

Town of Indian Trail
Minutes of Regular Council Mtg.
May 12, 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, Interim Town Manager Peggy Piontek, Planning Director Shelley DeHart, Town Engineer Scott Kaufhold, Finance Officer Marsha Sutton, Tax Collector Janice Cook, Assistant to Town Manager Miriam Lowery, and Trena Sims, Deputy Town Clerk, . Adam McLamb Engineering

Press/Media: Marty Minchin of the Charlotte Observer

CALL MEETING TO ORDER

Mayor Quinn called the meeting to order.

PRESENTATIONS

Presbyterian Hospital Matthews update and community initiatives

Kim Taylor informed Council of new support services and amenities that Presbyterian Hospital offers.

Sheila Stewart gave a brief overview of awards that Presbyterian Hospital Matthews has received. She also informed Council of two new locations, one is Presbyterian Medical Plaza Ballantyne and the other is Presbyterian Medical Plaza Monroe.

Progress Update on Sheriff Deputy Building

Sgt. Coble provided a progress update for the Sheriff Deputy building; he also informed Council that several of the deputies have worked on the building on their own time.

North Carolina Department of Transportation - Barry Moose

Mr. Moose apologized for missing the last meeting. He came to the meeting to update Council on the Chestnut Connector Road and the Faith Church Road issues. The Chestnut Connector Road was proposed a few months ago in lieu of making Indian Trail Road and Stallings Road both four lane roads. Information received by Raleigh office indicates the possibility that the Chestnut Connector Road project could replace the other two projects and serve the purpose. NCDOT would still need official action from the appropriate Councils endorsing the idea of changing their respective projects and making them into one. This information would then be presented to the MUMPO technical coordinating committee. If all parties agree then he will start the process on the TIP.

At this point no additional work needs to be done on the Chestnut Connector Road. DOT will be ready to go to a planning stage once the project is added to the TIP.

Mr. Moose discussed the stimulus project as has been in the paper recently and the possibility of how those funds may or may not be distributed by MUMPO. The monies could be pulled back by MUMPO and collectively applied to the 485 project.

Regarding Faith Church Road, the plans are complete. There are a few right of way issues to work out as well as a conflict with a water line. The county has always worked well with DOT, but Mr. Moose request that the Town call the County and let them know how important this project is to us to possibly help facilitate this issue. The project is on his flex schedule for June 1, but is subject to sliding if the right of way or water line issue is not resolved.

This intersection has been on NCDOT radar for a while. He is hopeful that if MUMPO does take money away to put back on to 485, they would still have a balance to apply to this project.

Councilmember Schallenkamp asked if what was studied for the Chestnut Road Extension crossing for the railroad track would be a grade crossing. Mr. Moose confirmed that a grade separation would be the only way he could approve the project; but it did include the elimination of the retaining walls which were proposed. He did not have an exact costs figure but feels the combination of the funds from Stallings and Indian Trail which were to be used on their respective roads will cover the costs preliminary sketch estimates. There are early costs estimates which include the cost of right of way.

Councilmember Howe asked about how the traffic would be routed that ends up at Highway 74. Mr. Moose indicated that they don't want another signal on Highway 74, but the proposal would intersect on 74 with a signal with the idea that Phase 2 would build an interchange or a fly over. There were general comments regarding how the Monroe Bypass may impact this project.

Mr. Moose stated that he knows the Town has been talking about taking over some of the roads. He knows that we would like for DOT to improve the roads or give money for improvement, but obviously they do not have the ability to pay the town for taking over the roads. He does recommend that we take over roads because the Powell Bill funds that the Town would receive per lane mile of road is higher than what DOT would receive to maintain the roads; this would

bring more money to the area. He suggest taking over a mix of roads from freshly built roads to others that may be in bad shape.

Councilmember Howe inquired about the status of the bridge on Indian Trail Road. Mr. Moose stated that DOT does have a bridge replacement program which addresses the bridge infrastructure projects; he is not sure where that project ranks.

There was discussion regarding the Monroe Bypass in which Mr. Moose indicated that he was in support of the Option 18a.

Mr. Moose indicated that they will potentially break ground on the Faith Church Road project on June 1st; but that is contingent upon securing the necessary right of way and also solving the water line issues with Union County.

There were additional general comments regarding the Chestnut Road Extension.

Mr. Moose addressed the idea of using STPDA (Service Transportation Program Direct Attributable) which is funds that are given to the local MPO and based loosely on the population. This could possibly be used for specific intersection improvements on Old Monroe Road to give immediately relieve hot spots, but this would need to be recommended by MUMPO.

There were additional comments regarding the Monroe Bypass and the businesses that would be affected by Option 2.

ADDITIONS AND DELETIONS

There were no additions or deletions.

MOTION TO APPROVE AGENDA

Dan Schallenkamp made a motion to approve the Agenda

Council voted unanimously in favor of the motion.

PUBLIC COMMENTS

Jan Brown, 6727 Longnuck Lane, expressed that the Farmer's Market great idea and made suggestions for improvements. He also addressed the mixed drink issue and suggested that it be put on the ballot.

Kathy Broom, 4103 Runaway Circle, made request of the Council that in the 2009-2010 budget there be consideration made regarding funds to address the children's protection ordinance enforcement. She made suggestions as to how public safety issues can be addressed.

Robert Allan, 5347 Courtfield Drive, addressed the liquor by the drink issue. He believes the citizens should have an opportunity to choose.

CONSENT AGENDA

- a. Tax Report - Month End Tax Report for April 2009(**Copy attached hereto and made a part of these minutes.**)
- b. Acceptance of streets in the Pondside Subdivision for Town Maintenance(**Copy attached hereto and made a part of these minutes.**)
- c. Acceptance of streets in the Wadsworth Phase II Subdivision for Town Maintenance (**Copy attached hereto and made a part of these minutes.**)

Jeff Goodall made a motion to approve the Consent Agenda

Council voted unanimously in favor of the motion.

OLD BUSINESS

Holly Park Phase IV

Ms. DeHart stated that this information was presented to Council originally at the April 28th Council meeting and continued until tonight's meeting in order to allow for a special public comments period within this discussion related to SUP 2002-006 and 2002-006M related to Holly Park Phase IV. Staff was contacted by the developer indicating that the developer is unable to fulfill a condition of connecting Holly Villa Circle to Wesley Chapel. The Town has authorization to release the bond on this; however the bond amount will not cover the cost of the road connection as conditioned as a full access road. It is estimated that the costs to complete the connection will be between \$500,000 and \$750,000. There are four different options provided to Council. The choices are: a right in right out access connection, a cul-de-sac in the road eliminating the connection to Wesley Chapel, cul-de-sac with a landscape berm with an electronic gate for emergency access, and the "do nothing" option.

Ms. DeHart provided a brief history of the project since 1997. Previous comments of property owners indicate that when they purchased the property some were told that there would be a road and others were told it would be a cul-de-sac. Per Ms. DeHart, the Union County Fire Marshall stated that the additional road would not subtract from emergency vehicle response times.

Mr. Kaufhold elaborated on the costs for the four options previously suggested. Staff recommends the option to cul-de-sac Holly Villa Circle.

Mayor Quinn opened up the special public comments section of this public hearing.

Vince Howard, 2026 Holly Villa Circle, believes the proposed connection to Wesley Chapel Road would create an ill advised intersection and request the cul-de-sac option. He also suggested that the town use the bond money and have the developer pay the additional required funds, not the taxpayers.

Kris Womack, 3004 Harvest Red Road, also lives in Holly Park and stated that the HOA members voted previously to have the cul-de-sac and requested Council put the cul-de-sac in.

Art Maccek, 4006 Holly Park Drive, urged Council to vote for the cul-de-sac. There is no benefit to the road. If money is to be spent, put it on Rogers Road or Wesley Chapel Road.

Lynn Lewis, 2111 Mondo Lane in Holly Park, stated that most neighbors are in favor of cul-de-sac. She believes, because of personal experience, that the EMS response times would not be increased if the road were built.

Mayor Quinn stated that all persons who had signed up to speak had spoken and closed public comments. He then opened for Council deliberation.

Councilmember Hullinger asked if there was a substantial cost difference in "dead ending" the street versus a cul-de-sac. Mr. Kaufhold answered that dead ending would be a minimal cost but there would be no place to turn around for vehicles and it would be a substandard facility. Ms. DeHart stated that it would also not be in compliance with our ordinance; we do not allow dead ends to terminate a road. There was additional general discussion of dead ends.

Councilmember D'Onofrio questioned the attorney as to if the option to cul-de-sac is chosen, would it open up the Town to any lawsuits because of the initial proposed road that was required during the SUP approval process. In weighing all options, he is in favor of the cul-de-sac.

Mr. Merritt stated that he would answer the question of legal liability in closed session. If the Council chooses to go with a cul-de-sac then an amendment to the SUP would be required. The question would be who would request the amendment. The developer has stated that he will give the land to the Town or the HOA, but first the issue of amending the SUP would need to go back before the appropriate bodies in order to protect the Town. After Council has directed staff which direction to take, they will take care of having the SUP amended.

There was general conversation as to if the cul-de-sac option were chosen, how much land would be conveyed and whether or not it should be deeded to the HOA or the Town. Our UDO has provisions within it to prevent this from happening again.

John Hullinger made a motion to direct staff to proceed with the cul-de-sac option.

After additional discussion, Councilmember Hullinger amended his prior motion to include requiring staff to acquire necessary land for cul-de-sac and facilitate the transfer of the remaining land to the HOA.

Ms. DeHart asked for clarification about doing a dirt berm near the Wesley Chapel entrance. The consideration of the dirt berm is off the table.

Council voted unanimously in favor of the motion.

Alternate Delegate for MUMPO

Mayor Quinn indicated that no official action had been taken on picking an alternate delegate for MUMPO. He suggested John Hullinger as he was the selection prior to Mayor Quinn taking the position. Councilmember Hullinger stated he would be willing to accept the position as alternate.

There was a brief general discussion of this issue.

Dan Schallenkamp made a motion name Jeff Goodall as alternate delegate for MUMPO.

Motion Passed 4 - 1 with John Hullinger opposing.

DISCUSSION & POSSIBLE ACTION

Voluntary Annexations

Councilmember Hullinger stated that with the town recently going through the annexation process. Why would we charge a fee to be voluntary annexations? He asked Ms. DeHart to go over the fees for annexation.

Ms. DeHart stated that the annexation fee is \$500.00 which includes required zoning associated with any annexation and cover any out of pocket cost.

Councilmember Goodall questioned whether this was consistent with other municipalities. Ms. DeHart stated it was her understanding that this had been researched initially and she can research this, if Council would like for her to bring this back. Councilmember Goodall commented that on the Wesley Chapel's website, the annexation documents are on the home page.

Councilmember Schallenkamp asked if the annexation fee could be waive on a case by case basis if Council so chooses. Mr. Merritt replied Council would be permitted to do so, just as far as treating everyone equally, may run into an issue of fairness if the fee is imposed on one but not another.

There was general discussion of waiving this fee and how many annexations had occurred in the last few years.

John Hullinger made a motion remove fee for voluntary annexations.

There was additional general discussion prior to the vote.

Motion Failed 4 - 1 with Gary D'Onofrio, Jeff Goodall, Shirley Howe, and Dan Schallenkamp opposing.

Direction How to Proceed with Manager Search

Ms. Piontek opened the dialogue on how Council would like to proceed with the Town Manager's search.

The Council consensus was to invite three private firms and also COG and NCLM to give a maximum 30 minutes presentations on how they can serve the Town with the search.

By consensus, Council designated the human resource person be the staff liaison for the process.

Ms. Piontek inquired whether the town attorney would be required to attend these meetings. Mr. Merritt doesn't see a need for him to be there; the Interim Town Manager can let him know if he needs to attend a meeting.

Ms. Piontek requested Council send her an e-mail with any vacation plans so she may have this available for scheduling. Mr. Merritt suggested having a calendar available with days marked out for availability.

Direction on Mail Process

Ms. Piontek inquired if everyone is on board with mail being opened and staff taking care of if need be, then given to Council as some matters may be time sensitive. Mayor Quinn objected to this process; he would prefer the current procedure of notifying him when he has mail.

What brought this to Ms. Piontek's attention was information that may be received concerning the 2010 Census; which could cost the Town money. Mayor Quinn revised his statement that if the mail is from a state, federal or county or government agency, he would be comfortable with staff opening first; but not personal mail.

There was additional discussion regarding this matter.

Councilmember Schallenkamp has concern if a conflict should arise that a staff member opens mail this could be the start of potential conflict. His preference is that mail not be opened by staff. He feels for all council members that staff be consistent and open mail for all unless marked personal and confidential. Mayor Quinn expressed his concern and in the absence of any statute, he would prefer to open his own mail.

Dan Schallenkamp made a motion table discussion of opening US mail addressed to elected officials to another meeting.

Council voted unanimously in favor of the motion.

Ms. Piontek informed Council that their e-mail addresses will be changing and would like to address how they would like it to read; either initials or first initial last name with the ending being council.indiantrail.org. There was a small discussion of this matter.

Dan Schallenkamp made a motion to use first initial and last name for all council members and use mayor for the Mayor.

Council voted unanimously in favor of the motion.

Mixed Drinks and ABC Referendum for November 2009

Councilmember Goodall presented his proposal for citizens to be able to vote on Mixed Drink Sales in Indian Trail and also for option of having an ABC Store in Indian Trail on the November ballot. By adding this onto the municipal elections in November instead of having a special election the Town can save taxpayer dollars. This Union County Board of Elections must have the Resolution from Council by mid-July in order to have this on the November ballot. He recapped the statistics regarding the malt-beverage and unfortified wine sales in restaurants on the ballot this past year. Councilmember Goodall feels that voting is the equalizer and lets the citizens decide the matter.

Councilmember Goodall feels that Indian Trail has perhaps the strictest adult establishment ordinance in North Carolina; to be any stricter it would perhaps be unconstitutional. If the ABC store referendum does pass, this does not mean that we will have a store right away. Waxhaw and Wingate are likely to have this same item on their ballot in November.

Councilmember Schallenkamp gave stated that the citizens voted on beer and wine last year and they voted to permit the sale of beer/malt beverage and wine in hotels, motels and restaurants only. By definition, restaurant is any establishment in which 30% of their revenue is derived from non-alcoholic sales. The only option to put mixed drinks on the ballot is dictated by the state with the following verbiage: To permit the sale of mixed beverages in hotels, restaurants, private clubs, community theaters and convention centers. The definition of a private club in North Carolina is basically any building with four walls. The big thing is the county is out of water and sewer and it could be many years before any additional would be available. If the residents were to vote this in, the Town would be opening up the opportunity for bars without the possibility of opening up a, for example, an Olive Garden. If they wanted to come in they could not get a sewer tap. There would be a period of time where new buildings could not come unless they occupied an already existing building. However, almost any building in existence today with a sewer tap, in the proper zoning, could open a bar. So potentially we open ourselves up for bars, but not for restaurants. He feels that if all voting residents knew this information he would feel more comfortable about it; but they are not required to study the ABC books like the council has. Our adult use laws are as tough as they can be in North Carolina and that means almost nothing. Our hands are tied by what the General Statutes. One thing the General Statutes do allow us to do is set ages limits for both patrons and workers.

Councilmember Schallenkamp stated that only a minor amount of tax revenue can be gained from serving alcohol. Since passing beer and wine last year, the biggest thing he sees is from Sun Valley High School you can see three places that serve beer and wine; this is not a good influence on the students. He feels this is the wrong time to do this during the water/sewer crisis. From a property tax standpoint, whether the place serves mixed drinks or not, the tax base would be the same.

Councilmember Hullinger feels that as a councilmember he would support a referendum, but as a citizen he would vote against this.

Councilmember D'Onofrio hoping that mixed drinks was to be a part of the referendum last year. Looking forward, he doesn't know an accurate time frame for the sewer situation, but he doesn't think that a restaurant will come without the mixed drinks referendum.

Gary D'Onofrio made a motion to approve in accordance with NCGS 18b-600(d)(e) and NCGS 18b-601 (c)(d) and NCGS 18b-602(g)(h) the Town of Indian Trail provide the proper written request in the form of a resolution to be drafted in accordance with the North Carolina General Statutes by the Town Attorney specifying its intent to the Union County Board of Elections to be received by the Union County Board of Elections no later than their July 2009 deadline to add the following to the Indian Trail ballot for November 3, 2009: A mixed beverage election to permit the sale of mixed beverages in hotels, restaurants, private clubs, community theaters and conventions centers for or against.

Mr. Merritt pointed out that if the Town does not create an ABC Board, then we would come under the closest jurisdiction and whatever revenue that could be collected would be split in some way. He stated that we may want to include in the motion an ABC Store referendum and create a board. Perhaps this could be in a separate motion. Councilmember Goodall stated there are several municipalities that do not have an ABC store and in the legislature they are currently looking at combining this countywide.

Councilmember Schallenkamp believes this is a complex motion and would like to see in writing before voting on; as no documentation was provided in the packets. He feels the citizens should be allowed to have a chance to have their say before Council votes on this issue.

Motion Passed 4 - 1 with Dan Schallenkamp opposing.

There was additional general discussion of whether to have an ABC store.

Councilmember D'Onofrio stated that if there is a hesitation of voting on the ABC store, this can be tabled until the next meeting.

After a brief discussion, the consensus of the Council was to ask the Interim Town Manager to research information regarding the ABC store within municipalities.

Mr. Humphries' Contract Terms

Ms. Lowery presented a request for vacation payout and health benefits for the former Town Manager, Ed Humphries. Mr. Humphries has requested that the payout for his accrued vacation hours be paid to him after he receives his severance pay equal to 120 days. His accrued vacation hours would be paid out in two monthly payments. Ms. Lowery referred to Section 4: Termination and Severance Pay, item A, page 1 and 2 of his contract.

Additionally, Mr. Humphries has made the decision to be added to his wife's health plan where she works. The cost to add him on to her plan will be approximately \$72/month for four months, or approximately \$290 for the total 120 days of benefits due him per his contract. Rather than continue under COBRA under our health plan with the Municipal Insurance Trust through the NCLM which would cost the town \$577.83 each month for four months. Mr. Humphries request that we reimburse the lower cost to him on his behalf.

There was general discussion as to Mr. Humphries' earned vacation time and how his vacation hours were tracked.

Gary D'Onofrio made a motion pay Mr. Humphries vacation pay as he requested after the payment of the 120 days severance and make contribution to him for addition to his wife's health plan at a lower amount than the COBRA amount.

Council voted unanimously in favor of the motion.

NEW BUSINESS

None at this time

MANAGERS REPORT

Ms. Piontek pointed out the new speaker attached to the computer. She showed Council the new tag plates for the Town that Mr. Humphries ordered before he left.

PLANNING REPORT

Ms. DeHart announced that on May 7th the North Carolina Board of Transportation awarded over \$315,000 to twelve municipalities for bicycle and pedestrian planning grant. Indian Trail received \$35,000 for Comprehensive Bicycle Plan.

Ms. DeHart stated that 364 people have taken the online park plan survey. The Town has seen a large jump in responses due to the assistance of the Indian Trail Athletic Association with distribution flyers.

Planning is in the process of holding four public meetings this month. The first was held at Bonterra last week. Today there is a meeting scheduled at the Hemby Bridge Fire Department.

This Saturday from 12-2 they will be at the Brandon Oaks clubhouse. Next will be on Tuesday, June 2nd at the Brookhaven clubhouse. The purpose of these meetings to not only inform but to solicit input on identifying sites and the type of parks they would like to see in the town.

ENGINEERS REPORT

Mr. Kaufhold referenced two contracts approved by Council - Stormwater Channel Outfall Inventory and Pilot Project for Closed Stormdrain Inventory where everything south of Old Monroe Road was done. The draft final reports are now being reviewed. Both contracts came in under budget.

COUNCIL COMMENTS

Councilmember D'Onofrio asked to go first in order to solicit feedback from other council members. The letter from Union County stating that the first Union County Governance meeting is going to be this Thursday; this will probably be more of an organizational meeting. In regards to the Farmers Market, there has been a lot of work put into it, especially recognizing Katie Reeves. He feels it will get better as time goes on.

Mayor Quinn stated that he was proud of the Council tonight for listening to folks in Holly Park; this could transfer into a greater trust in the government by the citizens.

Councilmember Howe congratulated Kathy Broom who is now on the Union County Planning Board. The Turnpike Commission will be at SPCC on Monday; how does Council feel about resubmitting the opposition letter to the authority at the meeting.

Councilmember Schallenkamp would support resubmitting at letter to the Turnpike Authority.

Councilmember Goodall stated that the Events Committee is taking notes. The banners/signs are very important for advertising the Farmer Market in particular. We need pre-publicity, during publicity and post-publicity for all Town events. Good information from Barry Moose tonight.

Councilmember Schallenkamp commented that both Mayor Quinn and Councilmember Hullinger have in past week expressed displeasure at Council's decision on Interim Town Manager. He requested that they make certain that they make it clear that they are speaking on your own, not the Town or the Town Council.

Councilmember Hullinger expects others to govern themselves as he is expected to govern himself. He commented on the MUMPO delegation decision, he had actually been named the delegate to MUMPO not the alternate.

CLOSED SESSION - PERSONNEL

Gary D'Onofrio made a motion enter into Closed Session pursuant to N.C.G.S. 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.

Gary D'Onofrio made a motion to approve come out of Closed Session and enter into Open Session.

Council voted unanimously in favor of the motion.

Dan Schallenkamp made a motion to approve Resolution for title change for town employee, Deputy Clerk Trena Sims to temporarily perform duties as Interim Town Clerk for the

consideration of a \$4,000 onetime bonus for the duties the job entails to be paid out as \$500.00 over eight months; if the term is shorter, the balance will be due and paid.

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

ADJOURN

Jeff Goodall made a motion to adjourn.

Council voted unanimously in favor of the motion.

APPROVED:

John J. Quinn, Mayor

Attest:

Trena Sims, Interim Town Clerk