Cohn felt that something was amiss in the contrasting wishes of Councilman Daniels. He felt that it would've been very beneficial for Councilman Daniels to have attended the last budget meeting because he could've learned a lot. Councilman Cohn continued by stating that Councilman Daniels ran on the platform that he would not support a new Town Hall but once he got in office he was in support of such. Mayor Alvarez asked Councilman Cohn to keep on topic after Councilman Daniels asked for point of order. Councilman Cohn felt his point was on topic and asked why the Town is borrowing funds, thus paying interest, to build the new Town Hall. If we are in such great financial condition why don't we just build it without borrowing and save the interest? Then Councilman Cohn said that when taxes were raised 4 cents for the parks Council said that the parks would be completed before starting any new projects and that was not done—the parks are not finished but we've started the Town Hall project. Why would we lower taxes now if we have these unfinished projects?

Councilman Cohn asked Mr. Wojtowicz if we actually have \$32 million in fund balance. Mr. Wojtowicz said that there is \$32 million but most of it is restricted (i.e. earmarked and mandated to be spent on specific projects). Councilman Cohn said our town suffers because of political grand-standing because people want to go out and get votes by saying they introduced the idea of lowering the tax rate. But those same people want to build things like a new town hall without public input. Saying they want to lower taxes at this point, is just hypocritical in his opinion. Upon query by Mayor Alvarez, Mr. Wojtowicz concurred that there is enough money in the fund balance to pay bills for current projects with enough money left over for a rainy day.

Mr. Wojtowicz said as of today, the Tax Collector has reported that 99.4% of the people have paid their 2015 taxes. So, people can pay their taxes in Indian Trail. Councilman Wireman said as a Councilmember one of their most important duties is preparation of the budget. Council is paid by tax-payers to act upon these important budget matters. He said that he finds agenda items like this item very concerning. Rather than going out and educating the public on facts discussed in budget meetings showing why we cannot decrease taxes and how we are trying not to increase taxes we have agenda items brought forth by one member that brings confusion to the public about the reality of financial abilities. He opined that this information was thoroughly discussed at the last budget meeting and finance staff did a great job at presenting the facts and explaining the true financial picture of the Town so that anyone could understand what really can and cannot be supported in the upcoming fiscal year budget.

Councilman Wireman said if the tax rate is lowered we'll not be able to bring on new deputies next year. Thankfully, we have a Sheriff that works with us and allows the staggered start. Further, we still have to complete Phase 1 (concept 1B just approved this evening) of Crooked Creek Park which will cost about \$2.1 million. Additionally, there is \$895,000 for the recently approved sidewalk project. We will likely have to tap into at least \$300,000 of fund balance for those two items. Of course, costs associated with the town hall project are increasing; he believes it has increased from \$250/square foot to about \$500/square foot. If we lower the tax rate something will have to go unfinished.

Councilman Daniels asked Mr. Wojtowicz if we could afford to currently take \$300,000 from the unrestricted fund balance. Mr. Wojtowicz reported that the unrestricted fund balance is about \$10 million.

Mayor Alvarez called for a vote to the motion on the table which was to schedule a public hearing to reduce the tax rate 1 cent. The motion was denied by a vote of two (2) to three (3): Council members Daniels and Savoie voted in favor of the motion while Council members Wireman, Cohn and Stanton voted in the opposition.

Councilman Savoie suggested that figures be ran both ways so that public can be educated on the impacts of both lowering the rate and keeping it at 18.5 cents. Since the matter of suggesting to hold a public hearing on lowering the tax rate was on this agenda folks may ask why such is not moving forward. Other members noted that the monthly financial report is being posted on Town's website.

- g) Council consideration that a Town Hall Exterior Design with a cupola was approved by the Mayor and Town Council on November 25th, 2014. My understanding is that a cupola has now been removed from the Town Hall exterior design. Town staff indicated they would only make changes to the interior of the building. Please have the Town Manager distribute documentation to the Mayor and Town Council before the April 26th Council meeting that shows that Mayor and Town Council officially voted to remove this exterior feature from the previously Council approved exterior design and any communications with Creech giving them direction on removing the Cupola. (Councilman Daniels)**

Councilman Daniels said that it is his understanding that if Council votes to do something only a vote of Council can undo; he asked Mr. Merritt if his understanding was correct. Mr. Merritt said that stated that broadly he could not answer the question. Councilman Daniels specified his question asking Mr. Merritt if Council had voted for this cupola on the new Town Hall; can it only be removed by action of Council? Mr. Merritt said he could provide his legal opinion of the scenario to Council in Closed Session if need be; he would not provide his legal opinion of such in Open Session at this time. Councilman Daniels said that with this item he is simply asking that the Town Manager show the Mayor and Council that Council voted to approve removing the cupola.

The Town Manager passed out a packet of documentation to the Mayor and Council. On February 11, 2016 in the Power Point presented at the Council meeting there was a slide containing the "Building Redesign" items; "delete cupola was the first item on the list. Then, as per Council direction, Mr. Kaufhold sent an email to the Mayor and Council on February 16, 2016 titled "Town Hall Building Design Options" and the first item under the "Major changes include" section was "eliminate cupola". Then the Power Point slide presented at the February 23, 2016 states: "design ideas were sent to Council for review with supporting detail after the Feb. 11, 2016 Council meeting" (which would be the email of February 16th). Mr. Kaufhold said that staff reviewed the audio of the February 23, 2016 Regular Council Meeting and found that removal of the cupola was mentioned during the recommendations for change at minute 56:55 of that meeting and the Council approved the recommended changes by a vote of three (3) to one (1) that evening.

Councilman Daniels asked if there were (written) minutes to back up this evidence. Mr. Kaufhold noted that the Town Clerk had assumed the duties of the Human Resources Director for four months as well as other duties and since the audio of meetings are available on-line the transcription of minutes from earlier this year have not been completed. Temporary help is being secured to get the minutes transcribed. Mr. Kaufhold said that while the February 23, 2016 minutes have not been transcribed to written form anyone can listen to the recording of the meeting and hear the discussion and vote beginning at minute 56:55. Mr. Kaufhold said

that Mr. Daniels asked for documentation, which has been provided. Mr. Merritt confirmed that the recordings of the meetings on Granicus are in fact public records.

Councilman Wireman said to him, this is a non-issue. It was presented to Council and voted on and the documentation of such has been provided, as requested by Councilman Daniels. Councilman Cohn apologized to residents as this item, he believes, is nothing more than a waste of time.

Councilman Cohn submitted a motion to close-out this item and move on with the agenda; the motion carried by a vote of four (4) to one (1) with Councilman Daniels opposing.

Mayor Alvarez stated for the record that he recalls the removing of the cupola being presented to Council and voted on by Council quite clearly. Mayor Alvarez added that he believes the grandstanding on the matter is insulting to everyone. Councilman Daniels said he takes that comment very personal and believed a lot of residents were very surprised when the cupola was removed. Mayor Alvarez called Councilman Daniels out of order and there was some back-and-forth between the two that became quite heated. Mayor Alvarez threatened to have Councilman Daniels ejected from the meeting which appeared to anger Councilman Daniels. Mayor Alvarez solicited a motion and vote to eject Councilman Daniels. The verbal dispute continued between the two and Captain Coble stood up and asked that Council regain control for the sake of the Town. Other Council members began to make comments as well and Captain Coble then warned that if tempers did not calm and the meeting move forward he would have the meeting dispersed.

13. DISCUSSION ITEMS: none

14. UPDATES

- a) **Manager's Update:** Scott Kaufhold, Town Manager: Mr. Kaufhold said that the draft budget for FY 2016-2017 is being completed.

15. COUNCIL COMMENTS

- **Councilman Wireman:** thanked residents for coming to the meeting and being involved in the Town. He welcomed the public to contact them if they have any questions regarding Town business.
- **Councilman Daniels:** said when he ran three years ago he did so on the platform to reduce taxes for seniors and the disabled; it's not a plot to gain supporters for future political race. He said that he attended the first half of the first budget meeting; he is thankful that we have Granicus to bring members up to date should they miss a meeting. He hopes that Council can one day work together as a body of five and not be split three to two or four to one on every issue. He said the question was asked if he had reached out the Finance Director regarding an issue on the agenda. He said that previously he tried to reach out to staff in the Planning Department when he had questions and was denied access to meet or speak with Planning staff. Why would a member of staff be prohibited from meeting with an elected official? He found it distasteful and disgusting and it held him back from attempting to meet Finance staff regarding the issue he included on this agenda. In the future he hopes to be able to contact staff when he has questions or concerns.
- **Councilwomen Stanton:** thanked everyone for coming out this evening; thanked Captain Coble for interjecting during the heated discussion; thanked staff for all their hard work and Mr. Kaufhold for doing a great job—she felt staff is happy. She wished everyone well in their travels home.
- **Mayor Alvarez:** said he attends all the Town events and people engage him in conversations. If everyone put as much focus into Town business as they put into these agenda items that

have already been covered the Town would benefit greatly. As presented, these items do appear to be political grand-standing and if they are—shame. It is Council’s job to work for the people of Indian Trail. He urged that the childish games stop; the residents are tired of it and the grand-standing needs to stop. He thanked Mr. Burhans and staff for the Tree Initiative; it is a great thing for the community. Next Thursday, May 5 is National Day of Prayer which was approved by Congress many years ago. There will be a ceremony in Crossing Paths Park 12 Noon to 12:45 PM; please attend if you can and pray for our country and our leaders. This Saturday at the Monroe Mall the Artists Music Guild will hold “Union Idol” 3PM to 8PM. The Arbor Day Celebration was wonderful. He asked the Town Manager to communicate with Mr. Griggs what is going on with the stormwater situation in his neighborhood. If there is excess money in our budget, Mayor Alvarez opined that it should be put into law enforcement for our town. Mayor Alvarez recognized Councilman Daniels. Councilman Daniels noted that the Mayor and Council were invited to the Annual Military Inspection for JROTC at Sun Valley High; it was confirmed that quorum may attend—the Clerk would send a notice of such to the Sunshine List.

- **Councilman Cohn:** thanked the public for coming this evening and staff for their presentations. He said that he hates when people play politics. It bothers him when Council members go out and try to start a police department and they talk about adding Sheriff’s deputies. Also, when elected officials run on a platform that does not support a new town hall then after elected vote for a new town hall without the vote of the people. He said that he doesn’t know any better than to be straight forward with folks. He’d love to be able to lower taxes but feels it’s just not feasible with all that’s going on. He’s upset that all the parks were supposed to be finished before moving on to any other projects; parks money was to only go to parks.
- **Councilman Savoie:** thanked staff for their diligence and hard work. He congratulated Captain Coble on his recent promotion from Lieutenant to Captain and thanked everyone who attended the meeting.

16. CLOSED SESSION

Action

Councilman Daniels moved that Council enter Closed Session pursuant to N.C.G.S. 143-318.11(a)(3) to protect the attorney-client privilege and 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; the motion carried unanimously. Council entered Closed Session.

Upon conclusion of Closed Session the public was invited back into the Council Chambers at which time Councilman Daniels moved that Council enter into Regular/Open Session and motion carried unanimously

17. POSSIBLE ACTION FOLLOWING CLOSED SESSION

Councilman Wireman moved to suspend the agenda rules to add the following items to the agenda:

- 1) *Release of prior closed session minutes*
- 2) *Consideration of the Resolution #R160426-1 A Resolution in Support of a Noise Wall to be Constructed at Certain Locations Along the Monroe Bypass Project.*

The motion to add these two items to the agenda carried unanimously.

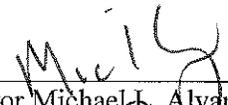
- 1) **Release of Prior Closed Session Minutes:** *Councilman Wireman moved to release/unseal the Closed Session as presented/recommended by the Town Clerk in Closed Session (2/10/2009 Closed Session Minutes in their entirety; 7/9/2013 Closed Session Minutes only the portion pertaining to G.S. 143-318.11(a)(4) regarding business expansion; 8/27/2013 Closed Session Minutes only page 1 with regard to approving other Closed Session Minutes; November 26, 2013 Closed Session Minutes only the portions pertaining to unsealing other Closed Session Minutes and the portion pertaining to G.S. 143-318.11(a)(5) property purchase; and 10/13/2015 Closed*

Session Minutes on the first 2 paragraphs). The motion carried by way of a unanimous vote of Council.

- 2) **Consideration of Resolution #R160426-1 A Resolution in Support of a Noise Wall to be Constructed at Certain Locations Along the Monroe Bypass Project:** Councilman Daniels moved to approve Resolution #R100426-1 and the motion carried unanimously.

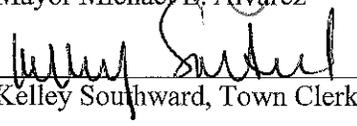
18. **ADJOURN:** Councilman Daniels moved to adjourn at approximately 9:40 PM and the motion carried unanimously.

APPROVED:



Mayor Michael L. Alvarez

Attest:



Kelley Southward, Town Clerk

(SEAL)

