



**Town of**  
**INDIAN TRAIL**  
north carolina

**Town of Indian Trail**  
**Minutes of Regular Council Mtg.**  
**April 13, 2010**  
**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, John Hullinger, Robert W. Allen, and Darlene Luther.
- Absent Members: Town Clerk Peggy Piontek.
- Staff Members: Town Manager Joe Fivas, Town Attorney Keith Merritt, Planning Director Shelley DeHart, Town Engineer Scott Kaufhold, Finance Officer Marsha Sutton, Tax Collector Janice Cook, Senior Planner Katie Reeves, Assistant to Town Manager Miriam Lowery, Deputy Clerk Trena Sims, and Marty Minchin of the Charlotte Observer.

**CALL MEETING TO ORDER**

Mayor Quinn called the meeting to order. Those present recited the Pledge of Allegiance.

**PRESENTATIONS**

**Swearing in newly appointed Committee Members**

Deputy Clerk Trena Sims gave the oath of office to Nydia Morales, Kimberly Nicholson and Brian Olin as members of the Park Tree & Greenway Committee members. She also gave the oath of office to John Eigenbrode as member to the Stormwater Committee.

**Proclamation for Spring Clean Up 2010**

Mayor Quinn read the Litter Sweep Clean Up Proclamation. **(Copy attached hereto and made a part of these minutes.)**

**Proclamation for Jennifer Gordon, NC Wildlife Volunteer of the Year**

Mayor Quinn read the Certificate of Recognition for Jennifer Gordon. **(Copy attached hereto and made a part of these minutes.)**

**ADDITIONS AND DELETIONS**

Jeff Goodall made a motion pull March 13, 2010 minutes from the Consent Agenda.

Council voted unanimously in favor of the motion.

Jeff Goodall made a motion add Item 8d - Brandon Oaks Parkway Improvements.

Council voted unanimously in favor of the motion.

Darlene Luther made a motion add Item 8e - Resolution Opposing Sale of CMC-Union.

Motion Passed 4 - 1 with John Hullinger opposing.

**MOTION TO APPROVE AGENDA**

Gary D'Onofrio made a motion to approve Agenda.

Motion Passed 4 - 1 with John Hullinger opposing.

**PUBLIC COMMENTS**

Thomas Mussoni, 1521 E. 3rd St., Charlotte, a Vice-President of Development with Auto Bell Car Wash, expressed opposition to the proposed medians to be located at the intersection of Old Monroe Road and Indian Trial Road. He feels the plan will adversely affect the commercial development in the area. He noted that Auto Bell crossed 14 properties to bring sewer to the facility; getting easements were brutal. This is not a pedestrian corridor it is a vehicular area. Although he understands the process is about 25% complete, he would like the opportunity to study the traffic studies. He feels the "do nothing" option is better than what is being proposed currently; consider the impact of driveway closures. He understands that these plans have been contemplated since 2005 and they would not have built the Auto Bell there had they known there was a chance the driveway was to be closed.

Bill Brewer, 821 Victorian Lane, Monroe, owner of the Exxon station at the corner of Old Monroe Road and Indian Trail Road, also expressed his displeasure of the proposed intersection improvements. He indicated this business was built in 1997 and it was built for the future and

the business they now have; the driveways they have were built with the intent to move a high volume of traffic in and out and around the property. Closure of any of the driveways will adversely affect their volume of business. At that store over \$60,000 was generated in sales tax and over \$1 million in highway tax. He estimates that the store will lose 30-50% of their business due to the proposed median and driveway closure.

Brian Rogers, 2011 Triple Crown Drive, spoke to Council regarding his opposition to the proposed sale of CMC-Union. He believes the hospital is a good deal for the County, as it is privately run. He indicated he has no ties with the hospital. The opposition to the sale has gained bipartisan support from the entire county.

Lynn Moore, Bell Moore Group in Charlotte, they manage Union Festival Shopping Center at the corner of Indian Trail Road and Old Monroe Road. She is in agreement with the first two commenters about what this is going to do to the tenants in the shopping center if they have these restrictions on their access. This is not a business friendly move.

John Hullinger made a motion allow a sixth speaker tonight.

Council voted unanimously in favor of the motion.

Mario Andolina, New York Pasta and Pizza, has seen the plans for the intersection and feels it will destroy the corner. He believes that the medians are not the answer; need a better plan, slow it down.

John DiFiore, 4218 Old Monroe Road, commented that the proposed changes to the intersection at Indian Trail Road and Old Monroe Road will cause more of a problem in other areas relating to loss of business. He indicated the problem at the Indian Trail-Matthews Road intersection. He suggested a re-evaluation of the way the federal funds are to be spent.

## **PUBLIC HEARINGS**

### **ZT 2010-003 Telecommunications**

Jonathan Edwards presented ZT 2010-003 Telecommunications - additions of UDO Sections 7160.020(H)(6-7). This specifically deals with the construction and design standards for wireless communication towers and facilities. These sections are added to ensure the Town's protection in handling wireless communications towers and/or facilities, specifically in regards to compliance with federal (FCC) and industry-wide guidelines for construction and design and include it in the review process. The Planning Board heard this item at its March 16th meeting and unanimously approved recommendation to the Town Council with one modification. Staff also recommended to the Board that proposed UDO Section 7160.040 dealing with antenna uses be removed for further research. The Planning Board unanimously approved this recommendation by staff. All references to the section dealing with antennas should be disregarded by the Council.

Mr. Edwards read the following consistency findings into the record:

1.3.1 of the Comprehensive Plan - Quality of Life; the proposed UDO ordinance amendments will help to make the UDO consistent with state, federal and other regulatory standards for telecommunications facilities, and allow for the promotion of a greater quality of life for the citizens of the Town of Indian Trail.

1.3.2 of the Comprehensive Plan - Land Use; the proposed UDO ordinance amendments will help to promote a quality mix of different land uses while avoiding land use conflicts with neighboring properties and surrounding municipalities through a streamlined process of review.

This UDO ordinance amendment is in the best interest of the public because it promotes a more efficient development system and review process, while providing a greater quality of life for all residents of the Town of Indian Trail.

Mayor Quinn opened and closed the public comments section of the public hearing; no one had signed to speak.

Robert W. Allen made a motion to approve ZT 2010-003 Telecommunications as presented

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

#### **CONSENT AGENDA**

- a. Approval of minutes for January 12, 26, February 9, 23, March 9, 13 & 23, 2010 (*March 13, 2010 minutes pulled from Consent Agenda by prior motion*)
- b. Tax Report - Month end tax Report for March 2010(**Copy attached hereto and made a part of these minutes.**)
- c. Callonwood South Streets town maintenance  
(**Copy attached hereto and made a part of these minutes.**)

Gary D'Onofrio made a motion to approve the Consent Agenda.

Council voted unanimously in favor of the motion.

#### **BUSINESS ITEMS**

##### **Consider Approval of Creating a Business Owners Advisory Board**

Mr. Fivas presented the proposal to create a body where business owners can have a voice on issues the Town is dealing with. In looking at some of the past business surveys that were conducted, he believes there is a potential for better interaction with the Town's business owners. This would fall in line with the business friendly initiatives recently put in place. He is open to variations to that which is proposed. After a brief discussion as to the number of committee members there should be, the following motion was made.

Jeff Goodall made a motion to approve creating a Business Owners Advisory Board to be comprised of 15 members instead of nine.

Council voted unanimously in favor of the motion.

### **Consider Approval of Main Street Solution Grant**

Ms. DeHart presented the information concerning the Main Street Solution Grant to Council. The program is intended to strengthen the economy of the municipality by leveraging the state's resources for small business development, spurring private investment and by providing economic development planning assistance. The goals of the grant program are to provide directed financial benefits to small businesses; to retain and create jobs in association with small businesses; and to spur private investment in association with small businesses. The grant amount requested can be not be less than \$20,000 or more than \$300,000. If the Town were to apply for a Public Improvement Project there would be a 50% match in addition to the private investment portion of 50%. It was also stipulated in the grant that the Town must use 100% of any funds awarded in all the projects to be built within a year's time; shovel-ready projects. The two main focuses of the grant are: 1) Private Investment in which one project or a group may be packaged together and the money will be released when the property owner or small business owners obtain a CO or final inspection; and 2) Public Investment which must show how work will lead to private investment and have a submittal of application letters of commitment from private property owners indicating their intention to invest (supply timeline and dollar amount). The approach to the grant was to follow the recommendation of assessing what the Town currently has in the Downtown area; come up with innovated solutions; supporting the vision and goals of downtown; and establishing small business sustainability. Staff did field surveys of the downtown to determine the use makeup, use type and economic development potential. Staff found that there are a lot of properties within the downtown that are zoned commercial, but are currently still used for residential. The downtown business owners indicated that traffic congestion was their main concern and they also have an interest in beautification improvements and offered some great suggestions, such as identifying street banners and decorations and increased maintenance of properties, sidewalks, street light outages and picking up debris adjacent to right-of-ways. The business owners also expressed a need for streetscape infrastructure with a general theme and building improvements from those that lease their facility. Staff also spoke with property owners that would like to convert their residential structure to commercial, which can be difficult with ADA requirements, etc.

Ms. DeHart addressed project eligibility; with the timeline set, she has been unable to identify any qualifying projects and the Town needs private investments. The program is primarily for communities with an established downtown area with businesses that want to come into that area; this would act as a partnership. There were a lot of positives to come out of this project; identify the uses/needs of the downtown; identified business owners/property owners that would take advantage of facade or other programs; able to research other programs. Some of the tenants leasing space are willing to put in 50% to do improvements for a "face-lift". She would like the opportunity to investigate additional programs for consideration for next year's budget.

Council generally felt that the Town is headed in the right direction to try to improve the look and feel of the downtown area and supported continuation of the research; although disappointment was expressed that this could not occur at this time. Councilmember Hullinger stated that the Town is stuck on the downtown, when one doesn't currently exist.

### **Consider Options for Solid Waste Contract**

Mr. Fivas referenced the long term contract with our current solid waste provider. The Town has been approached with potential contract assignment to Waste Connections. The purpose of this is to present options for consideration as was pulled from the Goals and Initiatives session. After analysis he has concluded that the Town can improve the level of services for the money invested. Waste Connections is interested in working with the Town before the contract ends to provide some value added services and continue with the assignment with the proposed improved services. He drew Council's attention to the consolidated information as to what some surrounding municipalities have included in their contract in comparison with our current situation.

Mr. Fivas reviewed the options as follows: Option 1 - refuse to assign the contract from Action Garbage to Waste Connections and have Action continue to provide service until the contract expiration; Option 2 - assign the contract to Waste Connections and have them continue to provide service until the contract expiration; Option 3 - direct the Town Manager to start negotiations of a revised agreement with Waste Connections for more inclusive solid waste services with potentially better customer service; Option 4 - direct the Town Manager to negotiate a revised contract with Waste Connections and the Town of Stallings that would provide both municipalities more solid waste service, potentially better customer service and decreased cost. With Option 4, the town would share services with Town of Stallings although maintaining our own contract. He recommended Option 3 or 4, but indicated he is leaning more toward Option 4 as a starting point.

Councilmember Hullinger inquired if he has spoken with Stallings about Option 4. Mr. Fivas confirmed that out of courtesy, he has called the Stallings Town Manager and let him know that this had been discussed between himself and Waste Connections. As to the potential sale of Action's assets, Councilmember Hullinger questioned whether it would hinder the sale if one town agreed and the other town did not. Mr. Tim Fadul with Waste Connections indicated that it is a must to have both towns in order to move forward; Action Garbage desires to get out of the business and lack of assignment of the contracts would hinder such action. Mr. Fivas has spoken with the Town Manager of the City of Monroe, with whom Waste Connections provides services and they are generally pleased with the service provided and recommended them.

John Hullinger made a motion to approve Option 4 as presented in the Staff report and should negotiations break down, go with Option 3.

Councilmember D'Onofrio invited Mr. Fadul to briefly pitch the benefits of working with Waste Connections. Mr. Fadul did so. Discussions continued in regard to services and the potential costs.

Council voted unanimously in favor of the motion.

### **Brandon Oaks Parkway Improvements**

Mr. Fivas indicated that there is a proposed project to do some infrastructure modifications on Brandon Oaks Parkway. There was an understanding and notification that the Town would be doing some paving in the area. There is an issue with public safety with people parking alongside the parkway. The residents wanted to go back to the HOA to pay for improvements for this particular area. Residents have presented a preliminary plan that would create several parking spots for parallel parking. The proposal is for the HOA to pay for all improvements except for paving which would amount to about \$875, depending upon the thickness of the asphalt. The Sheriff's department has also identified that there is a problem of parking there during the day and this is also a concern for them. Mr. Fivas believes the Town should participate from the perspective that it is a public safety concern; the Town does own the streets in the area and thereby has a level of obligation to try to resolve the safety issue. Also, public/private collaboration practices are good, especially at this 95/5 match. The Town will be going by this road soon to pave another road and it would be detrimental to the asset if we allow them to come in after the fact to do the turn out as described. This proposal purpose is to incentivize it and get them to move quickly so that the work can have one piece of asphalt; if done later, as they propose, there may be a seam and some degradation of the surface after it is cut. Approval of this action would not set a precedent, as these types of items would be presented on a case by case basis.

Mayor Quinn questioned who the residents were that brought this to the Town's attention. Mr. Fivas indicated that Lt. Coble had communications with the residents in the past. Lt. Coble stated that Mike Knight, who was on the Brandon Oaks HOA at that time, first brought this to the Council's attention a while back. He indicated that Brandon Oaks Parkway thoroughfare is a long term speed complaint area and during the warm months people park in that particular area to fish. Mr. Fivas indicated that Mr. Jan Brown had brought it to his attention also. After a brief discussion it was determined that the property with the playground equipment and fishing pond was owned by the HOA. Mayor Quinn asked if the Town had considered banning street parking in that section or facilitating with the HOA and paving company. Mr. Fivas advised it was the intent, since law enforcement and others indicated that this is our road and people are parking there, for staff to try to find opportunities to resolve the issue. It will cost the Town more money in the future if the road is cut into later, rather than having it paved now which would leave no seam. Council continued discussion of the issue.

Mr. Merritt indicated with respect to this property, it appears to be off the road. He questioned whether the property was within the current right of way that has been dedicated to the town and would it require an easement from the town to the HOA for them to construct the proposed

area. Mr. Kaufhold indicated that the parking area would be within the right of way and is part of the permit process.

John Hullinger made a motion tell the HOA to pay for this and take care of the easement issue.

Motion Passed 4 - 1 with Darlene Luther opposing.

### **Opposition to Sale of CMC-Union**

Councilmember Luther invited Brian Rogers to give a brief run-down of this issue. Mr. Rogers gave a brief background of the history of the hospital transfers and current lease information. He commented that as soon as the RFP for sale comes out, a lawsuit will be initiated which may affect health care services for county residents. The up fits that have been done to hospital recently were not funded by the county, but by the leasee. One particular concern is indigent care; and as such a provision is contained within the lease that the leasee will absorb the cost of indigent care and therefore those costs are not passed on to the taxpayers. He indicated that both the Democratic and the Republican parties are in opposition to the proposed sale, as well as many others across the county.

Councilmember Hullinger deemed that in good faith, he cannot support the Resolution based on the information he currently has; he would need to research.

Councilmember Goodall asked if Mr. Rogers knew the rationale for the sale. Mr. Rogers replied that they have expressed interest in paying off debt; but the comments the commissioners gave was basically the money would be used for capital improvements. He indicated that the County Finance Director has cautioned them that there will be fines and penalties involved. The Council continued the discussion on this issue.

Mr. Merritt disclosed that on this issue he has had involvement at the County level and cannot advise the Council as to the legalities of this particular Resolution; even though there doesn't seem to be any as it is a non-binding Resolution. He requests that if Council does feel they need legal advice on this issue, they consult another attorney due to his involvement on the County level.

Councilmember Goodall commented that he will err on the side of caution and recused himself from voting on this issue as he has a relative who works for Carolina Healthcare System.

Discussion continued as to the information within the proposed Resolution regarding indigent care.

Gary D'Onofrio made a motion to approve Resolution in Opposition to sale of CMC- Union as presented, but with striking the fifth paragraph down that references the \$21 million in charitable and indigent care.

Motion Passed 3 - 1 with John Hullinger opposing. (Copy attached hereto and made a part of these minutes.)

## **DISCUSSION ITEMS**

### **Discussion and Update of July 4th Event**

Mr. Fivas referred to the letter which outlines the proposed event. He indicated that the parade will be on July 3rd and will follow the same time line as years' past. In addition to the parade, staff is investigating options for a firework display on Friday, July 2nd. It is proposed on July 2nd as a cost issue, as the pyrotechnics company indicated it would cost over \$10,000 on July 3rd and \$5,000-\$7,500 if held on July 2nd. There are some potential donors, for example, Wal-Mart and other major corporations that may participate. Staff has also put in application for a marching band with other reserve applications opportunities if it doesn't work out. The band would potentially be incorporated into the event on Friday and the parade on Saturday. If a positive response is received from the band, the information and potential contribution will be brought back before Council. Additional information will brought back before Council as more information is gathered.

Councilmember Hullinger questioned whether this will this be something traditional in the future as he believes having the fireworks the night before works a little better. Mr. Fivas stated that traditionally the parade will be held on the 4th and in his experiences; it has worked out well to have fireworks the night before. As to having the parade on July 3rd, he was under the impression that this was past tradition when the 4th occurred on Sunday; since the festivities start early in the day, it may have been problematic.

Mayor Quinn asked if the Town had secured the ITAA park as the staging area. Mr. Fivas indicated that we have had a positive response to use the facilities, but will have to wait for confirmation until after the association's next board meeting. It is proposed that the viewing area would be at the ITAA fields and we already have confirmation from the owners of the property across the street from Town Hall to use to light off the fireworks.

### **Discuss Creation of Business Development Team**

Mr. Fivas explained that this effort will develop a facilitation process for new people that want to start a business in the community by providing guidance in complying with local ordinances or other issues that they may need to consider. This may be utilized primarily by the small business owner. He is also proposing to put together a resource guide for potential businesses that would explain the processes.

John Hullinger made a motion Instruct the Town Manager to create the Business Development Team as he deems necessary.

All Council Members gave their full support.

Councilmember Hullinger rescinded his motion.

**Discuss Neighborhood Initiative for Staff to Hear from Residents  
and to Educate the Public About Town Initiatives**

Mr. Fivas indicated that with this initiative staff will go out and have communication with the residents regarding items such as the budget proposal and other visible projects for community feedback. There will also be items of which staff will educate the public about.

**MANAGER'S REPORT**

Mr. Fivas reported on discussion regarding an economic grant for Indian Trail Fairview Road. This would tie into the by-pass, as their extension would meet into the proposed three-lane. He is getting closer to having enough information for presentation to Council as the funding options are explored.

Mr. Fivas updated Council regarding the BMW-NC plant in Matthews. Staff has reach out to the health department in Union County; to which they indicated that they do not have any jurisdiction over it and referred us to Mecklenburg County. DENR also does not have jurisdiction either.

**PLANNING REPORT**

Ms. DeHart had no report.

**ENGINEERS REPORT**

Mr. McLamb reported on the TCC meeting on 4/1 regarding the by-pass and its proposed funding. He indicated that the resurfacing contract will be coming to an end with paving on Brandon Oaks Parkway, which is to begin next week.

**COUNCIL COMMENTS**

Councilmember Hullinger inquired if the property behind the Sheriff's building could be used as an overflow for parking. Ms. DeHart replied that based on ordinance, the Town would require a paved lot for the overflow, which is the reason the post block the entrance to the lot. Councilmember Hullinger stated that the National Day of Service is coming up and churches will be coordinating for drop off of food donations.

Councilmember D'Onofrio addressed the concerns of the business owners who spoke earlier in the meeting. This is not being done to intentionally put businesses out of business; just the opposite, Council has tried hard to positively affect the business climate in our community. He has not reviewed the plans, but improving the intersection may even improve their business, whereas at busy times that intersection does not move and he does not go into that area during those busy times.

Mayor Quinn referenced work done in Beacon Hills over the Easter holidays, as he had received complaints and appreciates the efforts of staff made to diminish the dust. He indicated that he too has not reviewed the intersection plans and would like to be kept in the loop concerning plans when he cannot attend the public meetings. He appreciates the outreach by staff to existing businesses and to prospective businesses; it's important to take care of the businesses we have now.

Councilmember Luther stated she requested and received a copy of the intersection plans from Mr. Kaufhold and after reviewing, she would not vote for it as the medians extend too far down and access to business cannot be made easily. Perhaps a happy medium can be made.

Councilmember Allen agrees Councilmember D'Onofrio's statements.

Councilmember Goodall complimented Mr. Fawcett on the census efforts; the census information on the website is great; he stressed how important it is to be counted.

**CLOSED SESSION**

*(There were no closed session items.)*

**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