



Town of  
**INDIAN TRAIL**  
north carolina

**Town of Indian Trail**  
**Minutes of Regular Council Mtg.**  
**December 8, 2009**  
**Civic Building**  
**7:00 P.M.**

The following members of the governing body were present:

Mayor: John J. Quinn

Council Members: Gary D'Onofrio, Jeff Goodall, Shirley Howe, John Hullinger, Dan Schallenkamp, Robert W. Allen, and Darlene Luther.

Staff Members: Town Attorney Keith Merritt, Planning Director Shelley DeHart, Finance Officer Marsha Sutton, Tax Collector Janice Cook, Assistant to Town Manager Miriam Lowery, Senior Planner Katie Reeves, Adam McLamb Engineering, Interim Town Clerk Trena Sims, Interim Town Manager Peggy Piontek, Junior Planner Jonathan Edwards, Field Operations Manager Joe Tolan.

Media/Press: Jason deBruyn with the Enquirer Journal and Marty Michin of the Charlotte Observer

**CALL MEETING TO ORDER**

Mayor Quinn called the meeting to order.

**PRESENTATIONS**

**David Wilson - Eagle Scout**

Mayor Quinn presented David Wilson with a Certificate of Recognition for his accomplishment in achieving the rank of Eagle Scout.

**Chase Coble - Introduction of New Indian Trail Officers**

Lt. Coble stated that the contract was signed and they're moving ahead. He introduced the newest addition to the Indian Trail deputies. Tim Turner and Todd Braswell were promoted to Sergeant. Jeremy Shoen will also be serving Indian Trail now to serve in the community resource spot within the detective bureau.

**Clare Meyer, Tinsley & Terry, CPAs- Presentation of FY2008-2009 Financials**

Ms. Meyer presented the audit financials to the Town Council. In their report regarding the financial statements through June 30, 2009, they have issued an unqualified opinion, which is the highest level of assurance that the company can issue. This is the third year they have reviewed the records and in addition to the unqualified opinion, they had no reportable findings, which is a first since they have done it. She thanked the finance and administrative staff for diligence in having the highest professional level they could have.

**ADDITIONS AND DELETIONS**

Dan Schallenkamp made a motion add under Old Business -7b discussion of Council's preference for the name for the new bypass.

Council voted unanimously in favor of the motion.

Jeff Goodall made a motion add as Item 11a - Additions and Deletions

Council voted unanimously in favor of the motion.

**MOTION TO APPROVE AGENDA**

Shirley Howe made a motion to approve agenda.

Council voted unanimously in favor of the motion.

**PUBLIC COMMENTS**

Jerry Wigen, 10004 Fenwick Drive, Chairman of the ITCFP, offered congratulations to Mr. Allen and Ms. Luther, whom the ITCFP supported. He expressed his appreciation to Council members D'Onofrio and Goodall, whom the ITCFP supported in the last election, for having not strayed from their initial campaign vision. He also thanked Council members Schallenkamp and Howe for their years of service.

Jan Brown, 6727 Long Nook Lane, extended his thanks to board for their work in the past year.

Teresa Allen, 5347 Courtfield Drive, expressed her appreciation for their temporary modification to the sign ordinance as she feels it has helped.

Scott Luther, 6973 Honey Tree Lane, thanked Council for their professionalism and in meeting each point addressed by the citizens, in spite of their differences.

### **CONSENT AGENDA**

- a. Tax Report - Month End tax Report for November 2009
- b. Minutes of June 23, 2009, July 14, 2009 and July 15, 2009, August 11, 2009, August 25, 2009, November 6, 2009, November 13, 2009, November 14, 2009, November 19, 2009
- c. Electronic Communications Ethics
- d. Resolution to Adopt Legislative Positions for the 2010 Short Session of the NC General Assembly
- e. Correct an Administrative Error - ZT2009-006 Various Text Amendments (**Copy attached hereto and made a part of these minutes.**)
- f. Correct an Administrative Error - ZT2009-007 Sign Ordinance Amendment (**Copy attached hereto and made a part of these minutes.**)

Shirley Howe made a motion pull item 6c - Electronic Communications Ethics for discussion.

Motion Passed 4 - 1 with Gary D'Onofrio opposing.

Dan Schallenkamp made a motion to approve pull item 6d for discussion and pull the minutes for July 15 and August 25, 2009.

Council voted unanimously in favor of the motion.

John Hullinger made a motion for corrections for June 23rd minutes be made to Press/media by changing the last name to Minchin and on the November 13 and 14 minutes, it shows he was absent, but he was at both of those meetings.

Council voted unanimously in favor of the motion.

Dan Schallenkamp made a motion to approve Consent Agenda as amended.

Council voted unanimously in favor of the motion.

Councilmember Howe stated that Mr. Merritt had composed the change in the ethics policy and explained that she pulled this so that he could explain the addition. Mr. Merritt explained the additional provision within Cannon Five of the Code of Ethics. The change that was made to the policy adds the following: "The Mayor and Town Council members should, whenever possible, send electronic communications related to Town business on and over the Town's computer system, rather than using personal electronic communication accounts, so that a record of any electronic communications will be available to and maintained by the Town. State law states that any communication that a member may make in regards to town business, whether it be on the Town's communication system or even on a personal e-mail, are considered to be public

records. However, there is a difficulty of using personal e-mail accounts as it is not necessarily accessible by someone within the Town if the public records request is made so that the documents can be obtained.

Councilmember Goodall asked how this could be enforced. Mr. Merritt stated that with respects to items within the Code of Ethics, there is not necessarily an enforcement mechanism. The Council can censor its members for not following the Code of Ethics, but there are no fines or penalties. It's a code of ethics the Town Council should aspire to live by, but there is nothing that compels anyone to following those ethics. If documents are kept on a personal e-mail account, then that is under the same obligation that the Town is under with respect to maintaining or destroying those records; in a sense, taking on a personal liability to maintain those records. General discussion of this matter ensued.

Shirley Howe made a motion to approve the Resolution amending the Code of Ethics of the Indian Trail Town Council

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

Councilmember Schallenkamp explained his reasons for pulling this item from the Consent Agenda. This proposed resolution which the Union County Board of Commissioners had forwarded to us it not in itself objectionable. He feels this matter should be considered at the first meeting in January so that all the council members have ample time to read.

Dan Schallenkamp made a motion table 6d until first meeting in January.

Council voted unanimously in favor of the motion.

## **OLD BUSINESS**

### **Snow & Ice Removal Contract - Hourly Rates**

Joe Tolan presented the proposed contract for the snow and ice removal. At the earlier presentation of this item at the last meeting there were questions brought up concerning hourly rates. All bid units are confidential until the contract is awarded, which is why the information was conveyed in a sealed envelope.

Councilmember Schallenkamp confirmed that the hourly rates are shown as unit prices with Mr. Tolan. The reason it was put in by the hour is that is how the contractor would be paid.

Mr. Tolan stated that the engineering staff recommends the contract be awarded to Showater Construction; they were the low bidder on the hourly rate. They are currently under contract with CATS and Charlotte Douglas Airport. The company is knowledgeable and can handle the type of performance expected.

After brief discussion, the following motion was made.

John Hullinger made a motion to accept Showalter Construction as the snow & ice removal service provider.

Council voted unanimously in favor of the motion. **(Copy of the contract can be found on file in the Finance Department.)**

### **MUMPO Request for By-Pass Name**

Mr. McLamb stated there is no formal process to pick out a name for the proposed by-pass. The City of Monroe has already adopted a resolution requesting the name of the by-pass be Monroe By-Pass. Before the process goes too far and the name sticks, perhaps the Council could choose a name they would like to present to MUMPO for consideration. In talking with other municipalities, Union Parkway has been suggested. After a brief discussion, Union Parkway as 1st choice and Union County Parkway as 2nd choice were proposed.

Dan Schallenkamp made a motion to adopt the resolution with name of Union Parkway as first choice or Union County Parkway as second choice in renaming the Monroe By-Pass.

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

### **PRESENTATION OF PLAQUES**

Ms. Piontek gave a brief speech thanking outgoing Council members Schallenkamp and Howe for their dedicated service to the Town. She then presented them with a plaque and key to the city.

### **OUTGOING COUNCIL MEMBER COMMENTS**

Councilmember Howe thanked the citizens for the opportunity to serve and acknowledged success in moving forward. She congratulated Mr. Allen and Ms. Luther and encouraged them to leave a positive footprint. She then thanked all those with whom she has worked with over the years. She also thanked her husband for all of his support.

Councilmember Schallenkamp thanked Ms. Howe for all of her dedicated service to the Town. He briefly touched on accomplishments of the Council during his tenure. He also complimented staff.

Mayor Quinn thanked Mr. Schallenkamp and Ms. Howe for their service.

Dan Schallenkamp made a motion recess to reconvene.

Council voted unanimously in favor of the motion.

### **RECESS**

## **OATH OF OFFICE**

Ms. Piontek issued the oath of office to Robert Allen.

Ms. Piontek issued the oath of office to Darlene Luther.

## **ADDITIONS AND DELETIONS**

Jeff Goodall made a motion add as 11b -Proposed Council Seating Arrangement

Council voted unanimously in favor of the motion.

## **PROPOSED SEATING ARRANGEMENT**

Councilmember Goodall passed out a proposed arrangement for seating. He feels the Council should all sit together toward the center without the manager or the attorney in between. Council discussed this briefly. Mayor Quinn stated his preference in an end seat; as it is easier to see how the council members vote when he can see them all in one direction.

Jeff Goodall made a motion approve the seating arrangement as follows: Mayor Quinn on the end, John Hullinger, Robert Allen, Gary D'Onofrio, Jeff Goodall, Darlene Luther, Town Manager, Town Attorney and Town Clerk.

Council voted unanimously in favor of the motion.

## **APPOINTMENTS**

### **Mayor Pro Tem**

Darlene Luther made a motion nominate Jeff Goodall as Mayor Pro Tem.

There was a brief discussion as to whether or not the Mayor Pro Tem would become Mayor in the event the Mayor should become incapacitated and what the procedure would be followed.

Council voted unanimously in favor of the motion.

Ms. Piontek issued the oath of office to Mayor Pro Tem Goodall.

### **Delegate and Alternate for Council of Governments**

Robert W. Allen made a motion appoint Darlene Luther for the delegate position.

Councilmember D'Onofrio stated that their meetings are usually held during the day and the locations can vary and he would agree to stay on as the alternate.

Council voted unanimously in favor of the motion.

Robert W. Allen made a motion for Councilmember D'Onofrio to remain in the alternate position.

Council voted unanimously in favor of the motion.

**Transportation Committee**  
**Chairperson and**  
**Stormwater Committee Chairperson**

Councilmember D'Onofrio verified that the meetings were held on the first Tuesday of each month.

Councilmember Allen questioned having the appointment; he feels we're acting more as a board of directors where the very presence on the committee can be an influence.

Mayor Quinn respectfully disagreed with his view and feels that the elected officials are to represent the public and with their involvement in the committee would know what's going on and could help to facilitate the discussion. He prefers to see the elected officials as part of the public but connected to the government system.

Councilmember Luther asked if this decision is imperative to make tonight she would like to wait and see what this entails.

Mr. McLamb stated that each committee has a co-chair so someone could step up to facilitate the meetings until the decision is made by the Council.

The Council discussed the matter briefly.

Darlene Luther made a motion table the decision on filling the committee chairs.

Council voted unanimously in favor of the motion.

Mayor Quinn stated that with Council consent, this would be brought back at the first meeting in January.

**NEW BUSINESS**

**ZM 2009-005 First Baptist Church Annexation Zoning**

Jonathan Edwards presented a request to set the zoning for the newly annexed Parcel 07-066-007A owned by First Baptist Church of Indian Trail from Union County R-20 to Institutional zoning. This property was annexed with an effective date of January 31, 2010. It consists of 3.67 acres of undeveloped land. State law allows the Town to issue public notices, have public

hearings and even set the zoning procedures in advance of the annexation's effective date. Much of the surrounding properties are single-family residential, including nearby Lake Park. One property is zoned as Heavy Industrial; it also belongs to the applicant. There would be no impact to public services or facilities.

The Comprehensive Plan divides the Town into Villages; this would be in the Sardis/Interchange Mix Village. The current land use provision provides that just over 1/2% of the total land use is Institutional right now for this Village. With the proposed zoning request would make the total Institutional land use calculation just over 1%, which is well under the recommended 5% for the Comprehensive Plan for this Village.

The Planning Board met on November 17, 2009 and after deliberations and making the required findings, the Planning Board recommended approval to amend the Town's Official Zoning Map by setting the subject property's zoning to that of Institutional.

Mr. Edwards read the consistency findings into record as follows:

1) Goal 1.3.1 Quality of Life: a more sustainable quality of life to the residents of Indian Trail by establishing a greater sense of community and promoting a unique identity of the Town of Indian Trail for all residents.

*As this proposed zoning is to be Institutional in nature, this helps to promote a diversity of land uses and a better quality of life for those in the Town of Indian Trail.*

2) Goal 1.3.2 Land Use: A mix of different types of land uses and the avoidance of potential land use conflicts between neighboring properties and surrounding municipalities.

*With due consideration given to the existing uses surrounding the property, along with the proximity of the property to the neighboring Village of Lake Park, this requirement can be satisfied due to the relative low-impact of the proposed zoning.*

He read an additional required finding into the record as follows: The request for this zoning classification is a reasonable request and is in the public interest because it promotes the goals of the adopted Indian Trail Comprehensive Plan in the areas of Quality of Life and Land Use, and is consistent with the adopted plans within the Town of Indian Trail.

Mayor Quinn opened the public comments for this public hearing.

Sammy Thomas, Administrator for First Baptist Church of Indian Trail, spoke in favor of the proposed zoning; the property will be used for ball fields for the students of Metrolina Christian Academy.

Mayor Quinn closed the public comment section of this public hearing.

Gary D'Onofrio made a motion concur with Planning Board transmittal and approve ZM 2009-005.

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

### **Additional Five Deputies in January**

Councilmember Hullinger stated that as has been learned it does take time for the process of additional deputies to actually be added. Additional deputies were approved in July and we still aren't fully staffed with three more left to add. If five additional deputies are approved now, then perhaps the additions will be available to start working in July. Another issue with this, eventually the Town needs to get up to a staffing level, if the Sheriff will get on board with it, to have deputies working accidents as well; the Town needs to build up its numbers.

John Hullinger made a motion to approve five additional law enforcement deputies starting when the contract can get done.

Councilmember D'Onofrio asked with the on board in process, when could the Town anticipate having the three remaining deputies on staff? Lt. Coble stated that the three guys have been identified, with two going through background checks now; one is currently out of the country serving in Iraq and should be back this month.

Councilmember D'Onofrio expressed his concern that we budgeted and agreed to add five additional deputies and the reason is we think we need them. The deputies have not started and there has been no time period to gauge the effectiveness of adding five additional deputies; which is not a small expense. He would like to take a look at the impact of adding the five with the three that have not started yet; in terms of response time, average calls, feedback from the Sheriff's office as to what has changed. Having this information is vital to not committing to anything additional until there is time to look at what's been done already.

Councilmember Hullinger asked Lt. Coble what percentage of their work is reactive and what percentage is proactive. Lt. Coble stated some stats from January -June -traffic stops amounted to 737 stops, which would be proactive; business checks were 4,366; preventative patrol were 1598; residential checks were 1446; all total there were 9,592 for the first six months of the fiscal year. They are providing a service from answering calls from an airplane crash in Bonterra to fires, death investigations; a broad range of services they provide. Any time there are more deputies they can be more proactive; the proactivity has increased, although he does not have those percentages available right now.

Councilmember Hullinger stated that he is still seeing neighborhoods, including his own, hiring off duty deputies. If neighborhood still feel like they have to do this, then perhaps the Town is behind with police protection; would rather have too many than not enough - it takes time to get them going.

Councilmember Allen concurs with Councilmember D'Onofrio and he feels it's a premature move; we need to see what the impact is for these additional officers. Can the Sheriff increase zone patrols? He feels that more is not necessarily better.

Councilmember D'Onofrio would like to have the input of the new Town Manager in this area. The Council continued the discussion briefly.

Motion Failed 4 - 1 with Gary D'Onofrio, Jeff Goodall, Robert W. Allen, and Darlene Luther opposing.

### **COUNCIL COMMENTS**

Councilmember Luther stated that it's a privilege to be here and she's looking forward to the next four years. She commented that no one on Council, to her knowledge, has ever stated that they did not think it was necessary or unnecessary to hire five additional deputies. The timing is a factor with the Town Manager possibly to start in a month, the budget coming in two months. More information is needed to make a determination.

Councilmember Allen thanked his supporters. He concurred with Councilmember Luther's statements. We need to be good stewards. Take advantage of the data and be responsible. He feels we need the new Town Manager's input also.

Councilmember Goodall feels Indian Trail has a bright future. The Town has always had a history of welcoming newcomers with open arms. The economy will turn around and great things are happening in the Town. The last Council increased the deputies' numbers by the largest increase ever. He commented on the Town Survey which is on the website; in which 8 out of 10 citizens responded they would like their own police department and he also quoted other statistics that can be found on the website. Four of the officials that are on the Council got there because they listened to the citizens of Indian Trail and they will continue to listen.

Councilmember D'Onofrio stated that this has been a contentious issue in Indian Trail's history. He feels they've made a lot of progress and the Council continues to evolve. He thanked Ms. Howe for helping him especially in the beginning when he was new and not familiar with some of the items. He commented to Mr. Schallenkamp that he had never met a better debater and that will be missed. He would like to challenge the Council to set three to five solid initiatives for the Town that can be accomplished within 24 months.

Mayor Quinn feels we have seen some good things happening in Indian Trail. The Town's strength is its people. He mentioned the lowering of the tax rate last year from 15 cents to 14.5 cents. He welcomed the newest Council members.

### **CLOSED SESSION**

Gary D'Onofrio made a motion to enter closed session pursuant to NCGS 143-318.11 (a)(5) - To establish or instruct the staff or agent concerning the negotiations of the amount of compensation or other terms of an employment contract and NCGS 143-318.11 (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.

Jeff Goodall made a motion Enter back into Open Session.

Council voted unanimously in favor of the motion.

**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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Trena Sims, Interim Town Clerk

