

**Town of Indian Trail**  
**Minutes of Council Special Meeting**  
**April 13, 2009**  
**Civic Building**  
**7:00 P.M.**

The following members of the governing body were present:

Mayor: John J. Quinn

Council Members: Gary D'Onofrio, Jeff Goodall, Shirley Howe, John Hullinger, Dan Schallenkamp

Staff Members: Town Attorney Keith Merritt, Town Manager Ed Humphries, Town Clerk Peggy Piontek, Planning Director Shelley DeHart, Town Engineer Scott Kaufhold, and Junior Planner Jonathon Edwards.

Press/Media: Shirley Bossbach of the County Edge, and Marty Mitchen of the Charlotte Observer.

**CALL MEETING TO ORDER**

Mayor Pro Tem Shirley Howe called the meeting to order.

**DISCUSSION & POSSIBLE ACTION**

- a. Contract with Eagle Engineering for Survey Services for Proposed Annexation

Mr. Humphries stated that during the last meeting there was discussion on hiring a surveyor to do the metes and bounds of the annexation property. He wanted to insure that Council is aware that the contract with Eagle Engineering for the metes and bounds is for \$16,500.00. He requested that Council approve the contract. If this contract is approved, then Item b is for the budget amendment, which includes the contract with COG in the amount of \$8,000 plus the surveyors' contract. This money would come out of the fund balance.

Councilmember Goodall inquired what Mr. Humphries uses as a factor to determine what should go out for bid? Mr. Humphries replied that the Town tries to utilize businesses in Indian Trail and Union County; and this company has given us good pricing over the last several months in our stormwater area; and their fee was reasonable. Ms. Sutton stated there are state statues that

govern what items go out to bid. There was additional discussion as to whether any committee/board members own or work for the survey company.

Mayor Pro Tem Howe stated that the work was started already and if not approved they must be paid for the services performed to date.

Mayor Pro Tem Howe recommended a delay on approval of this until the annexation is approved by the Council

Jeff Goodall made a motion postponing item 2a and b to b & c and start the meeting with the proposed adoption of the annexation report.

Council voted unanimously in favor of the motion.

Mr. Merritt provided statutes 143-64.32, which deals with architectural engineering and surveying services, and basically says they are selected on basis of qualifications and then pricing can be negotiated; a resident firm providing those services shall be granted a preference over a non-resident firm; there is an exception if the proposed project is an amount under \$30,000. He went on to read general statute concerning items that must be placed for bid in NCGS 143-129.

b. Budget Amendment for Services for current Annexation Study  
*This item postponed until after Item C- Proposed Adoption of Annexation Report*

c. Proposed Adoption of Annexation Report

Mr. Duston highlighted the most important issues. If the report is not adopted tonight the annexation can not go forward. He drew Council's attention to the annexation report and briefly went over how each of the areas meets the eligibility requirements. Each area should be adjacent and contiguous, as defined by NCGS 160-48 and thus qualify. At least one-eighth of the external boundaries of each of the areas must abut the Town's primary corporate limits. No part of the area to be annexed is included in another community. Information for the each residential area proposed to be annexed is on pages 3 and 4 of the annexation report. Areas 1, 3, 5 & 7 meet the requirements for involuntary annexation. Area 6 is commercially developed and has been qualified differently; Mr. Duston read the statute applicable to this area. The one qualification that all areas must meet is that the entire external boundary of the area must be taken in; no partial areas.

Mr. Duston drew Council's attention to page 5 of the annexation report. This shows the estimated population in the proposed areas.

There are five areas that must be provided for in the study; police, fire, garbage, water & sewer and streets. The Town of Indian Trail contracts with the Union County Deputies and would remain status quo. The Town is served by four VFD's and does not directly fund them, therefore is a non-issue. Streetlights would need to be provided and would cost possibly as much as

\$25,500 annually if everyone on every street petitioned for street lights; that is a worst case scenario. Solid waste could cost as much as \$119,900 annually.

If a solid waste provider serves more than 50 customers in Union County, and they lose service, the town is obligated to pay them for the loss of revenue for 15 months in a one time payout. Mr. Duston shared a worst case scenario of cost for this area of service.

Councilmember Schallenkamp inquired if there is any way to give these companies notice that we're going to switch to Action and avoid paying penalties? Mr. Duston replied you can broker a contract to them to provide the service as is what is being provided now. It would have to be one time a week, roll out, with recycle but not all towns provide recycle. You would have to take a look at what the company charges. There was more general discussion of this area of service and costs associated.

Mayor Quinn entered the meeting

Mr. Duston stated that in regards to street maintenance, the town would not initially take over those roads. No additional cost to the town because two cents of every 14.5 is allocated to maintenance town wide. Powell Bill funds were not calculated. Councilmember Schallenkamp clarified that the two cents was not designated for maintenance, but for road improvements. Mr. Duston advised that correction must be made in the report if it is adopted.

Administrative services as the population goes up so will the cost, the estimated increase is \$4,459. Water and sewer service is not a service the Town provides and there are no costs associated. Stormwater was estimated on how much would be spent per capita basis which amounts to approximately \$32,000. After further discussion of other areas where additional funds may be required, it was determined that a worst case scenario is \$177,844. The ordinance must read that the town has the funds to pay for these services and the funds must be there when the ordinance is adopted.

Mr. Duston stated that in regards to revenue; the largest source will be ad valorem taxes. Additional revenues would include motor vehicle taxes, local option sales tax, utility franchise, beer & wine, cable vision, planning revenue, Powell Bill and stormwater. The total annual revenues would be approximately \$254,560.

The Council can adopt the report tonight and it can be revised in the future; a survey has to be included in the ordinance. No survey, no ordinance, no annexation. Mr. Duston stated that at previous discussion with Council it was decided the effective date of August 31 and will be a part of the town that day and the town would collect ten months worth of taxes. There followed a brief discussion of how many months of taxes would be billed.

Councilmember Howe inquired about the attorneys fees. Mr. Humphries advised the attorney would review the ordinances, attend meetings out of the ordinary and reviewing of the report.

Mr. Duston briefly addressed information filing required with other agencies. There was additional discussion of the potential costs and revenues.

Councilmember Howe inquired if we contacted Mr. Duston last year? Mr. Humphries replied we contacted him. Mr. Humphries replied that the reasons were because we wanted to close some of the holes and the possible new law enactment.

Councilmember Howe inquired about if the metes and bounds are done and this process is stopped for some reason, what is the shelf life of this information. Mr. Duston advised the information needs to be current, but it would not take much work to update the information. Mr. Merritt advised that the surveys are not going to change, the property boundaries will remain the same unless you add or subtract any areas.

Mr. Duston touched on the major dates ahead if this goes forward: Public Information meeting on May 13th and the Public Hearing on May 27th; as stated in the Resolution of Intent. If either of those meetings are not held the annexation stops. If for some reason you don't like a particular area Council can change it at their will. The date of the proposed adoption is June 9, which enables us to meet the August 31st date.

Mayor Quinn inquired how much has been spent so far. Mr. Humphries advise approximately \$12,000 between the two studies.

Councilmember Schallenkamp inquired if Council is required to be at the public information meeting. Mr. Duston suggested that the Manager or the Mayor attend and let the citizens know no decision is going to take place. He is fully prepared to present the report, he suggests the departments attend, and suggests Council not.

Councilmember Goodall inquired as to the recent litigation cost to defend annexations. Mr. Duston stated he is aware of litigation involving Weddington or Marvin recently. Mr. Merritt stated that when you annex, you can't prevent someone from filing against you, but approximate cost would be at a minimum \$20,000. There was expanded discussion of what could happen.

Mayor Quinn asked if there are any HOA's. Mr. Duston replied that Areas 3 & 5 would have an HOA, Area 6 is shopping/industrial and Area 7 will be expanded in the future.

Councilmember Goodall feels we have a good history of keeping our litigation low. He does not feel he can support going forward with this. He's aware of the funds spent on this but if there is litigation it would be a drop in the bucket. The citizens would be looking at a 22% increase for these citizens that are being annexed. With the economy, he's leaning from the citizens' perspective that this might not be the best time to do this.

Councilmember Schallenkamp supports this for several reasons, such as Area 5. The surrounding areas have to pay for the potential bonds but the donut hole does not, same with deputy protection. How do we justify to our current citizens why these donut holes were allowed and why they are not paying their fair share? When we get to the public hearings we need to be prepared with the solid waste figures for the people who are being annexed into our area. He

sympathizes with presenting a new bill in today's economy. It comes down to if you agree or disagree that municipalities are valuable entities or nuisance entities. He believes we are valuable entities.

Councilmember Howe thanked Mr. Duston for all his work. She agrees on some of the points Mr. Schallenkamp made, such as donut holes getting the same services as the tax payers. She would have preferred to know what the cost would be up front. She does not feel this is a good time to do this, due to the economy. She does not feel she can support it at this time.

Councilmember D'Onofrio advised any vote having to do with the involuntary annexation he has voted no. It's the involuntary part that he has a problem with. Knowing a little better what the people in these areas feel about this process might help. He does not believe more government is better and by involuntarily annexing these areas they are going to get more government. He has not changed his mind along the way.

Councilmember Goodall advised that Mr. Blackwood has a bill in the house against involuntary annexations and he feels that the residents should be allowed to vote on whether or not they will be annexed.

Councilmember Schallenkamp advised that we had the same concerns last year and nothing happened. If we had done it last year it would have been done. He believes that the pay back is worth it in the long run. He believes the people who will receive the tax increase will benefit from this.

Councilmember Howe replied it's the cost, timing, what Raleigh is going to do and unfortunately today has to be the final decision. She wants it eventually but not right now, she's not comfortable with it and can't find it in her heart to do it.

Councilmember Hullinger supports the annexation; it's the right thing to do as we move forward. The people we're considering will use the anticipated improvements.

Councilmember D'Onofrio feels that government should be a break even proposition, not something that generates a profit. If we felt that the general benefit to the town would be equal then he would be in favor of it.

John Hullinger made a motion adopt the Annexation Report with the corrections as noted, correction of local option and sales tax and the wording on the streets and roads (road maintenance should be improvements).

Mayor Quinn advised we are here to represent our residents, the people of Indian Trail. They are bearing the costs of the improvements and the donut holes are receiving the benefits.

Councilmember Schallenkamp wanted to clarify that he does not see this as a profit; he sees the increased income to be used for the greater good such as law enforcement and how much additional bond we qualify for with the extra tax population.

Motion Failed 3 - 2 with Gary D'Onofrio, Jeff Goodall, and Shirley Howe opposing.

There was discussion about the costs already incurred. Ms. Sutton advised we need a budget amendment for the costs associated with COG and the Eagle Engineering contract; this could be brought back at the next meeting.

**ADJOURN**

Jeff Goodall made a motion to adjourn.

Council voted unanimously in favor of the motion.

APPROVED:

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John J. Quinn, Mayor

Attest:

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Peggy Piontek, Town Clerk