



Town of Indian Trail
Minutes of Regular Council Mtg.
March 9, 2010
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, John Hullinger, Robert W. Allen, Darlene Luther

Staff Members: Town Manager Joe Fivas, Deputy Clerk Trena Sims, 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, and Adam McLamb Engineering

Media: Marty Minchinn of the Charlotte Observer

CALL MEETING TO ORDER

Mayor Quinn called the meeting to order and requested Eagle Scout Charles Dellinger to lead the audience in the Pledge of Allegiance. Mayor Quinn welcomed and introduced the new Town Manager, Joe Fivas. Mr. Fivas expressed his appreciation and commitment to ensuring that we are looking to do great and wonderful things and serve the residents in the community the best that we can. He advised his door is always open for anyone and provided some of his background information as well as policies.

PRESENTATIONS

Eagle Scout Recognition for Charles Dellinger

Mayor Quinn acknowledged Charles's accomplishments and read the Resolution prepared on his behalf.

Recognition of Union West Rotary

Mayor Quinn recognized the Union West Rotary for their work and dedication to the community and read the Certificate of Recognition.

Carolina Thread Trail

Travis Moorehead presented an update on the process and where the region is regarding the Carolina Thread Trail. He advised that it is a regional greenway system, connecting 15 Counties (11 in North Carolina and 4 in South Carolina). This project has been in the planning process since late 2005 with the use of a \$60,000.00 Grant to hire a consultant to plan for the greenways and trails throughout the county. All participating municipalities have adopted the plans. The Carolina Thread Trail Organization is a Non-profit Organization whose primary mission is to advocate and support the planning, design and construction of greenways throughout the region. The purpose of the thread trail is to establish the vision of connectivity, provide assistance to secure funding including catalytic thread grants and provide technical support to local practitioners. Their guiding principles are bias towards action, transparency, inclusiveness, leverage, community self determination, respect for the land and land owners. They are privately funded; they have raised 16 Million Dollars of a 25 Million Dollar campaign, along with land donations and are partially funded State Grants. The planning processes are as follows: Phase I Community outreach - resolutions of support, steering committee development and civic presentations. Phase II Plan preparation (6-8 months) - steering committee selects consultant, prepares draft plan, presents draft plan to public revises if necessary. Phase III Plan adoption (3-4 months) - Presentation to advisory boards and adoption by all municipal and governing boards.

The municipalities that have provided a Resolution of Support are: Indian Trail, Waxhaw, Marvin, Marshville, Wingate, Stallings, Monroe, Fairview, Lake Park Weddington, Wesley Chapel and Hemby Bridge.

ADDITIONS AND DELETIONS

Jeff Goodall made a motion to approve adding an additional Closed Session on personnel as item 4a on the agenda.

Council voted unanimously in favor of the motion.

Jeff Goodall made a motion to approve moving items 7b and 7c to 4b and 4c.

Council voted unanimously in favor of the motion.

MOTION TO APPROVE AGENDA

Gary D'Onofrio made a motion to approve agenda as modified.

Council voted unanimously in favor of the motion.

Jeff Goodall made a motion to enter closed session 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.

Indian Trail Town Council left the building and conducted the Closed Session in the Administration Building.

John Hullinger made a motion to approve going back into Open Session.
Council voted unanimously in favor of the motion.

Administer the Oath of Office to the Town Manager, Joseph Fivas

Mr. Fivas took the Oath of Office for Town Manager.

ABC Board Terms and Oath of Office

Mayor Quinn administered the Oath of Office to Kenneth Porter, Chairman; Wesley S. Hinson and Jan Brown.

PUBLIC COMMENTS

Jonathon Baer, 5517 Rogers Road, Indian Trail, NC expressed that he feels there is a necessity and urgency to have a public forum for emergency preparedness. He feels we are on the brink of financial collapse and requests that the Town Council have a special meeting for the citizens on how to prepare for this.

Shirley Howe, 6205 Clearwater Drive, Indian Trail, NC express her concern and complete surprise of the action of Council disbanding the committees and boards. She advised there is no justification for the removal of dedicated citizens because they do not agree with you, those actions would bring us back to a closed government. She urged Council to reconsider their motion and appreciate the integrity of these dedicated citizens.

Brian McLamb, 2714 Unionville Indian Trail Road W., Indian Trail, NC spoke on behalf of the Public Safety Committee that was recently disbanded. Although he understands that the Committee serves at the pleasure of the Council and he feels the reasons given were completely inappropriate and unfair. The one that disturbed him the most was that they were biased and had hidden agendas is insulting and untrue. All matters discussed and decided on by the committee were done with good honest open discussion. He feels the committee dedicated a lot of time and discussed many issues, he expressed his appreciation of the staff for all of their assistance.

Clayton Jones, 5147 Panhandle Circle, Matthews, NC advised that he has lived in Union County for 12 years and asked for support in his efforts to become the District Attorney for the County.

CONSENT AGENDA

- a. Tax Report - Month End tax Report for February 2010
- b. Minutes for December 8, 2009
- c. Budget Amendments (**Copies can be found on file in the Finance Office**)

Gary D'Onofrio made a motion to approve consent agenda

Council voted unanimously in favor of the motion.

OLD BUSINESS

MCA 2008-006 Yard Debris Burn Ordinance

Luke Fawcett presented the primary concerns with this issue is the burning in proximity to the dense areas in town. Public Safety concerns are health issues from smoke and fire safety in these high density areas. He provided some examples of yard debris burns getting out of control. The recommended Ordinance supplements current State regulations which indicate what can be burned, when it can be burned and is permitted in accordance with the following: in safe weather conditions, never left unattended and is in compliance with local and state ordinances. He advised that in the State regulations, burning yard debris is not permitted in jurisdictions that pick up yard debris. Currently we offer this as a fee for service, but it is not provided as a regular part of our solid waste service provided to the town. Mr. Fawcett informed Council of the steps the Public Safety Committee went through in an effort to create the guidelines for this ordinance. Mr. Fawcett summarized the Ordinance: it prevents the burning of yard debris within 100 feet of any residential structure (this triggers the permit process through the state because they are outside of the 100 feet), it defines open burning as smoke emitted directly into atmosphere, yard waste is any material generated from maintenance of yard and gardens. Generally speaking If a citizen has property that is greater than one acre, they are more likely have area to burn yard debris (area outside of 100 ft. ban) roughly 6-60 subdivision meet criteria - hundreds of residential - rural non-farm parcels also meet criteria. Strong majority of parcels will be prohibited.

In November Council recommended that the enforcement options be revisited, Mr. Fawcett advised Council of the changes that have been made: Enforced by Indian Trail Code Enforcement, violations will be reported at the discretion of the local volunteer fire department and they will assist town in education of the new ordinance. Penalties suggested as follows: first offense receives a warning, second is a \$200 fine, and third is a \$300 fine and a \$500 fine for all subsequent offences. it has been recommended that this ordinance take effect July 1, 2010 to allow adequate time for public education and this is the low point in the burning season (primarily done in the fall). Mr. Fawcett advised that the committee presented a request to have the town renegotiate cost for yard debris pickup with the service provider and all fines collected go to the schools.

Council Member Luther inquired how the 100 foot ban was determined. Mr. Fawcett replied that the State regulations require a permit, which triggers notification to local fire departments preventing them from investigating if a call should come in, initiating an extra safety measure.

Council Member D'Onofrio explained a situation that he incurred; advising as a result of that he supports this ordinance and feels it's a good idea.

Council Member Hullinger advised that he does not support the ordinance because we have received only one complaint in the last couple of years. Mr. Fawcett advised that it's been more than one, but the one individual was representing a Homeowner's Association. Although he understands the point, but feels that the State has regulations in place and he feels this is an infringement on the property owner's rights.

Council Member Luther advised that she doesn't agree with this ordinance because she believes in limited government and agrees with Mr. Hullinger about property owner's rights. She inquired that if it does pass how it would affect people with fire pits. Mr. Fawcett advised that the Committee discussed this at length and advised that they associate this ordinance with the fires that are public safety hazards, too close to homes, high density areas, not monitored correctly; with this ordinance in place it provides teeth to enforce safety hazards to the community. Ms. Luther advised that this is subjective, if she's throwing her Christmas tree into her fire pit in her back yard, its fun, and safe, well attended. However, the way this ordinance reads is subjective; it would be a violation of the ordinance. Mr. Fawcett advised that the responsibility of reporting this to the town is at the discretion of the professionals (Volunteer Fire Departments); they know what's safe and what is not, as well as repeat offenders that burn waste without any safety consideration in mind. Ms. Luther inquired if there is anything in place currently for yard burning. Mr. Fawcett advised that the County follows the State regulations.

Mayor Quinn - opened public comment section of the public hearing.

Michael Anderson, 3410 Delamer Drive, advised that yard burning has affected his neighborhood to the point where, he disagrees with Mr. Hullinger and Ms. Luther and concurs with Mr. D'Onofrio, that burning infringes his right to enjoy his property. Smoke at all hours of the day, every day, in fact today it started at 8:00 a.m. and it was still burning when he left for this meeting. The smoke gets into your throat, eyes, lungs and home; there is no place to escape from the smoke. Although he is not against burning, he does believe we should have an ordinance to limit to certain days of the month with time restrictions, but the rest of the time, allow citizens to enjoy their property. He feels the safety issue, with the density of population growing; it's just a matter of time before a house will go up in flames. He suggested that the ordinance require that a water source be next to it, for the ability of extinguishing it quickly if necessary. He would also like to see the ordinance reflect all fires to be extinguished and not left to smolder. He feels the enforcement procedure might be tough, he likes the 100 foot trigger, indicates a permit should have been issued and eliminates the waste of fire department time. He has made numerous complaints to the county for fires left unattended.

Brian McLamb, 2714 Unionville Indian Trail Road West, Indian Trail, NC advised that he is the only member of the Committee that disapproves of this ordinance. He advised that it is already illegal to have unattended fires, that is specifically stated on the permit. Roadway burning is illegal and if you call 911 the fire department has to respond. He feels this addresses a nuisance not a public safety issue, it's a good ordinance but does not fix the problem, and you cannot make good neighbors. He advised that the 100 foot requirement was determined because outside of that requirement, is the jurisdiction of the forestry service and they require you to have a permit. People who have neighbors that burn is a problem, but it is his opinion that this ordinance does not fix the problem.

Mayor Quinn closed the public comments portion of the hearing.

Luke Fawcett addressed a couple of Mr. McLamb comments:

1) The committee looked in length at using certain times or days available for burning, the fire

departments advised that would be very difficult to enforce and it was their suggestion to keep it as simple as possible.

2) The code enforcement is responding to complaints from the fire departments, it can always go out during Town business hours and enforce the ordinance on scene.

Mr. D'Onofrio advised in his personal experience the perimeters of the permit were not being met. In an attempt to intervene and correct it, it went disregarded then who do we call and what does he do in that situation? He does not want to create government intervention, but it would be nice if you could call your town and we will look into it for you. Common sense has to be applied to this, nobody wants to ban a backyard fire pit for a couple of hours on a Saturday night, he does not believe anyone would be required to put that fire out, but a three day burn gets a little excessive if there's nobody you can call to address it.

Mayor Quinn believes that Homeowner Associations have more ability to deal with these types of problems than municipalities may have. If the HOA have the will it can move against the homeowner and fine them under the nuisance and obnoxious behaviors section of the covenants. So if this activity is going on and you live in an area that has a HOA, they can fine them up to \$100 upon the initial hearing and then for the next year they can fine up to \$100 per incident or per day, they have some teeth to deal with this.

Mr. Fawcett reiterated this is the final recommendation - regarding public safety concern for health, smoke issue, and uncontrollable fires.

Mayor Quinn inquired if the committee or staff discussed looking at a substantial yard waste program other than burning. Mr. Fawcett advised this was discussed as an option for the citizens to dispose of their yard waste.

Mayor Quinn inquired if there is a State Statute that if a town does have a yard waste removal program, you must have an ordinance against burning. Mr. Fawcett advised no, if a town does provide that service for yard debris then you are not permitted to burn.

Council Member Goodall advised that people who have the option of purchasing large garbage bags and take it to the satellite waste collection location near Sun Valley High School for 25 cents a bag. He was informed that it no longer options at the land fill. He advised he is very much for this ordinance for many reasons he has already stated on the record.

Gary D'Onofrio made a motion to approve MCA 2008-006 Yard Debris Burn Ordinance as recommended.

Motion Failed 3 - 2 with John Hullinger, Robert W. Allen, and Darlene Luther opposing.

Oath of Office for Town Manager

This matter was moved up as a result of a motion made by Council Member Goodall under Additions and Deletions.

ABC Board Terms and Oath of Office

This matter was moved up as a result of a motion made by Council Member Goodall under Additions and Deletions.

Council took a break.
Council returned from break.

DISCUSSION AND POSSIBLE ACTION

Resolution of Consideration

Planning Director, Shelley DeHart advised that it identifies areas to be considered for future annexation by the town. Based on research, the last Resolution of Consideration was adopted in 2000, they are good for two years and it eliminates the one year waiting period within the annexation for an involuntary annexation. The last map that was adopted was April 8, 2008. Based on records it appears that earlier areas for consideration were well over 11,000 acres, this current map represents 8,955 acres that can be considered for future annexation. The difference is the result of past annexations by our neighboring jurisdictions. Between 2008 and this current map, an additional 15 acres has been adopted, removed out of our jurisdiction and has been adopted by our neighboring jurisdictions, the City of Monroe and Fairview. The areas within this map are consistent with the planning areas of our adopted Comprehensive Plan.

Mr. D'Onofrio informed the audience this is for areas of consideration, assuring them that Council is not running out and annexing 8,955 acres of land. Ms. DeHart confirmed Mr. D'Onofrio's comments advising this is no guarantee that the town will take any action to annex these areas. We would require additional steps if we were to move forward, similar to what was done earlier, notifying the public, completing a study. It is just a formality to help reduce the waiting period if we were to consider annexation.

Mr. D'Onofrio inquired when the last annexation into the town occurred. Ms. Dehart advised we recently annexed, within the last year, the First Baptist Church property off of Faith Church Road. We do get more voluntary, but based on records it is her belief that the last involuntary annexation happened around 2003.

General discussion pursued about this topic.

Council Member Goodall inquired if any of the areas identified in the map choose to annex into the town they could. Ms. DeHart confirmed he was correct.

John Hullinger made a motion to approve the Resolution of Consideration

Mayor Quinn advised he probably should not do this before taking a vote, but inquired about the process that was conducted last year pertaining to annexations. Ms. DeHart advised that we actually took action to start the involuntary annexation process. Mayor Quinn commented that we spent a considerable amount of money (\$16,000.00 to COG), used all our credits with them, had multiple meetings, public hearings, etc. Ms. DeHart advised that we did not go through the entire process, it is a much lengthier process than what we did, but we were in the process. We were at the stage where we prepared the study and were considering it. We had not notified all the property owners yet, it was at that point that the Council choose not to move forward on it. Mayor Quinn advised his only concern would be that if this is something that needs to be done, it

is clear the town has a lot of holes in it and there are areas that are benefiting from the things we're doing as a town and not paying taxes. He believes the majority of our residents here would like the idea of lowering their taxes. Considering where that got to the point where there was a timeline that it had to be. Ms. DeHart advised that we were on a very fast pace, she believes, we were trying to complete the process so they could be included in the next tax cycle. However, you can pick this up at any time and the map is there as a tool to use if you want to. Should the Council choose to consider any area in the future, this tool in place replaces that waiting period for a year.

Mayor Quinn inquired if the work done last year could still be applied or would it have to be redone? Ms. Dehart advised we would have to update the information.

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

Interlocal Agreement

Senior Planner, Katie Reeves presented to Council an Interlocal Agreement for the Carolina Thread Trail and thanked Travis Moorehead who earlier advised where the entire Thread Trail is and where Union County is in this process. It is being signed by all municipalities that are participating in it, right now there are twelve as well as Union County who has agreed to participate in bringing it to Union County. We are applying for a \$60,000.00 Grant, with this there is a 10% match associated with it, requiring the County and participating municipalities responsibility to be \$6,000.00. Indian Trail is serving as the Chair to the Union County Steering Committee and will be preparing the Grant and submitting to the Carolina Thread Trail by the end of March. Currently all participating parties are taking this Interlocal Agreement before their Council and Boards for their approval and signature. Once they have all been signed the Thread Trail Grant will be brought before the review board for consideration. Our financial responsibility with this grant is \$856.00 and has been accounted for in the 2009/2010 budget. Ms. Reeves asked that Council consider this for approval, as recommended by staff.

Mr. Hullinger inquired what the financial responsibility will be for Indian Trail in the future? Ms. Reeves replied, once the plan is in place, each municipality would be responsible for building the greenways and implementing their plans. Mr. Hullinger inquired if we would need to provide land and maintenance? Ms. Reeves advised that the funds currently associated with this is for development of plans. Once that is in place, an agreement would be made for each municipality to work towards building and connecting.

Mayor Quinn inquired if this is consistent with our adopted Park Plan? Ms. Reeves replied absolutely, it has language written into it about the coordination with the Carolina Thread Trail and references the points in Mecklenburg County, which are subouts, to connect to Union County. The idea would be to use our greenways to connect up to the system already in place.

Mr. D'Onofrio advised that part of him feels it's so huge and can't happen because of funds, etc. Then there is a part of him that dares to dream when you look at a great park anywhere, asking if there was foresight and vision in place before the process was started. It amazes him that 13 towns to agree on anything is a miracle. He is uncertain as to where the funds might come from,

but if we had this implemented, it would be the envy of other states. He would support it, even though it might be a long way off from fruition.

Mr. Goodall inquired about the amounts for each town and is it based on relative populations. Ms. Reeves replied that it has been based on population and is uncertain as to where those numbers were acquired from.

Gary D'Onofrio made a motion to approve the Interlocal Agreement for the Carolina Thread Trail as presented.

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

NEW BUSINESS

None at this time

MANAGER'S REPORT

Town Manager, Joe Fivas reminded everyone of the Goals and Initiative session is scheduled for this Saturday. He is working on solid waste issues with Action Garbage, he has had discussions with them and there is a good possibility that additional information will be available at the next meeting. This is an important issue for both the community and the Council. The Indian Trail ABC Board will tentatively hold their first meeting on Monday, March 22, 2010. The State ABC Commission Director, Laurie Lee will be attending and will give a presentation. He invited all citizens to attend if there is an interest.

He is very glad to be here and anticipates doing great things. He thanked everyone.

PLANNING REPORT

Ms. DeHart reminded Council of the census breakfast on Monday, March 29, at the Civic Building from 7:00 a.m. to 9:30, inviting everyone to stop by to enjoy a donut and juice and to fill out their form here. She advised that there is a very nice Census display in the Union West Library and invited everyone to go and view it. They have issued 42 new business permits and 16 additional permits for signs and exterior up fits. She and Luke are continuing their website work to get our Economic Development pages up. Luke is starting to meet with our software representatives for mapping and Partnership for Progress is coming in next Monday to assist us in pulling it together. Ms. DeHart promoted the Sheriff's Department conducting an Operation Medicine Drop this Saturday at various locations in Union County. They are asking everyone to look into their medicine cabinets and pull out old or unused prescriptions and drop them off at Wal-Mart.

Lieutenant Coble advised that it was done a few months back, was a huge success and is a joint effort amongst all the agencies within Union County, along with the DEA.

ENGINEERS REPORT

Mr. Kaufhold stated that the pavement reclamation work has started up today and we will get a schedule from the contractor for the next location, which he believes will be Brandon Oaks

Parkway. Letters to residents affected on the streets have been sent and signs have been posted advising the community as well.

Council Member Robert Allen asked Ms. DeHart for an update on the Main Street Grant application status. Ms. DeHart advised she is gathering data and the due date has been extended until mid April. It will be coming back to Council in early April for their support so it can be received on time.

Mr. Hullinger inquired how does the 42 new businesses compare to the normal issuance of permits. Ms. DeHart advised she will have to go back and research it, she has not done a comparison but will be happy to provide it in the weekly report. She also advised that the Operation Medicine Drop is on Saturday from 11:00 a.m. to 3:00 p.m. at Wal-Mart

Mr. D'Onofrio asked Mr. Kaufhold about the sign on Old Monroe Road that states unmarked pavement and what exactly does that mean? Mr. Kaufhold advised he has put a call into NCDOT and will advise when he gets a reply. He believes it might have something to do with the resurfacing that is scheduled.

LAW ENFORCEMENT REPORT

Lieutenant Coble praised recent work of the detective and patrol officers, for being able to charge a Lake Park resident with a felony on the sale of over 400 stolen items over the past two years. Most of these items were a result of car break ins in the area, totaling a value of over \$25,000.00. He advised they had 731 calls for service this past month, 1781 self initiated activities (mostly increase in traffic stops). They had a decrease in response times from September 2008 to February 2010, the lowest was in February and the on scene time was by far increased. Three of his deputies did saturation patrols on Secrest Shortcut Road and Idlewild Road this month and had 22 violations.

COUNCIL COMMENTS

Mr. Allen had no comment.

Mayor Quinn advised he had a good conversation with a couple of the Board of Education members and they are looking forward to working with us on our park plan initiative. They are open to embracing partnerships with municipalities which he found encouraging. Mayor Quinn asked Ms. DeHart and Ms. Reeves if there is any additional information pertaining to the directive of 30 days to get some information and try and meet with them.

Ms. DeHart replied that she did get a phone message from Mr. Hughes who indicated that he's following his procedure, which is he needs to meet with the Principals of the schools and he indicated he's meeting with them tomorrow. Then he needs to meet with other personnel from Union County Schools and he will contact us to coordinate the meeting. It may take a little longer than the 30 days initially set.

Ms. Luther had no comment.

Mr. D'Onofrio advised he is looking forward to working with the schools as well. We need to reach out to some of the folks, even if it's a preliminary meeting to touch base with them.

Mr. Goodall invited everyone to one of Indian Trail's finest facilities, Extreme Ice, tomorrow evening at 6:00 - 9:00 p.m. for a reception we are hosting for our new Town Manager Mr. Joseph Fivas.

Mr. Hullinger wanted to welcome Mr. Fivas to the table and reminded the public it was a unanimous decision to hire him. He had a lot of confidence and if he could keep the meeting times down like tonight he will be a very popular person.

Council took a break.

Council returned from break.

CLOSED SESSION

Jeff Goodall made a motion to enter closed session NCGS 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.

ADJOURN

John Hullinger made a motion to adjourn

Council voted unanimously in favor of the motion.

APPROVED:

John J. Quinn, Mayor

Attest: _____
Trena Sims, Deputy Town Clerk