



Town of Indian Trail
Minutes of Town Council
February 14, 2012
Civic Building
6:30 P.M.

The following members of the governing body were present:

Mayor: Michael L. Alvarez

Council Members: Robert Allen, David Cohn, Christopher King, Darlene Luther, and David Waddell.

Staff Members: Town Manager Joe Fivas, Town Clerk Peggy Piontek, Town Attorney Keith Merritt, Planning Director Shelley DeHart, Finance Director Marsha Sutton, Town Engineer Scott Kaufhold, Tax Collector Janice Cook, and Human Resources Miriam Lowery.

CALL MEETING TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Alvarez called the meeting to order and lead in the Pledge of Allegiance.

PRESENTATIONS

a. **Porter Ridge Football Team Recognition**

Mayor Alvarez read the Certificate of Recognition for the audience and presented it to the Coaches, Athletic Directors and team members.

Council took and returned from a brief recess.

b. **Chief Johnny Blythe and Chief Charlie Porter Fire Services Presentation**

Chief Blythe informed Council how the Town currently manages fire protection (six different volunteer fire departments (VFD) are involved), how they are managed, funded and he presented an explanations of services provided by them.

Chief Charlie Porter reviewed the Fire District Map for Council explaining which VFD responds to what area.

Council had a dialog with the Chiefs about the different services, funding and challenges the Monroe Bypass might create.

ADDITIONS AND DELETIONS

Robert Allen made a motion to approve adding the possible action regarding dedication approval of property for Sage Croft Subdivision and approval of the Settlement Agreement as item 12A. Council voted unanimously in favor of the motion.

Christopher King made a motion to approve moving item 9b Discussion of Public-Private Partnership to the February 28th meeting.
Motion Passed 4 - 1 with Darlene Luther opposing.

MOTION TO APPROVE AGENDA

David Cohn made a motion to approve the agenda
Council voted unanimously in favor of the motion.

PUBLIC COMMENTS

Due to the number of citizens signed up to speak, Mayor Alvarez requested a motion to extend the time allotted for Public Comments.

David Waddell made a motion to approve extending time for Public Comments.
Council voted unanimously in favor of the motion.

Severin Jacobsen, 3905 Waters Reach Lane, Indian Trail, NC advised that the previous Council agreed to give land to Carolina Court for the purpose of building a new facility in an attempt to keep them in Indian Trail. He has been advised that this Council may not live up to that agreement, feeling that this could result in a great loss to Indian Trail.

Jonathan Baer, 5517 Rogers Road, Indian Trail, NC addressed the Economic Development Strategic Plan, recommending that the Council put a moratorium on this plan and providing his reasoning for that recommendation.

Michael Faulkenberry, 519 Picketts Circle, Indian Trail, NC addressed the flooding issue in the Traewyck Subdivision. He feels that since they are Indian Trail residents that staff should assist them and not reply that it is a County issue. He suggested that the Council, Mayor, Town

Manager meet with the residents after a heavy rain storm and then tell them it's not an Indian Trail problem. He also suggested that Indian Trail Officials meet with the Union County counterparts to discuss an end to the flooding issue for good. He also recommended that Indian Trail Annex the Sun Valley Business Park then we can take care of the problem permanently without outside help. He has done his research and suggests staff do the same before compromising the safety of any residents and not tell them it is not Indian Trail's problem ever again.

Amanda Faulkenberry, 519 Picketts Circle, Indian Trail, NC presented a hypothetical situation on a possible economic development situation resulting in the loss of this hypothetical business because the town could not supply adequate law enforcement coverage. She strongly recommended that Council vote in favor of adding the 2 officers now; in addition she believes the Town needs a plan for adding officers each year for the next 5 years.

John Quinn, 3315 Creek Trail Road, Indian Trail, NC referred to a matter in 2007 pertaining to a newspaper article about unreported, unaccounted income of individuals associated with the Town and after getting elected in 2007 he wondered what happened to those Closed Session minutes. He advised that in 2010 he received unsolicited information from a Council Member at that time, resulting in his requesting copies of those minutes so he would have a better understanding of the situation and was denied that right by Council adopting a policy that stated Closed Session minutes can only be reviewed during the term of your service. He believes that any Elected Official should have the right to review any documents at any time, as that is what their purpose is to represent the people. Mr. Quinn advised that he requested to view those documents 2 weeks ago as well and referred to NCGS 131-1 and 131-.1 and is wondering why he has not heard from the Town Manager.

Mayor Alvarez supplied Mr. Quinn with a Public Information Request form which Mr. Quinn advised he had already filled one out several years ago. Mayor Alvarez again requested he fill out the form and Mr. Quinn replied that Mayor Alvarez could make the request for him. Mayor Alvarez reiterated his request, Mr. Quinn replied he will fill out the form and submit it.

Samantha Towns, 104 Pine Lake Drive, Indian Trail, NC advised that the Public Safety Committee is an advisory body and should not have a vested interest in any study that is proposed or recommended for evaluation. She requested the Council take this into consideration during the selection of committee members as their chief objective is the safety of residents of Indian Trail. She hopes that the Council will look at all the areas involved in safety when they are having town initiatives so that the safety of the residents is considered.

Tommy Smith, 609 Pickett Circle, Indian Trail addressed the implementation of a Leash Law and provided Council with an incident that he incurred as a result of dogs not being leashed. He believes it's time to implement a Leash Law considering the size of our community for both the owners of the animals and the residents of our Town.

Gary Woolnough, 1002 Horton Ridge Ct., Indian Trail, NC inquired when the widening of Old Monroe Road would begin between Wesley Chapel Stouts Road and Indian Trail Road, since the Referendum was approved at the last election. Has the State been notified if the bond was passed and what was their response?

Jim Houston, 2009 Blue Range Road, Indian Trail, NC advised that he was a member of the Public Safety Committee, providing information as to how they operated. They only addressed matters directed to them by the Town Council; they never assumed or believed that they would set any emergency responder policy. They were only to advise the Council on the projects they had been given. He advised the Committee had been working on the Leash Law when they were disbanded. Mr. Houston stated that emergency responders' biggest challenge is getting through Highway 74, which will become more difficult during the Bypass construction. He recommended that consideration be given to street lights that are capable of detecting sirens to change the direction of the light to enable traffic to get through like Charlotte has.

Barbara Jackson, 5605 Rogers Road, Indian Trail, NC advised that there is common area that a snake has been seen at and a lizard has gotten into her home. When it rains the water just sits there, she lives by herself and is frightened. She would like it cleaned up.

CONSENT AGENDA

- a. Approval of both sets of January 18th, January 24th, and 28th 2012 minutes
- b. Tax Report for month end January 2012
- c. Order of advertisement of unpaid taxes that are liens on real property
- d. Review LGC-203(**Copy attached hereto and made a part of these minutes.**)
- e. Budget Amendments(**Copy attached hereto and made a part of these minutes.**)

Christopher King made a motion to approve the Consent Agenda
Council voted unanimously in favor of the motion.

PUBLIC HEARINGS

- a. **ZM2011-003 Sun Valley Commons Phase III**

Rox Burhans, Senior Planner explained the rezoning process, the tools of the trade (Comprehensive Plan and Future Land Use Map), rezone considerations. He explained that the subject property was acquired by the applicant at the same time as the adjacent movie theater site and was intended to be rezoned to a GBD with the previous Sun Valley Commons rezoning, but in the 2010 application, the applicant mistakenly did not include the 0.488 acre subject property. This will correct the previous oversight and ensure the ability to combine the subject property with the adjacent commercial site.

The Planning Board heard this on January 17, 2012 with discussion focused on neighborhood protections and also made the required consistency findings as follows:

1. The following findings were made consistent with the Comprehensive Plan:
Goal 1.3.1 Quality of Life: The proposed rezoning to GBD within the Village Center will help to promote a diversity of land uses and a better quality of life for our residents by providing opportunity to build out the Village Centers establishing unique identity and providing goods and

services as planned.

Goal 1.3.2 Land Use: The proposed rezone petition is consistent with the vision of community form, providing a mix of uses within the intended area (Village Center) including an analysis to support its request to service our residents as well as residents in neighboring communities. It further promotes the opportunity to establish a more balanced tax base by promoting commercial development.

2. The request for this zoning reclassification is a reasonable request and is in the public interest because it promotes the goals of the adopted Indian Trail Comprehensive Plan in the areas of Quality of Life and Land Use and is consistent with the adopted plans within the Town of Indian Trail.

Mr. Waddell inquired when a property is rezoned isn't there usually a policy statement of intent. Mr. Burhans replied it refers that it will be included in the larger Sun Valley Parcel. Mr. Merritt explained that the developer is not required to inform the use of the district, only that it will adhere to the new zoning classification.

Mr. Allen inquired if this fell thru the cracks and Mr. Burhans advised when the property owner was assembling the properties for the site, the property before you tonight was also acquired in that process. However, when requesting the rezoning this specific parcel was not in the application.

Mayor Alvarez opened the public comments portion of the hearing.

Michael Faulkenberry, 519 Picketts Circle, thanked Mayor Alvarez, Council Members Waddell, King & Cohn for coming to their neighborhood Saturday for support. He inquired if there is a plan to protect the residents Rosetta Drive behind the theater?

Tommy Smith, 609 Pickett Circle, Indian Trail, expressed appreciation for the increased deputy patrol. He inquired if the theater will be the same color as the rest of the development. He advised that his neighbor is concerned for her safety. Also there is still a propane tank on the property from a house that has been removed and will it also be removed?

John Ross from Eagle Engineering, 2013 Van Buren Avenue, Indian Trail, NC represents Sun Valley Commons LLC. He complimented Ms. DeHart and Mr. Burhans for a job well done in both presenting this rezoning application and for administering the Ordinances the Town Council have adopted. He again explained how this particular parcel was not included in the original application. This parcel, if approved, will be combined with the other parcels, no development has been determined for that site but when it does occur, his firm will be sending plans to the Town for final site plan permitting.

Ms. Luther asked about the propane tank and he advised that they will look into it. Mayor Alvarez requested that Mr. Ross include a staff member on the resolution of this issue so we can, in turn, contact the citizen. Mr. Ross confirmed that he would.

John Quinn, 3315 Creek Trail Road, Indian Trail, NC commented that he will try and be confrontational. He advised he was concerned when he heard about this, reflecting on his term

in the Planning Board and Council. He expressed concerns about the wall and inquired whether it is anywhere on paper and suggested if not, it be done. He then referred to Traewyck Subdivision buffers and screening that was supposed to happen when Meridian Apartments was built and never done. He advised that Union Town Center was required by the Town to put specific drain system as part of the approved plan, also never put in there. He believes his questions are legitimate, we can't forget the past, do it right the first time.

Mr. Waddell advised that he requested the detailed information on the wall and berm for Sun Valley Commons; he received a reply from Mr. Fivas and has forwarded it to Mr. Quinn. Mr. Quinn said "so there is a written plan in place that has been signed off on"? Mr. Waddell confirmed that was the case.

Mayor Alvarez closed the public comments portion of the hearing.

Mr. King advised that he doesn't have much deliberation on this because he and Mr. Cohn both went out to the site to speak to the residents for themselves. Mr. King, although not happy about it, does understand how it might have slipped through the cracks and feels the plans need to go as they were planned.

Mr. Cohn advised he went with Councilman King to look at the site and there seems to be a lot of distrust and he understands why there is some of it, but looking at it logically, who would want to build a house right there? He asked the residents to trust their Council, if the wall isn't built they will have learned something, but he believes the wall will be built as promised.

Christopher King made a motion to approve ZM2011-003 Sun Valley Commons Phase III as presented and concur with Planning Board findings.

Council voted unanimously in favor of the motion. **(Copy attached hereto and made a part of these minutes.)**

b. ZT2011-011 Text Amendment Chapters 530 and 1620

Rox Burhans, Senior Planner explained the process of a text amendment. This text amendment arises as a result of a request by the owner of a building within an Indian Trail business park regarding the ability to locate an ancillary service type establishment within the building. In the context of a business park, an ancillary service establishment is one that would provide services to either business park employees or the businesses themselves. The UDO currently does not permit these types of establishments within the Light Industrial District and this is a request to permit them.

The amendment proposes the following modification to the UDO:

Modifies the LI District Use Table to permit ancillary service type uses within the business parks.vCreates size limitations for ancillary service establishments to maintain industrial/employment nature of business parks.

Creates compatibility standards for day care uses to help prevent impacts between day care and industrial type uses.

Creates a definition for "Business Parks" to effect the changes to the LI District Use Table.

The Planning Board heard this item on January 17, 2012 and recommended approval of this text amendment as presented. The Planning Board asked staff to review the UDO day care use language to ensure its consistency with current State law and verbiage. Still will respond to the Planning Board regarding this request as a separate item. The Planning Board also made the required consistency findings as follows:

1. The following findings were made consistent with the Comprehensive Plan:

Goal 1.3.2 Land Use; The proposed text amendment will encourage a mix of complimentary land uses within Indian Trail's Light Industrial Zoning District.

Goad 1.3.2 Land Use: The proposed text amendment will encourage a more balanced tax base by expanding the permitted land uses within the Light Industrial Zoning District.

2. This UDO amendment is in the best interest of the public because it promotes the goals of the adopted Indian Trail Comprehensive Plan and strengthens Indian Trail's business parks by permitting mutually-supportive mix of land uses.

Mayor Alvarez opened and closed the public comments portion of the hearing as no one had signed up to speak.

Robert Allen made a motion to approve ZT2011-011 Text Amendment Chapters 530 and 1620 as presented by the Planning Board.

Council voted unanimously in favor of the motion. **(Copy attached hereto and made a part of these minutes.)**

BUSINESS ITEMS

a. Council Consideration of the Approval of Public Safety Committee Bylaws

Mr. Waddell advised that he has reviewed the Public Safety Bylaws that were emailed to the Council and made the following motion.

David Waddell made a motion adopt the Public Safety Committee Bylaws and re-establishing the Public Safety Committee.

Council voted unanimously in favor of the motion. **(Copy attached hereto and made a part of these minutes.)**

Council took a 5 minute break.

b. Council Consideration of the Level of Service for Law Enforcement

Mr. Cohn advised that Council discussed adding two officers at the Strategic Planning meeting. After speaking with Lt. Coble, he feels the Council should pass a resolution for a grant. Lt. Coble stated that if we are looking for a grant funding source, they need a resolution from

Council supporting the grant application. His goal would be to request that two deputy sheriff's be funded for traffic enforcement, through the Governor's Highway Safety Program.

Mr. Cohn suggested bringing one officer on now and bring a second officer on in October; perhaps budget for two with the anticipation of the grant. Mr. Allen agreed that we should get into the budget process before we make a decision. Lt. Coble explained the grant process and timeframe. Mr. Allen believes that some of the businesses that are open late night could subsidize additional security to take some of the burden off of the taxpayers; an example would be the Stone Theatre. Mr. Fivas stated that the theatre will have their own additional security.

Additional discussion ensued between Council and Lt. Coble, with the determination that businesses can hire off duty officers, but all requests for off duty officers goes to the Sheriff and he makes the determination as to whether it warrants having an officer in uniform at the establishment; he weighs what the liability may be.

Mr. Waddell recommended prioritizing budget items in the future.

By consensus Council agreed to support the Sheriff's office in applying for a grant. Mr. Fivas advised that staff will start working with that direction.

David Waddell made a motion authorizing the addition of one officer.

Council discussed the number of officers that would be needed. Mr. Waddell withdrew his motion.

David Waddell made a motion add one officer now and budget for another officer in October.

Mr. Allen and Ms. Luther feel we should look at the budget and then make the decision for additional officers and each explained their reasoning.

Mr. Fivas stated he feels there is agreement on adding one officer and advised we have funds budgeted to cover the additional officer now. He suggested adding the additional officer now and incorporate two additional officers in the budget figures and then the deliberations can be made during the budget process as to whether to add one or two officers; as this is the direction he is interpreting from Council. Mr. Cohn asked how any of these decisions will affect the potential grant. Lt. Coble explained that the grant is seed money, for the start of some program, such as creation of a Traffic Unit and if the Town follows through by adding an additional officer it would be beneficial in that it shows that steps for development/progress are taking place. There was additional discussion on this matter.

Mr. Waddell withdrew his motion.

David Waddell made a motion add one officer now and have a discussion in the budget to add future law enforcement additions
Council voted unanimously in favor of the motion.

Mr. Fivas recommends that we include the second officer in the budget and then conversation can continue during the budget process. Also we'll pull out the documentation for the Governor's Highway Safety Program and have that information as well.

DISCUSSION ITEMS

a. Council Discussion of Time Frame for Improvements of Old Monroe Road

Ms. Luther advised she put this item on the agenda because of the many inquiries she has heard since the passing of the referendum for Old Monroe Road. She believes a discussion would be important so we can determine where we are and what we can do. She advised that she did have an impromptu meeting with some of the citizens about this.

Mr. Kaufhold provided some background on the project. The project as identified in the TIP (Transportation Improvement Program) in its entirety is from Downtown Matthews to Wesley Chapel Stouts Road. Segment A runs from Downtown Matthews to I-485; Segment B runs from I-485 to Indian Trail Road; and Segment C runs from Indian Trail Road to Wesley Chapel Stouts Road for a total of 6.5 miles in length. Some of the segments will be funded sooner than others. Mr. Kaufhold provided a map showing the traffic count from 2010 and the anticipated traffic count for 2035 on Old Monroe Road.

Mr. Fivas briefly outlined the options. 1) Wait on NCDOT; pros are no cost to town and cons would be increased traffic congestion, increased travel time, increased driver frustration, negative impact on property values. 2) Interim Improvements Phase Segment C; pros that it sets the template and minimizes right of way cost, cons would be using town funding to accomplish this and phased construction that could increase cost. 3) Partner with NCDOT to construct Segment C; pros would be to realize improvements sooner than TIP date, improve traffic flow, encourage economic development and positive impact on property taxes, cons would be temporary delays through construction zone. 4) Partner with NCDOT to design Segment C; pros project is "shovel ready", be better positioned for Mobility Fund, cons would also be that project is "shovel ready". Mr. Fivas explained that the Mobility Fund is a grant the Town is working with in conjunction with Stallings and Matthews. We have applied for this grant and it would cover the cost of improvements from Trade Street to Wesley Chapel Stouts Road; we will find out in July. Mr. Fivas advised that if you want to advance a project, the Town needs to present the funds to NCDOT, then we can get it done and when the funding comes to fruition from NCDOT, the Town can get paid back.

Mr. Waddell inquired about the projected traffic flow and whether the turnpike was taken into account. Mr. Kaufhold advised that it's supposed to be incorporated into the model.

Ms. Luther inquired which of the options would get it done the quickest. Mr. Fivas replied that moving Section B from 2018 forward is an option, but a very difficult option; in regards to Section C, the option that involves negotiations with NCDOT for additional funds for this to be a standalone project, the Town may have to wait a while for them to come up with additional

funds. Basically to show forward progress to the community it would be Option 2; to get it entirely done it would be Option 3.

Council held additional discussion on the different funding options with no final determination made. Ms. Luther feels that perhaps there should be some type of public notification to let the residents know that even though the referendum for improvements passed and the actual work has not started, this project is in the works; this was also discussed among Council. It was determined that this item will be put on the agenda for the next meeting with additional information provided for consideration.

b. Council discussion of Public-Private Partnership development options for Town owned 51-acre parcel - this is a request made by Council Member Luther

This item was tabled to the February 28th meeting as a result of a motion made in Additions and Deletions.

c. Council Discussion on a Possible Leash Law Ordinance

Ms. Luther advised that she feels people wanted to see this information. She recommends putting an ordinance on the books so that there is some kind of fine and responsibility. Mayor Alvarez believes this is also something we should have on the books. Mr. Cohn stated he feels that since we now have Public Safety Committee in the works; they should probably be the ones to investigate the matter. Council continued with a brief discussion.

Mr. Fivas stated there are two ways this could be handled; staff can research and present options to Council or the Public Safety Committee, once established, could investigate and present information to Council.

Darlene Luther made a motion directing staff to put together a leash ordinance that's fine based and bring back to Council by the next meeting.

Motion Failed 3 - 2 with David Cohn, Christopher King, and David Waddell opposing.

Mr. Fivas made a suggestion on Old Monroe Road; get ideas and feedback from consultants, not engage them, for feasibility studies to bring back at the next meeting. There were no objections from Council.

MANAGERS REPORT

Mr. Fivas informed Council that the stormwater contract will be brought up at the next meeting. There is an ABC Board spot that will be appointed in March, there is one applicant, if anyone is interested please apply and the Town also need applicants for the Public Safety Committee. In regards to Traewyck, on some of the issues it's not whether we want to be helpful but that we may not have the legal authority to do anything but advise.

COUNCIL COMMENTS

Mayor Alvarez thanked everyone for staying, wished them a Happy Valentine's Day and wished his wife a Happy Anniversary.

Mr. King had no comment.

Mr. Waddell asked that Mrs. Alvarez will make the Mayor's punishment either very soft or very swift.

Mr. Allen stated there's no place he'd rather be on Valentine's Day than with you fine folks and thanked everyone for being here.

Ms. Luther stated that she is very surprised that people would not agree with having a leash law on the books sooner than later that could be revised, changed, deleted at any time. It's the number one thing on the survey and she was very surprised.

Mr. Cohn wished everyone a Happy Valentine's Day and he was tickled to death to see the Porter Ridge football team. He thought it was nice they all were here and he's going home to his wife. It's good to be here, good to be alive.

CLOSED SESSION

David Waddell made a motion to enter closed session for **NCGS 143-318.11(a)(3)** - 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 Keystone vs. Town of Indian Trail.
Council voted unanimously in favor of the motion.

David Waddell made a motion to approve coming out of closed session
Council voted unanimously in favor of the motion.

Robert Allen made a motion to allow the transfer of the park property to be made by a successor entity to KBP Holdings LLC if necessary.
Council voted unanimously in favor of the motion.

Christopher King made a motion to approve the Settlement Agreement and Mutual Release between Keystone Builders Resource Group, LL Development Charlotte LLC and the Town of Indian Trail with any revisions required by the Town Attorney.
Council voted unanimously in favor of the motion.

Robert Allen made a motion to approve the transfer of the property required by SUP 2004-15 to the Town of Indian Trail and the associated Escrow Agreement and Memorandum of Agreement and accepting it as the dedication of the required park.
Council voted unanimously in favor of the motion.

ADJOURN

Robert Allen made a motion to adjourn
Council voted unanimously in favor of the motion.

APPROVED:

Michael L. Alvarez

Attest:

Peggy Piontek, Town Clerk