



Town of Indian Trail
Minutes of Town Council
April 22, 2014
Civic Building
06:30 P.M.

The following members of the governing body were present:

Mayor: Michael L. Alvarez

Council Members: David Cohn, Gordon B. Daniels, David W. Drehs, and Christopher King.

Absent Members: Gary M. Savoie, Finance Director Marsha Sutton.

Staff Members: Town Manager Joe Fivas, Town Clerk Peggy Piontek, Town Attorney Keith Merritt, Planning Director Shelley DeHart, Director of Community & Economic Development Kelly Barnhardt, Director of Engineering and Public Works Scott Kaufhold , Jason Tryon, Assistant Director of Parks & Recreation , and Lindsey Edmonds, Communications Coordinator.

CALL MEETING TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Alvarez called the meeting to order and Council Member Drehs led in the pledge. Mayor Alvarez announced upcoming Town events.

ADDITIONS AND DELETIONS

Christopher King made a motion to approve Joint Planning Resolution as item d in Presentations

Council voted unanimously in favor of the motion.

MOTION TO APPROVE AGENDA

Christopher King made a motion to approve the agenda.

Council voted unanimously in favor of the motion.

PRESENTATIONS

a. Arbor Day Proclamation

Mayor Alvarez read the Proclamation **(COPY ATTACHED HERETO AND MADE A PART OF THE RECORD)**

b. Point Man Union County Outpost

Mr. Art Spurr explained the organization, what they do and who they are. Their purpose is to provide a safe environment for veterans, law enforcement, firefighters & emergency medical technicians to share with one another.

c. Stormwater Advisory Committee Update

Larry Miller, Chairman of the Committee, provided his own history and explained that the Stormwater Advisory Committee's purpose is to review or recommend to Council policies, changes, long range plans and key actions. He stated that in past years a Council Member was a committee member but that has changed and encouraged providing Council with a Stormwater 101 course so they have a complete understanding of the stormwater requirements. They need to invest more time and resources in public involvement. He expressed concern that at least a minimum funding level of 50% of the income be applied to the projects in need, to avoid getting costly penalties.

d. Joint Planning Resolution

Lars Knapp, 655 Powderhorn, requested Council consider the idea of a Joint Government Planning Council, the idea is that a representative from every town meet and discuss their strengths, weakness, growth and schools so that all entities are aware of issues before they become a lawsuit or a major problem. He explained that he created a resolution that is being presented this evening and can be amended as Council sees fit, requesting they motion to approve it. Mr. Knapp plans on going throughout the County to try and initiate more members.

Mayor Alvarez read the Resolution.

Council praised Mr. Knapp for his dedication at such a young age and encouraged him to continue being involved. Mr. Daniels suggested he contact the County Commissioners Chairman as they already have a committee that meet to discuss situations.

PUBLIC COMMENTS

Samantha Towns, 104 Pine Lake Drive, Indian Trail, NC congratulated the Union County Sheriff's Office for their part in the inter-agency and conviction of "The Cuban" back in January, stating that not everything they do is in the Union County Weekly. Ms. Towns stated they risk their lives every day and try to keep it safe to live, work & play in our community.

Cathi Higgins, 3004 Clover Hill Rd., Indian Trail, NC expressed concern that some Council Members have a financial association with Dennis Moser and will be voting on a matter this evening, providing details of contributions made. Ms. Higgins feels they should reclude themselves from voting on the matter.

Shirley Howe, 6205 Clearwater Dr., Indian Trail, NC advised she has previously mentioned the storm drains and street cleaning, and thanked Mr. Miller for his presentation. Ms. Howe expressed concern on matters on the Consent Agenda; specifically the additional \$25,000 for CEI stating that the public should be given an explanation on these funds and why is the contractor not being charged. She stated that at the last meeting it was discussed that May 23rd was the deadline for committee applications and would like an explanation why items 8c-g is for the appointment of committee members before the deadline has approached.

Siroos Shahni, 633 Indian Trail Road, Indian Trail, NC is one of the new owners of Star Burgers and explained some of the changes made by recommendations of patrons. He expressed concern about signage regulations stating that the Ordinance is hurting his business.

Monica Daza, Sharon Road, Indian Trail, NC stated she is impressed with the young man taking an active role in government tonight. She expressed concern over the damage and flooding issues on First Avenue and is requesting the Council come up with support and a resolution to the problem.

PUBLIC COMMENTS FOR FY 2014/2015 BUDGET DEVELOPMENT

Samantha Towns, 104 Pine Lake Drive, Indian Trail, NC recommends getting some sort of fiscal report with regard to where we are at now. Citizens have no idea where we stand financially. She recommends that a policy be set in place in the event that if we have another snow storm there should be a snow removal policy in place.

LAW ENFORCEMENT UPDATE

Lieutenant Chase Coble presented to Council the many activities, classes and tasks conducted by the Deputies in the last month.

CONSENT AGENDA

- a. Approval April 3, 2014 draft minutes
- b. Approval of April 8, 2014 draft minutes
- c. Approval of appointment of Jocelyn Sams as seat #7 on the PARC Committee -

- removed from the Consent Agenda for further discussion*
- d. Approval of appointment of Jeff Sullivan as seat #8 on the PARC Committee -
removed from the Consent Agenda for further discussion
 - e. Approval of appointment of Steven Smith as Alternate seat #10 on the PARC Committee - *removed from the Consent Agenda for further discussion*
 - f. Approval of appoint of Steven Smith as seat #5 of the Public Safety Committee -
removed from the Consent Agenda for further discussion
 - g. Approval of appoint of Calvin Cooke as Alternate seat #2 of the Public Safety Committee - *removed from the Consent Agenda for further discussion*
 - h. Request to amend contract for CEI Services on Union Indian Trail Sidewalk Project - *removed from the Consent Agenda for further discussion*

Mayor Alvarez requested we pull the names recommended for appointment to committees.

David W. Drehs made a motion to approve removing the names up for appointment.

Mr. Fivas explained the process, that these appointments are for seats open due to members leaving or being removed and the term expirations are not for this year. The application deadline is for terms that expire this year. However Council can take any action they choose. Council had a lengthy discussion on this matter.

Mr. Drehs withdrew his motion.

Christopher King made a motion to approve the Consent Agenda.

Mr. Cohn inquired about the \$25,000 for CEI.

Mr. King Withdrew his motion.

Mr. Cohn requested item 8h be moved to 10a.

Mayor Alvarez requested Council move the committee appointments to be voted on individually.

Mr. Cohn requested removing items 8c-g, committee appointments from the Consent Agenda to item 10 Business as items b-f.

David W. Drehs made a motion to approve the consent agenda as amended
Council voted unanimously in favor of the motion.

PUBLIC HEARINGS

- a. Annexation #140- 2419 Waxhaw-Indian Trail Road

Ms. DeHart stated the subject property located at the northeast corner of Waxhaw- Indian Trail Road and Blanchard Circle, is approximately 11.47 acres in size, and was previously used for single-family residential purposes. The residential structures no longer exist on the property and use has been limited to signage for the Church located on Blanchard Circle (previously known as Hartis Grove Baptist Church). This petition is being processed concurrent with a conditional zoning request. The recording of this annexation, if approved, is contingent upon the approval of the associated Conditional Zoning petition CZ2013-010 titled Blanchard Circle which will be heard by Council immediately following this request.

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

Gordon B. Daniels made a motion to approve in accordance with the requirements of NCGS § 160A-31(d), Town Council of Indian Trail finds that the proposed Annexation Ordinance #140 petition offered by the applicants does in fact meet all requirements for a proper voluntary annexation under North Carolina law and is found to be valid in form and manner.

Council voted unanimously in favor of the motion.

Gordon B. Daniels made a motion to approve extending the corporate limits of the Town of Indian Trail to include Annexation Ordinance #140 establishing the effective date of the annexation as April 22, 2014 at 11:59 p.m. **(COPY ATTACHED HEREWITH AND MADE A PART OF THE RECORD).**

Council voted unanimously in favor of the motion.

CZ2013-010 Blanchard Circle

Ms. DeHart presented this is a request to establish a Conditional Single Family Residential-5 (SF-5-CZ) zoning district to support development of a 29-home neighborhood at a density of 2.5du/acre (approximately), with related improvements. The 11.47 acre subject property is located at the northeast corner of Waxhaw-Indian Trail Road and Blanchard Circle. The neighborhood features two access points, over two-acres of open space consisting of a trail within a wooded area, on-street parking, and 29-single-family residential home sites for brick wrapped dwelling units. The subject property is currently within the unincorporated area of Union County. The property owner, Hartis Grove Baptist Church, is processing a voluntarily annexation petition concurrent with the project.

Ms. DeHart explained to Council the stormwater pattern and issues are currently on private property and the Stormwater Ordinance does not permit the use of stormwater funds to resolve the Satterfield resident's issues. The proposed plan will result in the stormwater pattern going through a public right of way, creating a public stormwater issue, qualifying for a town stormwater project. Staff has conducted discussion with the applicant and proposed an additional condition (#13) to address this issue she read and presented a revised Ordinance to Council. Ms. DeHart advised after a brief meeting this evening with the property owner, he still has some concerns pertaining to unknown additional conditions not included in the revision requesting surety that the matter will be assessed and addressed. After further conversation with the applicant's team, its proposed condition read as follows: The Town Engineer will formulate a plan for stormwater system repairs and the developer shall reimburse the Town of Indian Trail 50% of the cost for

off-site storm water improvements located at 213 Edenshire Ct. within the Satterfield Subdivision. If approved, any cost to address any issues would be shared by the developer and the town.

Ms. DeHart advised this request was heard by the Indian Trail Planning Board on March 18, 2014. The Board discussed, school assignment, storm water drainage, and setbacks. After deliberations, the Planning Board voted to transmit a recommendation to approve (6-1) as presented making the following required findings: The project as conditioned is consistent with the goals of the Comprehensive Plan are satisfied as follows:

Goal - Land Use and Housing - The proposed conditional district provides for quality medium density residential use at an appropriate location providing a transition at an intersection, and at a scale consistent with the citing criteria - SC-5 of the Comprehensive Plan. The project also supports the existing neighborhoods and community by providing a well designed, quality, subdivision at a Town gateway location.

Goal- Mobility and Transportation - The proposed conditional district includes the construction of curb, gutter, and sidewalk enhancing mobility in the area, construction of a roadway improvements (turn-lane and storage) and dedication of right-of-way on adjacent roadways to meet the future transportation needs of our community.

Goal- Infrastructure-The proposed conditional district will expand utilities in the area, underground overhead utilities where feasible, and will evaluate stormwater needs to avoid potential impacts with adjacent properties.

The request for this conditional zoning district is a reasonable request and is in the public interest because it helps create a mix of lot types and housing sizes within the Moore Farm Village, provides expanded housing opportunities for Indian Trail citizens and business owners, includes transportation and utility infrastructure investment, and is in general conformity of the Comprehensive Plan.

Council initiated discussion amongst themselves and staff on this item, the applicant then requested to give his presentation.

John Ross, a representative of Eagle Engineering and the applicant expressed appreciation to the staff and Planning Board. He explained it currently is County zoned and could be developed as an R40 by right. They are proposing a development of 29 quality homes ranging in price from upper \$200,000 to mid \$300,000. Mr. Ross went onto explain the benefits of this development to the town and community and they view it as an opportunity to assist the town in resolving stormwater issues not created by this development.

Mayor Alvarez opened the public comments portion of the hearing.

Greg Vossekuil, 213 Edenshire Court, Indian Trail, NC handed out to Council a copy of his survey and photos of his driveway and settlement on his property. **(COPY CAN BE FOUND IN THE OFFICIAL PACKET)**. He expressed concern of stormwater runoff coming onto his property as there is already damage due to existing conditions and requested that a concrete head wall be included on the pond to avoid a breach, a breach analysis for safety and viability of the pond and his receiving a copy of the plans for the pond and breach analysis. Mr. Vossekuil requested that the approval be delayed until these matters can be reviewed.

He also requested a condition be added that the developer will pay for any failures of this pond from operating as designed and compensate homeowners downstream if property damage occurs.

Cathi Vossekuil, 213 Edenshire Court, Indian Trail, NC expressed she fears for her home and those surrounding them, their property is sinking due to stormwater runoff, explaining that the town has filled 3 sinkholes in the last year as a result of the existing pipe not handling the current runoff and asked how is it expected to handle the additional runoff from the proposed neighborhood. Ms. Vossekuil stated that neither the city nor county will accept ownership of the pipe. She stated they fear the effects of additional runoff and requested the Council delay in approval until a written plan is in place as to who will be responsible if the pond breaches the neighborhood, a breach analysis and a concrete head wall to be included in the plans as well.

Bob Babb, 209 Edenshire Court, Indian Trail, NC expressed concern about the stormwater method being proposed for Blanchard Circle. Mr. Babb described the pond's planned location and area of concern is removal of trees and if handled incorrectly the banks of the pond may fail resulting in catastrophic consequences for his neighborhood, inquiring who will compensate them for water damage if incurred and requested Council delay approval until a plan with appropriate guarantees and safeties are in place to handle any unforeseen consequences.

Peyton Babb, 209 Edenshire Court, Indian Trail, NC expressed concern about the method planned to handle stormwater on Blanchard Circle, requested a delay of approval until there is a plan written into the proposal with appropriate guarantees and signatures to compensate homeowners if damage occurs due to stormwater or a breach in the pond, who will repair the pond if breached, a concrete wall will be incorporated into the development and that a breach analysis be conducted and provided to downstream homeowners before approval is granted.

Michael Craig, 215 Edenshire Court, Indian Trail, NC expressed concern about the stormwater methods proposed, he is requesting consideration of written plan included within the proposal to compensate homeowners if damage occurs and who will repair the pond if breached, a concrete head wall and breach analysis be conducted prior to approval.

Cathi Higgins, 3004 Clover Hill Road, Indian Trail, NC supports Satterfield neighbors request to delay a decision until the drainage issue is resolved. She feels that Mr. Moser and the developer are requesting special exemptions from our towns minimum building standard; 8' side setbacks (10' is required by UDO); building 29 lots adjacent to the 38 existing in Satterfield is not compliant with the Indian Trail Comprehensive Plans future orientation for medium density housing in this rural mixed village; at 13% it exceeds the 12% cap including the flexibility factor for medium density housing; and in her opinion it exceeds the 50 unit cap on the number of lots allowed in this village. Ms. Higgins expressed her earlier stated concerns during public comments.

Shirley Howe, 6205 Clearwater Drive, Indian Trail, NC stated she agrees with Ms. Higgins and expressed concern over additional damage from stormwater hoping Council will delay approval on matter so the

potential for additional damage to Blanchard Circle retention pond must be addressed to the property owner's satisfaction in writing. Ms. Howe provided some personal experience on stormwater issues stating that a verbal agreement is not satisfactory and she believes the developer should pay for it not the town.

Mayor Alvarez announced that Mr. Savoie is home sick.

John Ross, 2013 Van Buren Avenue, Indian Trail, NC responded to some of the comments: they do and will conduct breach analysis on ponds they design; excessive stormwater now, if the town digs into it he believes the town will not find excessive stormwater but poor construction; he explained the town's plans that are in place (UDO and design guidelines) to provide assurance and security; there is a long term plan (operations and maintenance agreement) in place; as a long term assurance a forever bond is set in place as part of the final acceptance of the town of the project. The comments he has been hearing to delay the approval until the instruments are in place, they are already there as he just explained.

Dennis Moser, 231 Post Office Drive, Indian Trail, NC expressed concern over \$350 by Miss Higgins, and provided a list of contributions he has made County and town wide.

Mr. Cohn called for a Point of Order to stay on topic and not speak directly to Ms. Higgins. Mayor Alvarez called for a Point of Order.

Mr. Moser explained that the drainage problem will not be an issue if he doesn't voluntarily annex into the town, and can ignore all the additional benefits this project is providing the town. The town requested he pay for half and he agreed, it's the town's problem, not his but he wanted to be a good neighbor.

Art Spurr, 4100 Woodcreek, Indian Trail, NC stated he agrees with the homeowners issues, as he's watched what has happened with Crooked Creek with the development on the other side and the stormwater creating issues for his development in Ashcroft. Once the developer leaves the HOA takes over and who's going to take care of the problem. We have funds in stormwater available to repair the issue. He expressed concern about 29 units access of 2 roads, stating we have enough problems with traffic.

Mayor Alvarez closed the Public Comments portion of the hearing.

Gordon B. Daniels made a motion to table CZ2013-010 Blanchard Circle to May 27, 2014 Council meeting.

Mr. Merritt explained the hearing is completed and the public hearing has been closed, this is the deliberation portion of the hearing which can be continued to a later date, but the hearing itself has been conducted.

Council had a lengthy discussion on this matter amongst themselves, staff and Mr. Merritt.

Ms. DeHart advised the Conditional Zoning condition and Annexation condition were running concurrently. Although a decision has been made for the annexation, the applicant's follow thru on the annexation into

our jurisdiction is dependent upon the approval of CZ2013-010. If the matter is continued, the applicant is going to respectfully request that the Council bring back up and reverse the decision on the annexation, if this matter is not approved the applicant does not wish to be annexed into the Town of Indian Trail.

Council took a break
Council returned from break

Mayor Alvarez stated for the record doesn't appreciate the anger or threats being made not to annex when Council is here to represent the public.

Ms. DeHart addressed some of the comments brought up on stormwater: she pointed out there are 15 proposed conditions of approval, 3 of which are specifically related to stormwater which she read into the record: 11. *Stormwater Detention Pond*: The size of the proposed stormwater management facilities identified on the Concept Plan is for illustrative purposes only. The exact size will be determined with the Site Plan submittal. The required stormwater analysis shall include a study of downstream conditions/infrastructure through the Satterfield Development as well as a breach analysis for the proposed pond on the subject property. 12. *Review of Stormwater Plans*: Town Engineering staff and the rezoning applicant's representatives (if needed) will review the proposed grading and drainage plans with property owners of 07117802 and 07117771 unless such a review is declined by the adjacent property owners. The intent of the review is to keep the property owners apprised of the final grading and stormwater design and its relationship to adjacent, downstream properties. 13. *Off-site Stormwater Improvements*: The Town Engineer will formulate a plan for stormwater system repairs and the developer shall reimburse the Town of Indian Trail 50% of the cost for off-site storm water improvements located at 213 Edenshire Ct. within the Satterfield Subdivision. Work to be done in conjunction with initial upstream land disturbing activities associated with new subdivision.

Ms. DeHart went onto explain the purpose of Conditional Zoning.

Mr. Daniels withdrew his first motion.

Gordon B. Daniels made a motion to approve making the required findings as read into the record. Council voted unanimously in favor of the motion.

Gordon B. Daniels made a motion to approve CZ2013-010 with modified conditions Council voted unanimously in favor of the motion.

Mr. King requested permission to be dismissed. Council agreed to the dismissal

BUSINESS ITEMS

These items were removed from the Consent Agenda for further discussion.

- a. Request to amend contract for CEI Services on UIT Sidewalk Project

Mr. Kaufhold explained the amendment to the contract for Construction, Engineering & Inspection (CEI) services is the result of Boggs Construction continued delays in project. Staff has kept track of the number of days; the damages assessed are \$500 per day which will not be assessed until the completion of the project. This is the second time we've had to do this, this is a federally funded project and we must meet these guidelines. Council had a discussion pertaining to the contractor and Federal requirements.

David Cohn made a motion to approve amending the contract for CEI Services on Unionville Indian Trail Sidewalk Project

Council voted unanimously in favor of the motion.

b. Approval of appointment of Jocelyn Sams as seat #7 on the PARC

Gordon B. Daniels made a motion to approve appointing Jocelyn Sams to seat #7 on the PARC Committee. Council voted unanimously in favor of the motion.

c. Approval of appointment of Jeff Sullivan as seat # 8 PARC

David W. Drehs made a motion to approve appointment of Jeff Sullivan as seat #8 PARC Committee Council voted unanimously in favor of the motion.

d. Approval of appointment of Steven Smith as Alternate seat #10 on PARC

David W. Drehs made a motion to approve appointment of Steven Smith as Alternate seat #10 on PARC Committee Council voted unanimously in favor of the motion.

e. Approval of Steven Smith as seat #5 on Public Safety Committee.

Gordon B. Daniels made a motion to approve appointment of Steven Smith as Alternate seat #5 on the Public Safety Committee. Council voted unanimously in favor of the motion.

f. Approval of Calvin Cooke as Alternate seat #2 on the Public Safety Committee.

David Cohn made a motion not approve of Calvin Cooke as Alternate seat #2 on the Public Safety Committee. Motion Passed 2 - 1 with Gordon B. Daniels opposing.

DISCUSSION ITEMS

a. Discussion on forming an Economic Development Advisory Committee

Mr. Fivas suggested that this matter be delayed due to time. Council agreed.

b. Discussion on Law Enforcement Assessment interviews

Mr. Fivas advised the purpose of this item is for Council to decide the process they would like conducted and how they would like that interview to go. Council had a lengthy discussion amongst themselves, Lieutenant Coble and Mr. Fivas; topics included continuing RFP process for more candidates, length of time to arrive at this point, and suggestions from Lieutenant Coble on questions and information prepared by Council prior to the interviews. Mayor Alvarez recommended that Council work on questions and send them back and forth to each other.

At this point in the meeting, the Town experienced technical difficulty with the audio recording.

STRATEGIC PLANNING SESSION

a. 5-Year Transportation Plan

Mr. Fivas explained due to the late hour, it's up to Council, we can postpone some of these presentations, but he would like to show the video of the Parks & Recreation Presentation, it's only about 5 minutes long. Council agreed to delaying these matters and seeing the video.

b. Parks & Recreation Update

A video of the parks progress was presented to Council.

c. Neighborhood Enhancement Program - tabled

d. Municipal Complex Update - tabled

MANAGERS REPORT

Mr. Fivas discussed upcoming events , and indicated he is working with Union County on a tap fee issue.

COUNCIL COMMENTS

Mayor Alvarez thanked Ms. DeHart and her staff for the Mayor's tree initiative. He would like to the town to consider assisting the small business owners with their signage.

Mr. Daniels asked Lieutenant Coble how the Deputy recovering? He stated there should never have been a dog there, he was upset that he had to do what he had to do and requested that Lieutenant Coble tell him he said hello.

Mr. Cohn had no comments.

CLOSED SESSION

None

ADJOURN

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

APPROVED:

Michael L. Alvarez, Mayor

Attest:

Peggy Piontek, Town Clerk