

Town of Indian Trail
Minutes of Town Council Workshop
February 11, 2009
Civic Building
6:00 P.M.

The following members of the governing body were present:

Mayor: Absent

Council Members: Shirley Howe Mayor Pro Tem, Dan Schallenkamp, Jeff Goodall, John Hullinger, and Gary D'Onofrio.

Absent Members: John J. Quinn.

Staff Members: Town Manager Ed Humphries, Town Attorney Keith Merritt, and Town Clerk Peggy Piontek.

Press/Media: Tamara Wilson of the Enquirer Journal, and Brian Carlton of the Union County Weekly.

CALL MEETING TO ORDER

Mayor Pro Tem Shirley Howe called the meeting to order.

REVIEW OF CHARTER

Mr. Merritt provided the history why the Charter is being revised. Section 1.4 Form of Government - change made is a statement that Indian Trail has a Council Manager form of Government.

Section 2.1 the provision deleted was the description. Mr. Merritt referred to this provision as a static provision. He created a statement that the boundary can be changed and the Planning Director shall prepare a map and written description.

There was general discussion as to whether this should be the Planning Director or the Town Manager. Mr. Merritt advised that it should reflect the individual who is going to prepare it. This is consistent with other municipalities.

3.1 Form of Government - specifies a specific type of government and the exercise of power. Stating that the Town Council and Mayor hold the power, except that the Town Manager is given the authority specified within the document. The title sounds redundant, so it will be reworded.

3.2 Mayor and Mayor Pro Tem should be changed from he to he/she. Mr. Merritt suggested making a provision at the end. Add a statement to say as any reference to a masculine pronoun shall also include the feminine or something similar to make it clear it's both.

3.23 reads 5 Council members. Mr. Merritt inquired if Council wanted to change it to another number and explained the extensive process to do so. The Council choose to leave it at 5 members.

3.4 1971 needs to be added. 3.4c relates to filling a vacancy on the Council. The person who fills the position does so for the unexpired entire term. Mr. Goodall commented that it should read until the next regular election to better serve the people.

There was discussion about what happens if you have already missed the filing period to run for office. It would be the result of a write in. Mr. D'Onofrio stated he feels it should be in accordance with the General Statute which addresses the time remaining in the term. Mr. Schallenkamp would like to reviews the statute. Mr. Hullinger can see it both ways and feels it should be the State Statute.

Mr. Schallenkamp questioned if the terms should be staggered 3 and 3 instead of 4 and 2. General discussion pursued. Mr. Merritt questioned if they would get citizen input before making the change and which seat will serve the short term (the one with the least amount of votes). It was decided that it would remain as is.

3.6 Relates to the meeting time and it will be changed from July 1 to December 15th.

3.7 Meetings of Council - change it to read "at least once a month" and emergency meetings may be held as provided by the Rules of Procedure are different that the Statute.

3.10 Appointments by Council - it has been changed to reflect that Council will only appoint the Town Manager and Town Attorney. Mr. Goodall agrees with this revision. Mr. Schallenkamp comments this reflects when the Town didn't have a Town Manager and agreed to the revision. There was discussion pertaining to the Town Clerk. It was decided that the Town Manager will appoint the Town Clerk.

3.11 Powers of the Town Manager - is an addition. It pertains to the rights and powers of the Town Manager.

Mr. Schallenkamp requested striking "the Manager need not be a resident of the Town". Council agreed to this as well.

There was conversation using several hypothetical situations and it was decided the use of common sense should always prevail.

Ms. Howe asked how the Ordinance clarifying the duties of the Mayor can be incorporated into this document. Mr. Merritt advised that the charter would control, if we know of something that contradicts it, he asked that we advise him and the Ordinance can be changed and everything is consistent.

Section 3.12 refers to the Town Attorney duties. There was discussion pertaining to adding verbiage that the Town Attorney shall attend every meeting.

Mr. D'Onofrio questioned the description of the Tax Collector and why it doesn't state that the Town Manager shall appoint him/her. All other positions listed in the charter indicate that the Town Manager shall appoint them. Mr. Merritt replied it goes more towards the requirement of it's statutorily you have a tax collector, so it's more mirroring that. It can be added. Council requested it be added to make everything consistent.

4.3 Filing of Candidates - Mr. Goodall asked that the verbiage of "filing with the Clerk" is antiquated and requested it be addressed.

4.1 "in case of a tie, elections officials shall determine the result of a tie by lot". This has been replaced by State Statute.

4.3, 4.4 & 4.5 will be combined and changed according to the statutes.

Article V Street and Sidewalk Improvements has been added by the Town Attorney to have this power given to the Town by the Legislature. The town already has the ability to do special assessments for roads, but in researching other charters he found a provision that gave the town the authority to do street and sidewalk improvements by special assessment in the same nature as you would do a road. He felt it was a good idea and that's why he put it in the charter.

Section 7 are all just technical terminology changes.

Section 8 states the Mayor and Council members will serve on the date of gratification until the expiration of their terms.

Article 8.1 refers to presentation of claims that there will be a 90 day statute of limitation for any claims against the town. Mr. Merritt will contact the School of Government to determine if this will pass the Legislature.

Mr. Merritt advised that NCGS 160A-63 which deals with vacancies of Council Members, which effectively states if the vacancy is created within 90 days from the election, then the person is appointed for the remainder of term. If the election is the 91 day rule or outside of that then they serve until such time as the next election, which would be in this case with respect to Mr. Godwin's seat, Mr. Hullinger would have filled it and would have been up for election this November and it would be a 2 year seat. This would affect section 3.4c of the charter.

Mr. Merritt inquired if Council wants to keep it as it is (the vacancy is filled for the entire remainder of the term) or do they want to adopt the General Statute. If adopting the statute do they want a specific provision that repeats verbatim the current statute or are they comfortable with "the replacement will be in accordance with the NCGS". Mr. Goodall advised he prefers the statute because it covers many circumstances and puts the decision back on the will of the people. Mr. D'Onofrio concurred. Mr. Schallenkamp and Mr. Hullinger will go with the will of the Council. Ms. Howe prefers the State Statute.

Mr. Merritt advised this will be on the agenda and Council can approve or not approve.

Ms. Howe confirmed that Council had no other issues they wanted addressed in the charter.

Mr. Schallenkamp commented that he is pleased with the format that was followed today; these are necessary changes, contrary to what the Mayor said in today's newspaper article. This is my only his opinion, unlike the Mayor, he is not authorized to speak on behalf of the town unless he's authorized by the Council. He is all for clarifying and bringing the document up to date and feels it is well worth the investment the town is making in doing so.

Mr. D'Onofrio agreed with Mr. Schallenkamp, stating that the discussion started a long time ago; it was a wise thing to bring up at the time. He is glad we're looking at it now when Council is removed from all the situations that are affected by it; we're just trying to make it better. He feels that point is undisputable and definitely worth while. He likes it the way it is, has concerns about street and sidewalk improvement section, but he's probably in the minority on that so he'll defer to the Council.

Mr. Goodall agrees with Mr. Schallenkamp and D'Onofrio. This is extremely worthwhile, it is our fundamental document that governs the town and how we operate. There is no better time than now to do this and look at it instead of letting it go further down the road when something does jump up and bite us that is inconsistent with whatever our charter is. The improvements that we recommended here tonight are excellent, right on the mark. He thinks that anyone who works in government or a corporation understands the importance of your fundamental documents. He inquired if there is policy for keeping the old documents somewhere. He wants to be sure to preserve history.

There was discussion pertaining to recording and preserving history.

Ms. Howe thanked the Council for working together. We really do a good job when we can sit down and not under pressure.

ADJOURN

John Hullinger made a motion to adjourn
Council voted unanimously in favor of the motion.

APPROVED: _____
Shirley Howe, Mayor Pro Tem

Attest: _____
Peggy Piontek, Town Clerk