



Town of Indian Trail
Minutes of Town Council
August 11, 2010
Civic Building
7:00 P.M.

The following members of the governing body were present:

Mayor Pro Tem: Jeffrey L. Goodall

Council Members: Gary D'Onofrio, Robert Allen and Darlene Luther.

Staff Members: Town Manager Joe Fivas, Town Attorney Keith Merritt, Town Clerk Peggy Piontek, Finance Director Marsha Sutton, Planning Director Shelley DeHart, Town Engineer Scott Kaufhold, GIS Specialist Luke Fawcett, Tax Collector Janice Cook, Adam McLamb Engineering, Assistant to Town Manager Miriam Lowery, Junior Planner Craig Thomas.

Absent Members: Council Member John Hullinger and Mayor John J. Quinn

Press/Media: Jason deBruyn of the Enquirer Journal

CALL MEETING TO ORDER

Mayor Pro Tem Jeffrey L. Goodall called the meeting to order, conducted the Pledge of Allegiance and asked for a moment of silence out of respect for Senator Stevens. Mr. Goodall expressed condolences for the family.

PRESENTATIONS

a. US Census Participation Recognition

Mr. Fawcett advised that the Town of Indian Trail has been awarded a plaque for our partnership and support in raising the awareness for the Census. He provided statistical information as it pertained to the overwhelming success of Indian Trail citizen participation. Mr. Goodall acknowledged Mr. Fawcett's efforts and thanked him for his hard work.

- b. Indian Trail All Stars Recognition

This matter has been rescheduled for the September 14, 2010 meeting.

- c. July 4, 2010 Parade contest winners

Mr. Nile Hipp, representative for the UPS Store of Indian Trail announced the July 4th Most Patriotic - The Peaceful Warrior; Most Creative - Stallings United Methodist Church; Best Youth - Mom's Club of Indian Trail and Best All Around - The Lions Club of Indian Trail.

ADDITIONS AND DELETIONS

Council had no additions or deletions for this meeting.

MOTION TO APPROVE AGENDA

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

PUBLIC COMMENTS

Brian Johnson, 2303 Unionville Indian Trail Road, Indian Trail, NC was representing Industrial Ventures advising that the roads and Stormwater system is falling into disrepair asking the Town of Indian Trail take the lead to get them repaired. They are aware NCDOT is responsible and requested the Town contact NCDOT and get them to repair the problem or consideration taking these roads into the Town road system.

Mr. Joe Devot, 3107 Chamber Drive, Monroe, NC appeared to also request assistance from the Town of Indian Trail in getting NCDOT to repair the roads or take them into the Town's road system. He explained the many issues they face with Stormwater issues and road systems disrepair. He explained the many things they have tried in an effort to stop these issues.

Mr. Allen asked if an Engineer has been hired to determine how to repair these issues.

Mr. Devot replied no.

PUBLIC HEARINGS

- a. ZT 2010-007 Amendment of Chapter 1620 General Definitions

A request to amend UDO Section 1620.310 regarding the definition for the term dwelling unit. Applicant: Town of Indian Trail

Ms. DeHart advised this is a request to amend Chapter 1630 - General Definitions, Section 1630.310 to further define the term dwelling unit. Current definition is too broad and the expanded definition will include requirements for self-sufficient bathroom, kitchen facilities and connection to all required utilities. The Planning Board heard this at their July meeting and made the required consistency findings:

The proposed UDO amendment is consistent with the following goals of the Comprehensive Plan: Quality of Live (1.3.1); the proposed UDO amendment will help to make the UDO consistent with state, federal and other regulatory standards for dwelling units and provide for the health, safety and welfare of Indian Trail citizens. Land Use (1.3.2); the proposed UDO amendment will help to promote a quality mix of different land uses while avoiding land use conflicts with neighboring properties and surrounding municipalities. Public Utilities (1.3.5); the proposed amendment will help to promote the expansion and improvement of public utilities such as water, sewer and storm water systems throughout the community.

Statement of reasonableness:

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 Pro Tem Goodall opened the public comments portion of the hearing, no one had signed up to speak, and he closed this portion of the hearing.

Gary D'Onofrio made a motion concur with findings of the Planning Board transmittal for ZT 2010-007 Amendment of Chapter 1620 General Definitions Council voted unanimously in favor of the motion.

b. CZ2009-002 Chestnut Place

Ms. DeHart advised this is a request to consider the architectural renderings for two proposed new builders. One of the conditions of approval placed on the development states that any changed improvements shall be submitted to the Town Council for approval. She provided Council with the history of this item. Topics included Special Use Permits (SUP), conditions and modifications of same. Condition 5 requires that *"any change in builders shall require a new portfolio be submitted to the Town Council for approval."* which is why the matter is before Council this evening. Ms. DeHart explained the conditional zoning is for the remaining 15 lots, the process requires the following: legal process to comply with SUP, community meetings, must be heard by the Indian Trail Planning Board and finally it must go before the Indian Trail Town Council for decision. Ms. DeHart advised that the applicant has performed all the required conditions, she explained the proposed elevations to be considered, the Unified Development Ordinance standards analysis, provided dates and process for which the community meetings were conducted, and advised when the Planning Board heard this matter and that they were not able to make the required findings, which are:

It is not consistent with goal 1.3.1 Quality of Life because it does not promote a unique identity for Indian Trail with a common urban design;

The proposed project is not a reasonable request and is not in the public's best interest because it does not promote the goal of the Comprehensive Plan in the area of land use.

The Planning Board is transmitting a recommendation to disapprove.

Ms. DeHart advised that since the Planning Board meeting the applicant has since modified their application, permitted as a result of section 330 of the Unified Development Ordinance. The applicant proposes the following

conditions on this request:

The same elevation shall not be placed beside or directly across from one another, a minimum of 60%, or 9 lots, shall be constructed with crawl spaces, a minimum of 60%, or 9 lots, shall be constructed with side load garages. The third card module available on some elevations is not considered a front load garage.

Council consideration consists of the elevations presented and the modified application; receive public comments during this public hearing. When considering actions on Conditional Zoning the Council is required to make two findings: It is consistent with the goals of the Comprehensive Plan and is it a reasonable request and in the best interest of the public. Ms. DeHart advised that the Planning Board is transmitting a recommendation to disapprove.

Town Council possible action tonight: Concur with the findings and Planning Board transmittal to disapprove; consider new findings, and if they can be made, motion to approve; approve application with modifications mutually agreed upon by applicant; or send back to the Planning Board if more information is needed.

Mayor Pro Tem Goodall opened the public comments portion of the hearing.

Mike Mull, 1007 Mossy Branch Court, Matthews, NC referred to a letter and email sent to each member of the Town Council outlining his wife's views on the matter. He advised he is opposed to the request because it includes Brookwood Homes and fails to uphold the unity, integrity and value of the existing homes. He requested that Council consider the matter in its full context, going beyond the surface of the request and dig deep into the overall history of Chestnut Place, considering the experience of the residents and Town staff and their dealings with the developer, he provided some suggestions. It is his belief that the developer is trying to set a president with Indian Trail for what he intends to do in Phase II of Chestnut Place which will impact 59 lots. Mr. Mull said they have faith in the Council to put the residents/Indian Trail citizen's consideration above that of the developer.

Mr. Ken Helms, 314 North Hane Street, Monroe, an attorney representing Mr. Reese Gibson. He feels this is a fairly straight forward matter and provided some additional background pertaining to a contract between Mr. Gibson and the Williams Company for the sale of lots. In May 2009 Mr. Gibson requested that the Town permit him to sell lots to two separate builders and was advised he would need to submit portfolios for each builder, he complied with the process he was directed to do by the Town. They contend that is the issue before the Council tonight, whether the elevations submitted tonight meets with the requirements of the SUP. It is their understanding from staff that they do meet or exceed those requirements, are consistent with the other houses built and they are consistent with the Comprehensive Plan and Land Use Plan. He believes there are about four that have already been approved through the Williams Company. He believes they are dealing with houses that are consistent with what's out there and thinks the confusion came as to whether this was a decision about whether the builders should be allowed to build out there and the thought that somehow the Williams Company the exclusive builder at Chestnut Place. By extension if they are the exclusive builder then new builders would have to be approved, not the elevations or portfolios but the actual builders themselves. It is his understanding and

believes everyone is in agreement that is not what is before the Council (approval of the builders). He believes that the Town staff agrees with him and he contends that's the correct decision. The language in the provision does not state that the Town approves the builder and there is no legal authority allowing the Town to select the builder. He agrees the Town has the authority to dictate the requirements of the structures and it is the applicant's position they are complying with that. In an attempt to address some of the concerns of the existing homeowners, they suggested the additional conditions that the developer is agreeable to.

Greg Williams, 7825 Carriter Williams Road, Monroe, NC advised that it is his understanding the intent of the previous council was to insure continuity within the neighborhood, the value of the homes was maintained within the neighborhood, the issues in Chestnut Oaks were not repeated in Chestnut Place. As he understands what Mr. Helms is saying that this is a question of approving renderings and if six of the plans before Council tonight have already been approved, why does the developer need to get approval on who builds in the neighborhood if they follow the plans presented this evening? On that argument he can go ahead and start selling lots and building in the neighborhood with the approved plans. These are plans from an architect in Atlanta, Georgia so they are freely available to anyone who wants to purchase them over the internet. He would take exception to that argument; it's for Council to decide. He understands that Mr. Gibson wants to sell lots and will not go into the litany of difficulties the homeowners have experienced in Chestnut Place. They are very concerned about the quality of what's going to be built. There have been conversations pertaining to builders that are acceptable and slab homes being built in the neighborhood and they want to ensure the values of what is built on the remaining 15 lots do not have a negative impact on the value of their homes. He asked Council to consider the homeowners thoughts and concerns, along with Mr. Mull's presentation and understand that these 16 residents that live out there are taxpaying citizens that bought into a neighborhood under the belief that the Williams Company standard would be applied and would be consistent throughout the neighborhood and that would not change with a future Council. He advised Mr. Helms is correct, it's been a while since they have purchased any lots and there has been a litany of problems with the developer that caused that to happen. They actively market Chestnut Place and feels like it is a very attractive neighborhood with great potential in the future but the economy prevents the sale of homes \$350,000 and up. It is not a question of whether we want to be there or not, but the economy is limiting our ability to sell in that neighborhood. He again asked the Council to take the 16 homeowners into consideration and do their job and protect their values and ensures what they were promised by a previous Council 5 years ago.

Cathi Higgins, 3004 Clover Hill Road, Indian Trail, NC advised her community of Sheridan is similar to the problems of Chestnut Place. Ms. Higgins provided statistics of developments that have undeveloped lots. Right now the UDO does not protect the residents in those communities. She expressed concern if Council approves the SUP for Chestnut Place the residents in communities with underdeveloped lots will not be protected. She requested they do not approve conditional zoning.

Larry Thomas, 1006 Stone Hill Lane, Matthews, NC requested that Council please honor the due diligence of the Planning Board, when they voted it was almost unanimous. A lot of due diligence was done for them to make that recommendation and he feels it is one that best serves the community.

Ken Helms advised that they are not trying to prevent the Williams Company from buying any additional lots. He wanted to clarify that they do take the position that any builder can come to the Planning Department and use the

approved plans and that builder would be entitled to a permit. That's because the language of the Special Use Permit, they are not trying to usurp that, they are trying to comply with it and that the language of the SUP does not state of provide that the Williams Company is the exclusive builder for this development. They are not trying to come before the Council and ask for lower standards, they are agreeing to put additional conditions.

Mayor Pro Tem Goodall closed public comments portion of this public hearing.

Ms. Luther asked why it is becoming before the Council. It should either meet the requirements of the Special Use Permit or not. Ms. DeHart replied she reviewed all the minutes and provided the history advising it was attached to the modification of the 3 conditions of the 2004 permit. What the records reflect that at that time there were residents from the Chestnut Oaks Subdivision in Stallings that came before the Planning Board meeting and complained how different builders were coming into their subdivision, indicating they had no notification, they bought into a certain subdivision, new builders came in and they were not permitted to have input on the proposed dwellings that were being built. When it went to Council it was recommended that an additional condition be implemented (condition 5), during the modification, the builder that had come before the Town Council and Planning Board regarding that modification was Mr. Williams wanting those modifications to the conditions and this condition reflected that he was identified at that time and he had to go through a approval of his portfolio by Planning staff during the site plan review and it was added that any change in builder shall require a new portfolio be submitted to the Town Council for approval. Ms. DeHart advised that tonight, as staff, they must ensure that all Special Use Permit conditions are met. This conditional zoning is just the vehicle to meet that condition. The developer is not proposing to change any of the conditions, they will meet all of the conditions in place at the time that the project was approved during the modification, and they are simply trying to comply with the condition that requires them to come back before you.

Mr. Merritt provided some history on process differences from that time to the present, advising that the Town Council at that time did hear some quasi judicial matters, so the requirement that it go back to the Town Council would not have been written that way today because the Town Council generally doesn't get involved in the same type of approval. Making this situation an oddity because of the change to the UDO. It's written this way to come back for Town Council approval as a method to comply with this condition but because of the adoption of the UDO and the change in what the Town Council now hears, what the Board of Adjustment hears presents some oddity as well. If this were coming before the town for the first time, it would be written differently.

Ms. Luther advised she has a concern about the value of the existing homes going down. She expressed her concerns about houses being built for a lesser value and thereby appraising lower and affecting the comparable prices of the existing homes. Is it the same, does it protect the current homeowners and is it in their best interest? If new builders are to be used, they should be equivalent builders. Mr. Allen believes the residents made an investment and the Council should support them and do the responsible thing and vote no.

Mr. Merritt explained the town's responsibility, advising that the Town has its development standards through the UDO and in this case there was an issue where there were extra conditions put on the developer as agreed to and we can certainly hold someone to what they agreed to in an SUP and we can certainly review the elevations to determine if they meet the standards of the UDO. One thing we can't do is tell anyone who they have to contract

with. We can direct standards but who they choose to build is something we cannot mandate. Although the residents have raised concerns but there are ways the communities can police themselves with respect to restrictive covenants that are outside of our control. If they want to have standards that are over and above what the Town standards are, but for purposes of considering this request, the builder is really irrelevant. The Town's job is to determine if the elevations presented legally comply with the requirements that the Town has set forth.

Mr. Allen commented that one gets to a point where he asks himself do you want to do what's right or what's legal and he believes the residents made an investment and the Council should support them and do the responsible thing and vote no. He believes the homeowners made an investment and the Council should stand beside them to guarantee that.

Ms. Luther advised that she took a drive out to the neighborhood that Williams Homes has built and reviewed the elevation drawings provided in the packet and she believes there's a set that looks similar in design that's already in there and there's another set that is not the same, not consistent with the neighborhood. Ms. DeHart requested that Ms. Luther state for the record the designs that she does not agree with. Ms. Luther advised that the David, both Stephanie's and Shelter Cove do not meet the quality of the other elevations architecturally.

Mr. D'Onofrio advised he agrees with Mr. Allen, doing what's right or legal. He read the condition and advised that because it's a condition, Council must make a decision on it. He believes the other piece of evidence is legal advice and read that portion of the condition. He said the position this Council is put in is whether or not these elevations are adequate for the community and said how is he to determine that? What looks nice, what fits, what is consistent with the quality of the community? He doesn't live there and he doesn't know, but he personally is in a similar situation and he did not like it when it happened. If he is required to determine what fits in that community from an elevation standpoint by looking at pictures, he is going to agree with the residents that live there. If there concerns are that, this doesn't match what I bought, they know better than he does. He believes the wording of the condition leaves a certain level of interpretation as to what they should or should not approve. He has heard from 3 residents who are not happy, has not heard from any residents who are happy with it. He understands and tends to agree with what his colleagues have stated that they concur with the Planning Board findings that the applicant does not meet the conditions.

Mr. Fivas wanted to assure that the Council was aware of the possibilities. He advised Council that if there are elevations that meet the same standards you can approve some of the elevations and not others. Mr. Merritt advised Council can adopt elevation by elevation if they meet the standards set forth by the town. If there are some that the Council believes meet those consistency findings, they can adopt those elevations.

Ms. DeHart advised that the UDO specifically states that this Council has the ability to approve an application with modifications; however it has to be mutually agreed upon by the applicant. If this Council felt that the renderings, minus the David, both Stephanie's and Shelter Cove were acceptable, you can address the issue with the applicant and see if they want to agree to that. If not, then Council can move forward in any direction they felt necessary.

Mr. Goodall advised he does not think the Council should get involved with determining elevations that are appropriate, because they will not be able to build any roads, parks etc., they will be spending their time

approving/disapproving elevations. Mr. Merritt advised that at this point, what would happen, for any circumstance other than this, if a builder wants to change elevations that would go to the Planning Department for review, an administrative decision is made and the residents have the right to appeal to the Board of Adjustment. That's why you never get involved in these; it's usually a Board of Adjustment line instead of a Town Council line.

Mr. D'Onofrio asked Mr. Merritt if Council concurs with the findings to disapprove, is there anything to prevent the applicant to come back with a new package? Mr. Merritt replied the applicant can always file a new request or consider its legal remedies with respect to the decision that Council makes, they have their rights to appeal if they want to or they can start all over again. Mr. Merritt wanted to make clear that the statement read out of the packet was not a request to amend the SUP, so that's why Council cannot impose conditions on this. The developer can agree to whatever additional conditions requested, but we cannot force him to. He is just complying with the condition that's already in the SUP. Mr. D'Onofrio confirmed that Council's task tonight is to determine whether those elevations are satisfactory and based on the evidence he has heard tonight from the people, they are not. Mr. Merritt replied, as long as the decision is not made because of the builder but on the elevations, yes you can make that determination. He reminded Council again, they cannot approve builders. Council's task is to review the elevations and make a determination whether they can meet the consistency findings you are required to make.

Robert Allen made a motion to concur with the findings of the Planning Board to disapprove.

Ms. Luther wanted clarification if there were elevations she believes are consistent with what is already in there, can we amend the motion to include them? Ms. DeHart replied yes you can and that is what we were referring to, if you feel some of the elevations will meet the neighborhoods character in architecture you can ask the applicant if they are willing to just consider the specific renderings that you feel will comply and modify their application if they are agreeable. Then Council would then consider the findings, if they can be made based on that change, then move forward with a motion in that direction if the rest of the Council felt that way as well.

Mr. D'Onofrio advised that he would not get involved with elevation by elevation approval.

Mr. Goodall asked Mr. Allen, considering Ms. Luther's comments, would he like to amend his motion. Mr. Allen replied no.

Council voted unanimously in favor of the motion.

CONSENT AGENDA

- a. Tax Report - Month end tax Report for July 2010
- b. July 13, 2010 minutes
- c. Resolution Supporting Structural Design of Proposed Monroe Parkway
- d. Budget Amendments

Mr. D'Onofrio requested that Council remove item 7c Resolution Supporting Structural Design of Proposed Monroe Parkway and possibly table for future meeting.

Robert Allen made a motion Consent Agenda as amended with the removal of item 7c to a future date. Council voted unanimously in favor of the motion.

BUSINESS ITEMS

- a. Consideration of approval for sponsorship from the Union West Rotary for the naming rights for the amphitheater in Crossing Paths Park.

Mr. Fivas said this is an exciting evening for us as we consider and work daily on developing our first park in Indian Trail. The Union West Rotary approached the Town about trying to be involved in this effort. There were discussions and we attended their executive board and they have decided to make a gift for the naming rights for the amphitheatre in the amount of \$50,000. There is an agreement, he provided Council with copies, the conditions are that the Rotary will pay the first \$10,000 on or before December 31, 2010 and then every year thereafter, a gift of \$5,000 by December 31st of that year until the full amount of \$50,000 is gifted. The Town agrees there will be no interest for this payment schedule and the Rotary is afforded the ability to make the payments early without any penalties. He believes they are trying to move forward and make the donation as quickly as possible. Mr. Fivas recommended that although we received this agreement late this afternoon and the Town Attorney has some questions, we do not believe there are any legal issues that would prevent us from moving forward with approval, pending legal review.

Maureen Mulhall, President of the Union West Rotary said the Union West Rotary Club meets every Thursday morning at 7:30 in this building. The Union West Rotary Club desires to further the object of Rotary by encouraging and fostering the ideal of service as a basis of worthy enterprise and, in particular to encourage and foster the development of acquaintance as an opportunity for service; high ethical standards in business and professions, the recognition of the worthiness of all useful occupations, and the dignifying of each Rotarian's occupation as an opportunity to serve society; the application of the ideal of service in each Rotarian's personal, business, and community life; and the advancement of international understanding, goodwill, and peace through a world fellowship of business and professional persons united in the ideal of service; Rotary's motto is *Service Above Self*. Every year Rotary International adopts a theme and this year's theme is "Building Communities and Bridging Continents. We would like to help build this community. As Rotarians we are here tonight to present the Town of Indian Trail with a gift check in the amount of \$50,000 to officially cement Union West Rotary's commitment to our community by providing a permanent foot print in the new Indian Trail Community Crossing Paths Park. This donation is designated for the Amphitheatre that will bring a new sense of family and community and to show our support for the Town of Indian Trail.

Mr. Goodall opened the floor to Council for discussion

Mr. D'Onofrio said this is a nice surprise. This is the kind of thing that he hoped would happen when we finally went from deliberation to action to put the Town's first ever park across the street, that businesses and residents would come together and it's happening. This is a very positive event and we thank you.

Mr. Allen expressed his excitement and could not think of a better group to vanguard this park. He has been here since 2000 and some of my oldest and dearest friends are in the Rotary. Union West Rotary is always there, you are doers, not sit back and let someone else pull the duty. You're always out there and represent the finest of Indian Trail and always have. He thinks it's wonderful that they have jumped in this with us, it says a lot and he personally thanked them.

Ms. Luther thanked the Rotary and said it was so exciting when they first found out the Rotary had decided to do this, it was a huge blessing. She sees it as an outward show of establishing a bond between our civic groups, our town, residents, businesses and the fact that the naming rights for the amphitheatre goes along with this is great because then in that community setting of the park shows we have Rotary to bond the community all together in many different ways. She thanked them for this fantastic surprise.

Mr. Goodall commented that a few years ago all the talk was about a new town hall and the development of the property across Indian Trail Road. For whatever reason that did not happen at that time and now we may have an even hotter spark. We've got a historic business district that is the heart of Indian Trail; it officially goes back 100 years. This park is going to rekindle Indian Trail and it just may rekindle it economically as well, right down here where it started, at the old post office and movie theatre. This park has resulted in numerous phone calls and the community buzzing with excitement about this park. It's not huge, but is comparable in size to the park in Matthews that everyone loves and holds many wonderful events. People from here a neighboring communities will love our Crossing Paths Park in Indian Trail. Thanks to the Rotary Club and many to follow like you, it will be one great Town of Indian Trail Park, Union County Park, Charlotte area Regional Park, North Carolina Park and so forth. It will be fantastic. We have a full time Economic Development Coordinator and Events Coordinator on the way and it will be happening proactively. We will all gather there and talk about our paths, which we need to do as we have people from all over. We're going to cross our paths at Crossing Paths Park. Thanks to the Rotary's gift, we will have a stage big enough to hold so many wonderful events. He said thank you very much, you have just lit the fuse on what's going to happen.

Gary D'Onofrio made a motion to approve the sponsorship from the Union West Rotary for the naming rights for the amphitheater in Crossing Paths Park, pending legal review.

Council voted unanimously in favor of the motion.

DISCUSSION ITEMS

a. Historical overview of the Chestnut Connector

Staff provided the historical overview of the Chestnut Connector, topics included: January 2002 initiation of discussion to connect Williams Rescue Road to Navajo Trail; workshop in December 2002 to discuss extending it to Gribble Road, December 11, 2002 discussion extending from Gribble Road to Smith Farm thereby having access to Highway 74; March 2003 NCDOT internal memo stating 3 lane facility will not accommodate projected traffic volume, all intersections on Indian Trail Road (ITR) from US 74 to Old Monroe Road (OMR) are expected to fail due to the projected traffic volume recommending 4 lane median facility on Indian Trail Road or provide exclusive turn lanes at each intersection and they do not recommend roundabouts, July 2003 NCDOT internal memo stating that Board Member Larry Helms and Town requested that the ITR project be scaled back to an upgraded 2 lane road

with roundabouts, September 2003 NCDOT internal memo stating the scaled back project is feasible from a traffic management standpoint they recognize a multi-lane facility would have massive right-of-way impacts and would not produce the safety and traffic calming results that the Indian Trail community has requested; September 2003 Council adopted a feasibility study, October 2003 Town requested MUMPO to amend the thoroughfare plan to add connector (more public participation), November 2003 Town purchased property at the corner of Chestnut Lane and OMR; May 2004 MOU with Stallings for joint effort in an attempt to enhance downtown areas and divert truck and through traffic, downgrade ITR and Stallings Road to reach the goals of shifting NCDOT funding to Chestnut-74 project, resulting in both towns reaching the desired end, cost savings and no duplication of expense of services; dates of the 3 public hearings, presentation of draft analysis to Council in May 2006 and direction given to continue process; May 2008 Council selects HNTB for planning of ITR; June 2008 Barry Moose advises for 1st time that the widening of ITR would require bridge over railroad; August 2009 Council unanimous decision to shift all funds from ITR widening to Chestnut Connector (CC); February 2010 received updated cost estimates for the CC from NCDOT; April 2010 Mr. Moose re-states he will consider scaled back projects on ITR and Stallings Road if the Towns can prove (additional town funded traffic study required) that a less than 4-lane median divided facility can adequately move traffic safely and efficiently (bridge over railroad still a question); May 2010 received updated traffic predictions for the CC from NCDOT; Preliminary purpose and need provide relief to ITR and other parallel roads in the area, improve system linkage and east-west mobility, address anticipated growth along the corridor and in Indian Trail; statistics and preliminary costs were provided. **(THIS INFORMATION CAN BE FOUND IN THE ENGINEERING DEPARTMENT).**

Council had a lengthy discussion and by consensus they requested that Mr. Fivas get a tighter timeline from NCDOT on what the two lane and four lane expectations are and provide Council with a report.

b. Law Enforcement analysis and surveys

Mr. Fivas provided an update on the progress of Mr. D'Onofrio's document submitted at the January 26th meeting. He has questions and would like clarification:

Mr. Fivas advised that he was given one copy of Mr. D'Onofrio's report which requested a fiscal analysis by September 30th, the Clerk provided him with a copy that requests it on July 31st and would like to ensure that the Clerk had the right copy that was approved. Mr. D'Onofrio recalled that the dates initially seemed to be good dates, however since Mr. Fivas had not started and that all of this was just a proposal, he believes the purpose was to have time to compile the costs and put into a survey form for the citizens so that they could weigh in on what we had found out.

1. Monthly data - Mr. Fivas advised he has been getting these since March (he presented copies to Council) advising that there is a gradual changing of information as a result of he and Lieutenant Coble meeting to determine exactly what information Council is looking to receive. He advised that it has been fulfilled and now that we're in a form that they are getting comfortable with, he would like Council feedback to determine if there is more or different information they require. The goal is not to provide Council with a 45 page report, but to provide them with a snapshot of information.

2. Mr. Fivas advised that he has the information, it's a rather thick binder and advised that it goes back about 2-3 years, is fairly comprehensive, huge packets will be provided if Council wants it. This has been completed and to fully comply and go back to the beginning of the contract would be a significant project requiring getting the information out of the archives. If that's Council's decision, there would probably be cost affiliated with that, so Mr. Fivas would like clarification on what Council direction is.

Mr. D'Onofrio clarified his intent of the document:

1. Is great and yes Mr. Fivas is correct, he personally does not need a large report each month. It was more for the Town Manager to look at the data to determine the effectiveness of law enforcement as Town Manager. It's what's relevant for him, so if Mr. Fivas is happy with the data that you receive and is sufficient for him to do his job then Mr. D'Onofrio is happy.

2. The point in the historical data was to compare the difference in service between a couple of hundred thousand dollars to 1.4 million. What exactly did that do for us, how much better did it get over that time period? He believes the information is relative and he would like to have it to establish a case to determine if what we are doing is working or not.

Mr. Fivas advised that the information provided in the graphs is to plot it in a linear way so Council can see it.

Mr. Goodall questions graphs pertaining to response time, asking if it includes communication from Union County. Lieutenant Coble replied, it is a dispatch time to us and is an average response time taking into account all of the priority classifications that there are and provided some examples. Lieutenant Coble advised that he can provide a report to Council the average dispatch hold time; it is nothing that his agency has a hands on control over. Mr. Goodall replied that would not be necessary, but if the deputies determine they are having a problem call holding with dispatch, he assumes they will make Mr. Fivas aware of that. Lieutenant Coble advised if there is a particular incident that they have issues with, it is handled internally with meetings between the heads of all agencies involved. They meet monthly to discuss issues and concerns.

Mr. Fivas advised he looks for trends, if something is out of the ordinary, he will discuss with Lieutenant Coble, advising for right now, things evolve and change, as he reviews the report he is comfortable with it, but that is not to say that if he hears complaints from the citizens he will request more information from Lieutenant Coble.

3. Mr. Fivas advised this is one that has him concerned, a survey can be put together if it is just to entail law enforcement services, but he recommends having a conversation about the right timeline that Council wants it done. He believes Council is looking for a comprehensive evaluation, when that should happen. Obviously this indicates August 31st, and if it's limited to just law enforcement services we can certainly accomplish the task. However if the survey is more comprehensive to include other Town services and outside priorities, it may be more comprehensive and doing it in the next few weeks will be a very nearly impossible goal.

Mr. D'Onofrio replied that at the time he commented that if the Town Manager does not feel it's an obtainable timeline, however he feels it should be done as soon as practically possible is a good answer. He explained his reasoning's are that in his mind, we are trying to put the issue to bed and be done with it. He believes a survey that goes to everyone is beneficial, for everyone to weigh in what they feel. That's a good data point to collect, it

doesn't mean we have to act on it but it gives us something to look at. It comes from one place, where everyone gets the same question and it doesn't vary. He advised that upon receipt of the information, we can inform our citizens "to the best of our ability, the Town Manager determined that to start a Police Department would cost X amount of money and here's the effect it would have on you as an Indian Trail resident and taxpayer, are you for it or not". Then we will live with whatever the results of the survey are. The intent is to gauge how we're doing, find out how people feel and put the issue to rest. He believes the cost component would be important to have prior to doing the survey, when he does it doesn't matter, and even to the point of what questions you put in there doesn't matter as much as what you feel is relevant to help us make that decision or something that is clear to the people when they get the survey. As far as putting it in the context of a larger survey, he has mixed feelings because you don't want it to get lost with everything else. However it's been a while since our last survey and it's probably a good idea to throw it out there. Having a law enforcement section of the survey we send out is not a bad idea. He believes we should perform a survey every year. Mr. D'Onofrio advised that it's probably a reasonable request to put it in the context of a larger survey and if it pushes it back a few months, its fine. We do not want to get into late next year, have all these questions and banter going on.

Mr. Allen agrees the data is important but feels we should consider the amount of work we have dumped on staff and the Town Manager, advising that he would be ok if it was tabled until December or January 1st.

Mr. Goodall agreed with Mr. D'Onofrio that to mail this part August 31st is probably unreasonable; although it seemed reasonable at the time it was voted for. At the goals and initiative session, item 4 was to do a town wide survey this year. He agrees that we can wrap this into something town wide, put it in the first section so if people get bored, they will have answered these questions. He believes we have a healthy staff and can put it together in a month or two. He believes it can be done by the end of the year, he'd like to do it this year, we haven't done one in two years; it's his opinion it goes to everybody.

Ms. Luther advised that she would like to see it be its own survey, although more costly, it's such an issue amongst residents. It's our intent to have a cost analysis, take a look at both sides and assess the matter from there. Because of that, she would like to see this information, cost analysis, go out to the residents show them the difference, let them come to their own determination judging from the difference. It needs to be set apart, because this is *the* issue in this town that always seems to be set apart.

Mr. D'Onofrio would rather not wait, let's put it behind us. It has been an ongoing issue since he has taken office. Let's put it in the hands of the people to tell us what they want and *do that*. He would like it sent to all homes, the last time we sent it out to 4,000 people. If I could take that day back, Mr. Goodall was advocating sending it to everyone; we were advised not to do that, for the person who pays taxes they want to be asked. Ideally it would be great if it was a separate item, but feels it would be just as effective if contained in a larger survey.

4. Mr. D'Onofrio said the citizen interaction survey is the one he is most lenient on and feels it something we should do for all town services. To develop the process the right way is prudent. Anytime a customer comes into the town collecting the appropriate information (staff courteous, building appearance) about their experience would be helpful. Mr. D'Onofrio advised that you will have to be selective, as someone who receives a citation will

not be happy, but the individual who calls about a mailbox being run over would be able to provide useful data. Time wise, that's the least stringent of them, he feels it should be done, but done the right way.

Mr. Fivas asked for a clearer direction on the overall survey question. From our staff perspective, some of the items to consider are cost for mailing to all residents will be approximately \$15,000. If you are going to make that mailing, you would probably need to present the Council with what are the real costs. The other question is who's going to put the survey together? You want something that's valid and has an independent essence to it. Do you want staff to do this? Do you want a third party to come in and put it together?

Mr. Fivas explained that where we need to be on this survey, if you decide you want to aggressively ask the opinions of the public. You want to come up with what your survey/instrument is and that will be a standard. Once it's initially put together, your questions are validated and you get the information back, every year you're asking the same questions enabling you to track the answers. If we put this survey together and the questions are different each year, you have nothing that you can really rely on. The hard work is up front, the standard questions, then you can add questions if there's a special issue going on. It also reduces your cost, you don't have to have an individual to come in and create your survey again. He has done substantial research on this.

Jeffrey Goodall made a motion instruct Mr. Fivas to research and advise Council whether he and staff will put together the survey or hire a consultant and mail out to the public no later than October 31st.

Ms. Luther suggests that the citizens be advised what it will cost them for items we are asking them if they want. They need to know how much it's going to cost, to include how it will affect the actual cost in dollars of their tax rate.

Council voted unanimously in favor of the motion.

Mr. Fivas asked for Council clarification if Council wanted this information for the first or second meeting in September. General discussion pursued amongst Mr. Fivas and Council. Council directed Mr. Fivas to present the information to them at the second meeting in September.

4. Mr. D'Onofrio suggested putting this item last. Mr. Fivas requested clarification if 3,000 calls come through is it Council's expectation that 3,000 surveys will be sent out? General conversation pursued between Lieutenant Coble and Mr. D'Onofrio, with Lieutenant Coble suggesting giving the Town Manager the authority to determine which calls are appropriate to be surveyed, out of that group surveying a predetermined randomly selected number. Lieutenant Coble stated that he is excited about this, as it affords him an opportunity to obtain valuable information from the citizens that will enable him to deploy better services in the community. Mr. D'Onofrio agreed with Lieutenant Cobles suggestions. Mr. D'Onofrio suggested that the data collected should be used as a tool for the deputy's to discuss, correct if necessary to improve services, whether they feel it is simply a citizen's perception or factual.

Mr. Fivas recommended on #4 is to have him and Lieutenant Coble provide Council with several options on how to get the task completed meeting the guidelines discussed tonight at the September 14th meeting and be up and rolling with surveys as soon as possible.

5. Mr. Fivas advised that this is probably the one that staff has spent the most time on to get accurate information and asked when Council wants this presented and in what form. Would Council prefer a presentation or have staff provide them with the information for them to review. Ms Luther suggested having other professional eyes look at it so that when it's presented to the public we can be confident as possible to know that all areas are covered. Mr. Fivas confirmed that Ms. Luther was suggesting getting third party validators, including the Sheriff's office, other law enforcement professionals and if there are suggestions to ensure that is included in the report. Mr. Allen agreed with Ms. Luther's suggestion. Mr. D'Onofrio agreed as well. Mr. Goodall inquired when Council can expect that information. Mr. Fivas advised staff has been working on the report and are close to completion, but then we will work on the third party validators. Mr. Goodall inquired what staff members are working on it; Mr. Fivas advised Ms. Sutton has been assisting. Mr. Goodall inquired what Ms. Sutton has been using source is being used.

Ms. Sutton replied that we have the latest North Carolina League of Municipalities survey, looking at populations within our size and below using a combination of both. Ms. Sutton advised caution needs to be taken, as towns with populations similar to us already have much larger police departments, so you will have to consider towns with lower populations to determine the size police department. Mr. Fivas advised that one of the challenges to do an assessment is to actually make a determination on what the size would be, because that is a policy question that the elected leaders need to figure out. What we want to do is try to determine what are the costs of running a department that provides a similar service that we're getting now.

Mr. Fivas

Mr. Goodall agreed that it's important that we accurately provide costs for services we currently have. Ms. Luther suggested providing the cost comparison of a police department of 18 and our cost for 18 contracted deputies, along with the cost analysis of the suggested 28 law enforcement providers for both as well. Mr. Fivas replied that can be accomplished, but the important thing to consider is when he does an analysis, he feels we should put all the assumptions that are made on the table. If those assumptions are changed, we will run the variables, but everyone will know exactly what they are looking at.

MANAGER'S REPORT

Mr. Fivas had nothing to report.

PLANNING REPORT

Ms. DeHart had nothing to report.

ENGINEERS REPORT

Mr. Kaufhold had nothing to report.

COUNCIL COMMENTS

Mr. D’Onofrio stated the Union West Rotary sponsorship is a generous gift. It shows that the Rotary really believes in the park and the members are some of the smartest individuals in this town. It says a lot and should stamp out any doubt about the park.

Ms. Luther and Mr. Allen had no comments.

Mr. Goodall announced Mr. and Mrs. Hullinger are at home tonight enjoying their brand new daughter Sandra and congratulated them. He challenged any Indian Trail private citizen or business out there to match the Rotary’s generous gift of \$50,000, starting tomorrow.

CLOSED SESSION

Robert Allen made a motion to enter closed session NCGS143-318.11(a)(6) To consider the qualifications, competence, performance, condition of appointment of a public officer or employee or prospective public officer or employee.

Council voted unanimously in favor of the motion.

Robert Allen made a motion to go back into Open Session

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:

Jeffrey L. Goodall, Mayor Pro Tem

Attest: _____
Peggy Piontek, Town Clerk