



Town of
INDIAN TRAIL
north carolina

Town of Indian Trail
Minutes of Regular Council Mtg.
July 14, 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, and Dan Schallenkamp.

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

Media: Marty Mitchen of the Charlotte Observer

CALL MEETING TO ORDER

Mayor Quinn called the meeting to order.

PRESENTATIONS

- a. July 4th Float Contest Winners
- b. DeLane Sims - Eagle Scout

Those involved in the presentations were not able to attend tonight.

ADDITIONS AND DELETIONS

John Hullinger made a motion delete Item 10c and table Item 10d from the Agenda.

Council voted unanimously in favor of the motion.

Mayor Quinn stated he has had a request from the media to move up Item 9a.

Dan Schallenkamp made a motion to move Item 9a - Censoring of Elected Officials - to 5b.

Council voted unanimously in favor of the motion.

MOTION TO APPROVE AGENDA

Dan Schallenkamp made a motion to approve Agenda.

Council voted unanimously in favor of the motion.

CENSORING OF ELECTED OFFICIALS

(This item was moved up on the Agenda by an earlier motion.)

Mayor Quinn addressed the action of the Council at the prior meeting; he was not in attendance. He has written articles for the town newsletter each time it has gone out; this would be the third. A Resolution was passed that restricts his contact with staff and in the absence of input from staff; he wrote what was on his heart. He referenced a situation last year regarding an article that included comments from Councilmember Goodall. The Council majority had objected to parts of Councilmember Goodall's comments within the article. The Town Attorney said at that time that Mr. Goodall's comments could not be censored and read an opinion statement Mr. Merritt sent at that time.

If the Council had come to him and asked him to amend his article he would have worked with Council. In speaking with David Lawrence with the School of Government his opinion was that Council can control the content of anything on a website or an official Town document. He read the article he had written for the Indian Trail Newsletter. Mayor Quinn feels that by the action of banning his input to future newsletters and website updates, the Council feels he has not represented the Town in a good light. While he has spoken out against certain Council action, he is proud of the work he has done on behalf of Indian Trail. The evidence of this is the recent selection of being named one of the "Ten Best Towns for Families" in Family Circle magazine and read a letter from the editor he received thanking him for his valuable input.

Councilmember Schallenkamp stated that the reference to the Mayor being banned from Town Hall is not the case, he is allowed in the public areas of Town Hall. He relayed a conversation the Mayor had with a colleague, where it had been relayed to the colleague by the Mayor that he had informed Family Circle of the termination of the Town Manager and of numerous other issues that he found fault with; Councilmember Schallenkamp thanked the Mayor for his good work in spite of trying to submarine our chances; if this information is correct. In regards to why he chose to put the restrictions in place, he feels the Mayor has shown a pattern of behavior that is suspicious where everything is a conspiracy. This is not about politics or decisions; this is

about behavior. He feels the Mayor has a tendency to behave unprofessionally and use intimidation with staff members and other council members.

Dan Schallenkamp made a motion enter into Closed Session pursuant to NCGS 143-138(a)(6) Motion Passed 4 - 1 with John Hullinger opposing.

Gary D'Onofrio made a motion to enter into Open Session.
Council voted unanimously in favor of the motion.

PUBLIC COMMENTS

Kathy Broome, 4103 Runaway Circle, stated that the Mayor had called her in regard to Family Circle and let her know what he said; she feels he did try to sabotage it. She commented on the banning of the Mayor from Town Hall. She serves on committee for the town and she is not speaking on behalf of those to which she is affiliated. The decision the Council made was not any easy one. The Mayor has some good ideas but feels the decision was made as a result of his personal attacks, negativity and paranoia.

Severin Jacobson, 3905 Watersreach Lane, passed out information from the Money Magazine. He quoted information from this magazine in relation to job growth within Union County. He feels the Town is one of the high rated nationally.

CONSENT AGENDA

- a. Tax Report - Month End Tax Report for June 2009. **(Copy attached hereto and made a part of these minutes.)**
- b. STEPS Developmental Academy Easement Request. **(Copy attached hereto and made a part of these minutes.)**
- c. 2009 Powell Bill Map. *(This item was pulled for discussion)* **(Copy attached hereto and made a part of these minutes.)**
- d. Budget Amendments
 1. Reallocate Funds within Finance Department
 2. Reallocate Funds from General Events to July 4th Event
 3. Reallocate Funds within Powell Bill, Engineering & Stormwater
 4. Increase First Year Startup Cost and Advertising for Farmers Market
 5. Reallocate Funds within Events Department
 6. Reallocate Funds to Governing Body for Dedicated Server *(This item was pulled for discussion)*
 7. Reallocate Funds within Planning Department
 8. Reallocate Funds for Newly Created Governing Body Department
 9. Reallocate Funds to Human Resources Department **(Copies of all approved budget amendments can be found on file in the Finance Office.)**

John Hullinger made a motion pull Item 7d6 - Reallocate Funds to Governing Body for Dedicated Server - for discussion.

Council voted unanimously in favor of the motion.

Councilmember Hullinger held a discussion with the Finance Officer prior to the meeting about this item; he feels the proposed server is not needed.

Councilmember Schallenkamp stated that it was his understanding that the primary function of the proposed server would be to enable Council to return to the old ability they once had where they could click on an icon on their laptops and that would take them to desktop on a town server. He does not feel there is a need for this item.

John Hullinger made a motion release the funds and cancel the purchase order for server.

Council voted unanimously in favor of the motion.

Dan Schallenkamp made a motion to approve pull 7c from consent agenda

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

Councilmember Schallenkamp stated that his only concern was they do not have a copy of the map only a list of the roads. Mr. Kaufhold stated that he is satisfied that the map is complete with a complete list of roads included.

Gary D'Onofrio made a motion to approve Consent Agenda except for Item 7d6.

Council voted unanimously in favor of the motion.

OLD BUSINESS

PRESENT STORM DRAIN INVENTORY CONTRACT

Mr. Kaufhold submitted the Storm Drain Inventory Contract to Council for approval; background was presented at the previous Town Council meeting. S&ME recently completed the Pilot Drainage Inventory Project which began in the fall of 2008. Work included using GPS to locate and identify all closed storm drainage system components located within town limits south of Old Monroe Road, approximately one-third of the Town. The purpose of the work is for infrastructure inventory, to complement current design efforts, and to assist in future planning.

The Storm water Advisory Committee recommends that S&ME locate and identify the remaining drainage infrastructure within town limits at a cost not to exceed \$110,000. The estimated time to complete is five months from formal notice to proceed. Staff recommends the inventory work be completed by S&ME at a cost not to exceed \$110,000.

Councilmember Howe noted that the cost will come out of stormwater fees and suggested advising the residents that guys will be coming around working by posting on the website.

Council continued general discussion of this item.

Dan Schallenkamp made a motion to approve Storm Drain Inventory Contract with S&ME as presented.

Council voted unanimously in favor of the motion. **(COPY OF THIS ITEM CAN BE FOUND ON FILE IN THE FINANCE OFFICE)**

TOWN HALL - REMODEL TIMELINE AND COST

Mr. McLamb gave a little background for the redesign of the Administration Building. Council previously directed staff to pursue two additional bids. After reviewing all bids for the up fit of the Administration Building, staff recommends the low bidder, Phil's Wood Construction LLC at \$91,550.

Time line is estimated at six weeks construction. The breakdown of estimated costs is as follows: \$92,000 for interior walls, electrical and HVAC; \$6,000 for phone system; \$4,000 for computer work and \$21,000 or 20% for contingencies with a total cost of \$123,000. The administration staff will need to be relocated; which is being worked out. Movers would be hired to move furniture in and out of Town Hall. Town Hall will need to be closed down for two days at the beginning of the construction period. The Town will be required to get permits as required from the County. The general contractor believes the electrical system should hold up. Staff requests the Town Council to release Town Hall renovation funds in the amount of \$150,000.

Councilmember Schallenkamp confirmed that the low bidder is the same as did the work on the Blythe Building. He asked about the difference between the proposed cost of \$123,000 and the amount of \$150,000 that is requested to be released for the up fit. Mr. McLamb stated that part would be for moving costs and the rest possibly to do landscaping; it would not be spent unless needed.

Dan Schallenkamp made a motion approve cost of up to \$130,000 for administration building up fit and accept the low bidder.

After the motion, Council held general discussion on this matter.

Motion Failed 3 - 2 with Gary D'Onofrio, Jeff Goodall, and John Hullinger opposing.

DISCUSSION & POSSIBLE ACTION

CENSORING OF ELECTED OFFICIALS

(This item was moved up on the Agenda by earlier motion.)

PUBLIC HEARINGS:

ZT 2009-003 CHAPTER 530 INDUSTRIAL ZONE

Ms. DeHart presented a request to amend Chapter 530(G), Industrial Zoning Districts Use Table and Standards, of the Unified Development Ordinance (UDO) in order to add the use of Indoor Firearms Shooting Range to the use table. The Council held the public hearing for this item on June 9, 2009 and voted to continue it until the July meeting the direction from Council was to continue to research safety standards for these types of facilities.

Other than OSHA, there are no other organizations that regulate this type of facility. Staff contacted both the National Association of Shooting Ranges and the National Rifle Association. The NRA, although not a regulatory agency, has a published source book - *The NRA Range Source Book* - which provides basic and advanced guidance to assist in the planning, design, construction and maintenance of shooting range facilities, whether they are indoor or outdoor. In addition to the source book, the NRA has a Shooting Range Services - Range Technical Team. This team is a nationwide network of volunteers trained in the field of shooting range planning assistance, range use and procedural evaluations, range safety and design evaluations. This program is based on a cost recovery and expense reimbursement. Ranges requesting this on-site evaluation receive a report identifying recommendations for improvements if needed upon completion of the visit.

Staff recommendation is to still require a SUP for an indoor firing range facility along with a new section of the UDO, which would read as follows: Chapter 7170. Indoor Firearm Range Facilities are permitted as provided in Section 530 of the Use Table pursuant to a special use or zoning compliance permit. The proposed use shall satisfy the following requirements and shall be entered into the face of the permit.

7170.010 - All facilities shall be designed, constructed, and operated in accordance with the NRA Range Source Book. (Published 1999)

7170.020 - All plans for indoor range facility (including interior up-fit of existing buildings) shall be prepared by a licensed engineer and obtain site plan approval by the Town.

7170.030 - An evaluation in the area of use, procedural, range safety and design prepared by a NRA Range Technical Advisor shall be submitted to the Town prior to receiving a certificate of compliance, a power name change, or a privilege licenses by the Town. Recommendations identified with the evaluation shall be constructed or implemented prior to obtaining approval by the Town.

If an existing facility, a new owner would have a minimum evaluation in order to keep it in compliance.

Ms. DeHart then read the findings of the Planning Board into the record:

1. The proposed amendment is consistent with Section 1.3.2 of the Comprehensive Plan - Land Use because the proposed amendment of Section 530 (G) will assist in the avoidance of potential land use conflicts between neighboring properties because it places the ability to establish the use within a zone which would not conflict with neighboring properties.
2. The granting of this amendment is in the best interest of the public because the intent is to provide an opportunity to establish a use that will serve as a recreational or training facility within a zone for minimal impact to adjacent properties.

Mayor Quinn opened and closed the public comment section of the matter as no one had signed up to speak.

Councilmember Schallenkamp questioned with regard to the SUP, if the surrounding property owners are notified about the intended use. Ms. DeHart confirmed that there is a requirement for adjacent property owners, there is no requirement to notify adjacent tenants of a multi-tenant building. Councilmember Schallenkamp requested to add the requirement to notify all of the tenants located on the property of the proposal. Ms. DeHart stated that that would be added and would also add to this section that indicates that where it's a case where there is a multi-tenant facility that all adjacent business owners be noticed as well.

Dan Schallenkamp made a motion to approve ZT 2009-003 CHAPTER 530 INDUSTRIAL ZONE as read into record with addition 7170.040 indicating requirement of notification of all tenants in multi-tenants building and to all tenants in multi-tenants located on adjacent property.

Council voted unanimously in favor of the motion. **(COPY ATTACHED HERETO AND MADE A PART OF THESE MINUTES.)**

Mayor Quinn announced that the Town Council will be meeting tomorrow night July 15, 2009 at 6:00 pm for purpose of consulting with the Town Manager search firm.

ZM 2009-001 2826 TOPHILL ROAD

Ms. Hillary Pace presented to proposed rezone for property located at 826 Tophill Road from RBD (Regional Business District) to LI (Light Industrial). This property is located in the Industrial Ventures Business Park. Before the adoption of the UDO this was zoned HC (Highway Corridor), the property was developed under County guidelines and at the time it was developed to be a more light industrial park; RBD zoning is a more service oriented. It is the intent of this request to bring this entire park to a light industrial use.

The Planning Board made the following consistency findings within the Comprehensive Plan at their June 16th meeting. The proposed amendment is consistent with the following goals:
Goal 1.3.2 Lane Use: A mix of different types of land uses and the avoidance of potential land use conflicts between neighboring properties and surrounding municipalities.
Goal 1.3.2 Land Use: A more balanced tax base by promoting the development of office parks, businesses, retail centers, and industrial park.

Staff is of the opinion the rezone request is consistent with the Comprehensive Plan for the 74 Business Corridor and Land Uses and location criteria.

Mayor Quinn opened the public comment section of the matter.

Carlton Tyson with Ty-Par Realty would appreciate Council consideration of this rezoning.

Mayor Quinn closed the public comments section of this hearing.

Councilmember Goodall noticed that this property has been LI for years and suggested taking Planning Board recommendation to rezone the entire area.

Jeff Goodall made a motion to approve the recommendation of the Planning Board and the consistency findings as read into the record.

Council voted unanimously in favor of the motion. **(COPY ATTACHED HERETO AND MADE A PART OF THESE MINUTES.)**

ZT 2009-004 DIVISION PARKING

(This item was deleted from the Agenda by earlier motion.)

**ZT 2009-001 CLUSTER SUBDIVISION; BOA POWERS;
LANDSCAPING OF SHARED DRIVEWAYS**

(This item was tabled by earlier motion.)

NEW BUSINESS:

INDIAN BROOK CULVERT REPLACEMENT PROJECT

Norm Maurey, 5811 Indian Brook Drive, stated his concerns of safety in relation to the storm water runoff as there is no culvert. There is an electrical box that gets submerged because of the runoff and this could be dangerous for the neighborhood children.

Mr. Kaufhold presented the Indian Brook Culvert replacement proposal. In April of this year, staff received a request for stormwater services on Indian Brook Drive, a town maintained street in the Indian Brook Forest subdivision. The 18" corrugated metal pipe culvert has collapsed and is no longer functioning as intended leaving the potential for house flooding.

The previous Town Manager made arrangements with the property owner to purchase a pump and upon completion of the replacement of the culvert, the town would buy back the pump.

The town received two bids with the low bidder being W. M. Warr and Son Inc. at \$34,090 which is 6% higher than the Engineer's estimate. This information was brought before the Stormwater Committee and they in turn are recommending awarding the contract to the low bidder.

After Council discussion, the following motion was made.

Jeff Goodall made a motion award the contract as recommended by the Engineering Department.

Council voted unanimously in favor of the motion. **(COPY OF THE CONTRACT CAN BE FOUND ON FILE IN THE FINANCE OFFICE.)**

PRESENT STORMWATER MAINTENANCE CONTRACT

Mr. Kaufhold introduced Joe Tolan the Town's Field Operations Manager who presented the proposed Stormwater Maintenance Contract.

Joe Tolan stated that the purpose of the Stormwater Maintenance Contract is correct failures in stormwater systems throughout Indian Trail. It is the intent to improve the well being of citizens as well as the environment. They anticipate performing work that will reduce erosion in open ditches, installing BMPs, installing closed system features which will reduce flooding on private and public property.

He briefly went over the process of how stormwater requests are handled.

The proposed contract will provide the Town with a fund source for continuous work, repairing and maintaining the stormwater system. It will enable improvement to portions of the Indian Trail stormwater systems that are in excess of 50 years old and have exceeded their life expectancy and allow for up fit and repair of even new portions of the stormwater system. This will allow for correction of failures in the stormwater system throughout town; improve water quality; and will enhance the community appearance.

At this time there are approximately 40 outstanding stormwater request for service, with each request being ranked relevant to safety. Staff has completed 32 projects in the past year, with prices ranging from \$110 to \$54,130. The checks and balances of the contract are: All requests are graduated by a citizen; investigated and ranked by staff; work order is generated, and project reviewed with contractor; work is performed, quantities are documented and upon completion of all work, the contractor, staff and Town Engineer will sign to authorize payment. Each project would be site specific.

Contract can be written so that it is renewed three times with approval of the Town Council. The bid price would come in and annually the quantities or cost would be raised compared to the producers' price index for the various components of construction.

This was unanimously approved by the Stormwater Advisory Committee for recommendation to Council. Action requested from Council is authorization to solicit bidders for this contract; the low bid received will be presented to Council for their approval.

Mr. Tolan clarified that the proposed contract would be written for one year, renewable three times not to expand a life span of four years. This contract is specified for items of work; there are about 80 units such as, pipe, seeding, mobilization; each one is a line item and each work order would be written utilizing those line items. The unit is used for each component of each project. Mr. Tolan stated that the contractors work will be performed to NCDOT specifications. The contract unit cost can be changed at the end of the one year contract. Council continued general discussion of this matter.

Jeff Goodall made a motion to approve the Stormwater Maintenance Contract.

Council voted unanimously in favor of the motion. **(COPY OF THE CONTRACT CAN BE FOUND ON FILE IN THE FINANCE OFFICE.)**

MANAGERS REPORT

Ms Piontek thanked Trena Sims, Susan Didier and the Planning and Engineering Departments for all their work towards the parade. She stated that Mr. Mercer asked if Council would prefer for him to stay over for Thursday to talk with department heads. Consensus was that he could do that.

Ms. Piontek asked how Council would like to proceed with the up-fit for the Administration Building; it was suggested to see what could be accomplished with \$60,000. Council discussed this further.

Dan Schallenkamp made a motion pursue an aggressively lower cost for up fit to Administration Building.

Motion Passed 4 - 1 with Jeff Goodall opposing.

PLANNING REPORT

Ms. Pace updated Council on the Park Plan. There have been several public meetings to gather information from the citizens regarding recreations. Staff received some great comments which HNTB has been able to map out within the plan. They are also looking at areas that are underserved. The maps are starting to provide a great basis for potential park locations, nature trails, greenways, etc. The online survey has been well utilized in receiving input from citizens; the input from the survey should be available at week's end. Council will see the final results in the fall.

Mayor Quinn brought up two points: 1) the committee has been unable to have a quorum lately; and 2) a revelation that the Union County Public Schools, as part of their charter, he believes, that they cooperate with municipalities to develop recreational space using the school system. Ms. Pace stated that when HNTB did the preliminary research and came across a policy the UCPS are open to creating partnerships with local government agencies for recreational facilities and recreational programming; this policy will be folded into the park plan. The Town will foster this partnership and take advantage of opportunities with existing facilities within the Town. Mayor Quinn stated that he touched on the subject with Patrice Parker, Principal at the Sun Valley Elementary School and there is potential land to utilize in that area and she would be open to working with the Town.

Ms. Pace requested Council approval to expand the number of committee members.

Gary D'Onofrio made a motion solicit for two alternate committee members for the Parks, Greenway and Tree Committee for an increase from 7 to 9 committee members.

Council voted unanimously in favor of the motion.

ENGINEERS REPORT

Mr. Kaufhold updated Council on the Holly Park cul-de-sac; the design is due tomorrow and staff will comment on after review; a metes and bounds will be done so the legal process can proceed. A letter was received from office of Kay Hagan regarding the Safe Accountable Flexible Efficient Transportation Equity Act - highway funding; their having supplemental project submission request. He has recommended Old Monroe widening for this request; in particular from Wesley Chapel Stouts to I-485.

Mr. Kaufhold addressed the action items on the MPO agenda. Economic stimulus project list endorsement; it was unanimously recommended by the TCC. Earlier in the year rankings were done to get the stimulus money; the list of projects was generated and submitted to the state; which was to be submitted to the federal government. Somewhere between our delivery and their delivery; they left out our projects. This means that only the first round of projects are eligible, but fortunately that list covers more than the first rounds of monies. We are asking for an explanation as to why the new list from MUMPO was not included.

Over the next few months we will be getting news that our project wish list will be cut down to one-third or one-fourth of its size. Out of 330 transportation projects in the MUMPO area, it will probably be dropped to less than 100; as DOT is financially constrained. On the I-485 funding option, the TCC decided to continue with the standard ranking process; which means it falls well below other projects.

At the TCC meeting the state requested formal endorsement by Stallings and Indian Trail for the Chestnut Connector; that funds for each individual road project (Stallings Road and Indian Trail Road) be combined for this one. The estimate is not expected until November; we can put caveats on the endorsement of the project. Councilmember Schallenkamp suggested adding the requirement that if the money is not used on the Chestnut Connector Road, then the money then converts back to Indian Trail Road.

Dan Schallenkamp made a motion draft letter of endorsement for the Chestnut Connector with caveats and bring back for Council approval.

Council voted unanimously in favor of the motion.

COUNCIL COMMENTS

Mayor Quinn read a letter received from Family Circle thanking him for his help in regards to the recent article.

Councilmember D'Onofrio thanked staff for the great job on the July 4th Parade.

Councilmember Hullinger thanked all those involved for their work on the July 4th parade; suggested having a marching band.

Councilmember Goodall thought this was the greatest July 4th Parade. The crowds were lined up all the way down. He complimented staff on the newsletter.

Councilmember Howe commented on the award from Family Circle and recognized the past Council for their efforts. She thought it was a great parade also. She also feels the articles in the newsletter should be positive. She hasn't received e-mails from the Mayor regarding the Family Circle article.

Councilmember Schallenkamp commented on putting the mixed drinks referendum on the website; he would prefer to have a comparison of what we currently have with beer and wine sales and the proposed referendum; he does not feel that potentially having bars in Town will be family friendly. He addressed having a direct link to council members e-mail on the website and how spam senders can access easily; he suggested having an e-mail address on there as an image instead. He complimented Sgt. Coble on the counterfeit arrest.

CLOSED SESSION

Gary D'Onofrio made a motion enter into Closed Session pursuant to N.C.G.S. 143-318.11(a)(5) To establish or instruct the staff or agent concerning the negotiation of the price and terms of a contract concerning the acquisition of real property.

Council voted unanimously in favor of the motion.

Dan Schallenkamp made a motion enter into Open Session.

Council voted unanimously in favor of the motion.

ADJOURN

Dan Schallenkamp made a motion Adjourn.

Council voted unanimously in favor of the motion.

APPROVED:

John J. Quinn, Mayor

Attest:

Trena Sims, Interim Town Clerk