

**TO:** Mayor Alvarez and Town Council Members

**FROM:** Kelley Southward, Town Clerk

**DATE:** January 26, 2016

**SUBJECT:** January 26, 2016 Council Meeting Item 11b-Private Street Acceptance Policy/Bonterra Streets

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Attached, please find historical information to assist in the discussion of this matter. The Street Acceptance Policy was revised/approved by Council on 11/25/2014. Then on 12/8/2014 Council approved a maintenance agreement for the private roads in Bonterra contingent upon Bonterra's acceptance of the agreement as well as the Powell Bill program's blessing of the agreement. At this point, we have not received an executed agreement back from Bonterra.



*Note:  
11/25/14 mins.  
See discussion  
Item a on pg. 5  
where street  
Acceptance  
Policy was  
approved.*

**Town of Indian Trail**  
**Minutes of Town Council**  
**November 25, 2014**  
**Civic Building**  
**06:30 P.M.**

The following members of the governing body were present:

- Mayor: Michael L. Alvarez
- Council Members: David Cohn, Gordon B. Daniels, David W. Drehs, Christopher King, and Gary M. Savoie.
- Staff Members: Town Manager Joe Fivas, Town Clerk Peggy Piontek, Town Attorney Keith Merritt, Director of Community & Economic Development Kelly Barnhardt, Finance Director Marsha Sutton, Director of Engineering and Public Works Scott Kaufhold , Interim Planning Director Rox Burhans, Assistant Director of Parks & Recreation Jason Tryon, and Communications Coordinator Lindsey Edmonds.

**CALL MEETING TO ORDER AND PLEDGE OF ALLEGIANCE**

Mayor Alvarez called the meeting to order and led in the Pledge of Allegiance, asked for a moment of silence for the Deputy Greene. He announced Mr. King is not present and reminded everyone of the upcoming Christmas Parade.

**ADDITIONS AND DELETIONS**

David Cohn made a motion to approve deleting Law Enforcement Update

Council voted unanimously in favor of the motion.

### **MOTION TO APPROVE AGENDA**

Gary M. Savoie made a motion to approve the agenda as amended.

Council voted unanimously in favor of the motion.

### **PRESENTATIONS**

*None*

### **COMMITTEE APPOINTMENTS**

Mr. King entered the meeting

- a. Public Safety Advisory Committee - Suzanne Schooler

David W. Drehs made a motion to approve Public Safety Advisory Committee applicant Suzanne Schooler

Council voted unanimously in favor of the motion.

- b. Parks, Arts, Recreation & Cultural Committee - Ana Pavletic Franks

David W. Drehs made a motion to approve PARC Committee applicant Ana Franks

Council voted unanimously in favor of the motion.

### **PUBLIC COMMENTS**

Debra Vota, 101 Post Office Drive, Indian Trail, NC Director of Generations United asked for assistance in getting the word out about her organization that provides an intergenerational program for both adults and children in need. She provided statistics on adults in nursing homes and children who need daycare, preschool and afterschool care.

Jan Cook, 519 Galesburg Drive, Monroe, NC requested to have Mayor Alvarez read a letter for her. Mayor Alvarez read the letter which provided Ms. Cook's reasons for retiring, informing the Council and public of the uncomfortable work environment for staff. **(A COPY CAN BE FOUND IN THE OFFICIAL PACKET)**

Ash Minor, 323 Thompson Court, Indian Trail, NC advised he is into bike and pedestrian friendliness and feels Indian Trail is lacking it. For 10 years there have been small projects and improvements but not enough to make it a quality amenity to the town. He informed Council of an incident that occurred 2 weeks ago during a family bike ride, inquiring what happened to the bike plan. It is his opinion that although the town has good intentions it hasn't happened yet, as his family almost got hit by a couple of vehicles.

**LAW ENFORCEMENT UPDATE - *this matter was removed as a result of a motion made in Additions and Deletions***

**CONSENT AGENDA**

- a. Approval of November 12, 2014 draft minutes
- b. Modified C-4957 A Supplemental Agreement **(COPY ATTACHED HERETO AND MADE A PART OF THE RECORD)**

Christopher King made a motion to approve the Consent Agenda.  
Council voted unanimously in favor of the motion.

**PUBLIC HEARINGS**

- a. Public comments and the potential for Council consideration and approval of the Municipal Complex Master Plan(s), Town Hall/Community Center Architectural Designs

Mr. Fivas provided the history of this project and explained the procedures that have been taken advising we are presenting the final product for Council to consider and look at after having three public workshops to get resident input. Mr. Fivas presented a PowerPoint showing the next steps that can be taken. He then introduced Mr. Green from Creech & Associates who provided a detailed description of the floor plans for both levels. Mr. Green presented renderings of the exterior and explained the architectural reasons for different aspects.

Mayor Alvarez opened the public comments portion of the hearing.

Michael Faulkenberry, 519 Picketts Circle, Indian Trail, NC commented on the buildings beauty then inquired how it will be paid for without incurring any additional debt, what is the time frame for construction? He feels there was very little planning for pedestrian traffic, little room for additional parking for big events at Chestnut Square Park. He recommends putting walking trail around the complex and remove the one in Chestnut Square Park because it's too dark. Don't put a dog park behind town hall or next to the train tracks as it frightens them, put it in walking trails at Chestnut Square Park.

Roger Fish, 11001 Magna Lane, Indian Trail, NC stated the design is truly beautiful, he likes the dramatic setbacks to the back of the lot and the additional buildings will create a good view. He likes the elegant entrance and appreciates the classical and contemporary styles in it. He feels the traffic circle is an excellent solution and the future connector roads make a lot of sense. Additional building could be a new sheriff's office. He asked if the building has a basement. Has that been thought about for additional space?

Lars Knapp, 655 Powder Horn, Indian Trail, NC asked how will it be funded, if by loan and choose not to raise taxes with the loan, historically with this county it hasn't worked well. He stated the building is pretty but we want to be sure that taxes will not be raised. Please just be honest and let the residents know if that will be the case.

Mayor Alvarez closed the Public Comment portion of the hearing.

Council had a lengthy discussion on this subject, topics included: Blythe extension, funding, placing on ballot for residents to vote, future expenses for utilities etc., not doing it all at once, further discussion at Strategic Planning meeting, an additional elevator, estimated cost of \$240 per square foot but Manager at Risk can provide realistic estimate, benefits of Manager at Risk.

Mayor Alvarez asked Mr. Greene what the cost to town was to develop the Master Plan. Mr. Green replied he was unable to speak to that.

Gordon B. Daniels made a motion to approve the Master Plan as presented to us tonight pertaining to the Complex as outlined in the diagram. **(COPY ATTACHED HERETO AND MADE A PART OF THE RECORD)**  
Motion Passed 4 - 1 with David Cohn opposing.

**\*\*This motion included the Master Plan, Space Floor Plan and Conceptual Rendering as clarified by the Town Manager on page 5 of these minutes**

Mr. Savoie suggested they discuss the next step which is to develop an early site plan and construction documents. He feels this would help in getting a more accurate cost.

*Gary M. Savoie made a motion to approve instructing Creech & Associates to get together with Woolpert to begin development of an early site plan and site construction documents.*

Mr. Drehs inquired why we need to do that now. If we go to the Master Plan and we decide to back out, suggesting we stay slow and cautious

Mr. Daniels stated that's part of the cost so we can identify all of the costs for the town, if we leave this off we will not have an accurate cost.

Mr. Fivas said it would not be a bad idea to have discussion with Creech & Woolpert to determine how we start this process on the Geotechnical work providing helpful information about cost needs. Mr. Green stated that allowing us that approval to coordinate with the Geotechnical team to build the base information that we will need to assist the Manager @ Risk.

Mr. Fivas stated you will have more information without spending a lot of funds. Mr. Green stated approval of this motion will enable them to complete the incremental work.

Mr. Cohn stated we're kidding ourselves there's no doubt that this will be built and let's save money the best way we can save money. No offense to anyone who wants to build it, I'm not for it; we all know what's going to happen we're going to build a town hall.

*Motion Passed 3 - 2 with David Cohn, and David W. Drehs opposing.*

Mr. Fivas stated we're looking for clarification, in the agreement it said this is the scope of work, there's nothing new, we're just making sure that if you want us to stop, and we will stop if you want us to continue we will do that with what has already been approved.

\*\*Mr. Fivas clarified when the Council adopted the Master Plan they adopted all 3 renderings, Mayor Alvarez said yes, it's all part of the Master Plan.

## **BUSINESS ITEMS**

*None*

## **DISCUSSION ITEMS**

### a. Discussion of Street Acceptance Policy

Mr. Fivas advised there is a completed draft of the policy in front of the Council. Street ownership within Indian Trail is approximately 200 miles. We own approximately 56 miles, 102 is owned by State and there are 33 private roads. Current policy is base on the current condition of road; this policy in many ways creates equity issues between neighborhoods and streets.

New policy is based on the Life Cycle of the Street

- 1) Can be initiated from NCDOT, designated HOA, designated developer, or a petition from 50% of the linear frontage of property owners within the request area.
- 2) Pavement Condition Analysis will be completed.
- 3) Town Engineer will complete Street Acceptance Report for the Town Council on the current condition of the streets.
- 4) Town Engineer will determine what the costs are
- 5) Residential Formula
- 6) Commercial Formula
- 7) How to pay the costs
- 8) The Council reserves the right to say "no" to any request
- 9) The Town has sole discretion on when to perform maintenance on Town Streets
- 10) Maintain current rules for Newly Constructed Streets Platted for Town Maintenance

Council had a discussion on the formula. **(A COPY OF THE POWER POINT CAN BE FOUND IN THE OFFICIAL PACKET)**

 Christopher King made a motion to approve the Street Acceptance Policy.

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

Mr. Fivas stated that we will change our formula example in the policy you approved so it articulates more clearly the Powell Bill adjustment.

b. Discussion on filling upcoming vacant seat on ABC Board

Mr. Fivas stated we are trying to be proactive that there will be an opening on March 31, 2015 and recommends letting the residents know and if Council knows someone who you feel is a good candidate tell them to contact Gary D'Onofrio, the Chair if they need more information.

c. Discussion on Strategic Planning

Mr. Fivas wanted to highlight that on the 19th & 20th, we will need to have a robust conversation on the town hall community center. He informed Council that we will be sending out to you an agenda for what the days will look like. On Friday evening we will work through some bigger issues, ideas and plan on bigger picture and then on Saturday making decisions. Please forward us any information you want to discuss, we will have a conversation on communications, Park & Recreation, Economic Development, Town Center, infrastructure development, and Chestnut Parkway.

**MANAGERS REPORT**

Mr. Fivas said on December 7th we will have our Christmas Parade/Tree lighting, please let us know if you want to ride in the parade. We are looking at our event schedule for next year and would be happy to hear any ideas. We will have a committee appreciation event early next year; we might have a brief Stormwater 101 Course and then a reception, which will require us to postpone the meeting for a bit. If there is anything you want us to do, please let us know.

**COUNCIL COMMENTS**

Mr. Drehs thanked everyone for coming and wished them a great Thanksgiving.

Mr. King seconded Mr. Drehs

Mayor, great discussion great concerns, the cost to do so much at once concerns him. He would be more comfortable with a referendum and let the chips fall where they may. We're approaching the Thanksgiving holiday, he expressed his condolences to the Sheriff's Office advising they work right through the holidays please keep them in your prayers. He stated the letter that was read is very concerning, asking Council to please take it seriously and not let it go on deaf ears.

Mr. Savoie thanked everyone and wished them a safe and happy Thanksgiving.

Mr. Cohn thanked Jan Cook for her 14 years of service to town, she was one of the 1st people he met, and you have done your job well. He wished her success in retirement and to be happy. Your letter was alarming to hear and he hoped we can make things better; maybe the Council should be more involved. He doesn't

even know when people leave, thanked her for her service again. Wished everyone a great Thanksgiving, he blessed Mr. Green's family and thanked the deputy's for all they do; they have their thoughts and prayers.

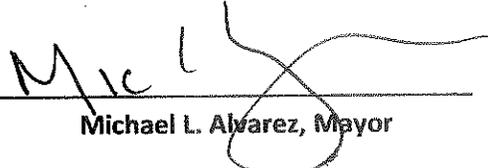
Mr. Daniels wished everyone happy Thanksgiving; he thanked everyone for coming out tonight. He commented on the low interest rate on loans.

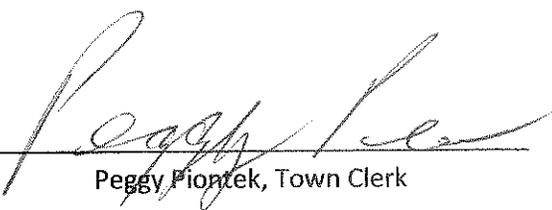
**CLOSED SESSION**

**ADJOURN**

Christopher King made a motion to adjourn  
Council voted unanimously in favor of the motion.

**APPROVED:**

  
\_\_\_\_\_  
Michael L. Alvarez, Mayor

Attest:   
\_\_\_\_\_  
Peggy Piontek, Town Clerk

# STREET ACCEPTANCE POLICY



*Revised November 25, 2014*

*approved  
by Council  
11/25/14  
see pg. 5 of mins*



## Street Acceptance Policy

The Town of Indian Trail may consider the acceptance of existing streets/roads upon the written request.

The Town uses strictly a Life-Cycle Approach to accepting Streets and Roads into our Maintenance System.

The Town reserves the right to refuse acceptance of maintenance of streets which in its judgment, require extensive repair work to bring the street(s) up to current standard.

### PRIMARY RESIDENTIAL STREETS

To initiate the acceptance procedure for privately owned or state-owned residential streets, the following information shall be submitted to the Town Engineer's office:

1. An application form to the Town Engineer requesting that the Town consider accepting subject streets for public maintenance. The application form maybe completed by the NCDOT, designated Home Owners Association, designated developer, or a petition from 50 percent of the linear frontage of property owners within the request area. The entity must show they have rights to convey or ownership of the property or easements.
2. If the application is turned in by a HOA, developer, or NCDOT, then they submitting entity shall submit a Pavement Core Results Report. The report will include a cover letter, table of contents, project scope, data collection methodology, description of project limits, a map at a legible scale of the project limits containing street names, lengths, widths, and the location of the pavement core samples. The report will also include a core results table with street name, applicable Town of Indian Trail Land Development Standard (ITLDS) Typical Section, core result material and thickness (in inches), a statement of whether or not the core result meets the current minimum design standard per the ITLDS Typical Section. Pavement core samples shall be taken at 500' intervals (minimum of 1 core per street block), and no more than 4.0' from the centerline of the road. This report must be signed, dated, and stamped by a North Carolina registered professional engineer.
3. If the report is turned in by 50 percent of the linear frontage of property owners within the request area, the Town Engineer, within 4 months, will develop a Street Diagnostic Report on the current condition of the proposed streets. The Town will do a pavement core analysis where core samples shall be taken at 500' intervals (minimum of 1 core per street block), and no more than 4.0' from the centerline of the road.
4. After the Reports are turned into the Town, the Town Engineer will review the information and complete a comprehensive Street Acceptance Report on the current condition of the streets for the Town Council.

5. The Town Engineer will make a determination using current labor costs and unit prices for the replacement cost of the entire section of streets or roads. This will only include the cost of the streets and/or roads, and does not include stormwater replacement or curb replacement.
6. Town will use the following formula to determine the amount of used life cycle on the streets:
  - A) Determine the age of the roadway. This is determined by the estimated date of the last layer of asphalt to be laid on the road.
  - B) Use 30 years as the average life cycle expectancy of the residential street.
  - C) Divide the age of the street/road by 30 years.
7. The Town will reduce the cost by 1/4 to compensate for future Powell Bill revenue, etc.
8. The Town will apply the average Pavement Condition Index to final cost.
  - A) 70 rating or more: No reduction
  - B) 50 rating or more: add 25% to final cost
  - C) 25 rating or more: add 50% to final cost
  - D) 0 rating or more: add 75% to final cost

Example:

Town Replacement Cost: \$1,000,000

Roadway Age: 6 years

Pavement Condition Index Rating: 82 rating

6 years divided by 30 years= 20.0%

\$1,000,000 (Replacement Cost) multiplied by 20.0%= \$200,000

\$200,000 divided by 25%= \$150,000

\$171,428 multiplied by 0%= **\$150,000 Cost to Applicant**

9. Once a number is formulated the Town will present the Report and the Street Acceptance Agreement to the Town Council for consideration of acceptance into the Town's system. After approval, the Town will accept the streets/roads into the town maintenance system.
10. If the Street Acceptance Policy contemplates a Special Assessment District, all of the Assessment District requirements will be met before the Town Council's approval. The Town will require bonds and/or letter of credit for any Agreements not using a Special Assessment District.
11. NCDOT, HOA, or developers may request to pay the Cost to Applicant with actual work to streets or roads in the application. The work will be done in consultation with the Town Engineer.
12. The Town Council reserves the right to reject any and all application requests.

13. The Town will have sole discretion on when to perform maintenance on Town streets.
14. HOA's may have up to ten years to make annual payments.

### PRIMARY COMMERCIAL STREETS

To initiate the acceptance procedure for privately owned or state-owned commercial streets or roads, the following information shall be submitted to the Town Engineer's office:

- 1) An application form to the Town Engineer requesting that the Town consider accepting subject streets for public maintenance. The application form maybe completed by the Town of Indian Trail, NCDOT, designated Home Owners Association, designated developer, or a petition of 50 percent of the linear frontage of property owners within the request area. The entity must show they have rights to convey or ownership of the property or easements.
- 2) If the application is turned in by a HOA, developer, or NCDOT, then they submitting entity shall submit a Pavement Core Results Report. The report will include a cover letter, table of contents, project scope, data collection methodology, description of project limits, a map at a legible scale of the project limits containing street names, lengths, widths, and the location of the pavement core samples. The report will also include a core results table with street name, applicable Town of Indian Trail Land Development Standard (ITLDS) Typical Section, core result material and thickness (in inches), a statement of whether or not the core result meets the current minimum design standard per the ITLDS Typical Section. Pavement core samples shall be taken at 500' intervals (minimum of 1 core per street block), and no more than 4.0' from the centerline of the road. This report must be signed, dated, and stamped by a North Carolina registered professional engineer.
- 3) If the report is turned in by 50 percent of the linear frontage of property owners within the request area, the Town Engineer, within 4 months, will develop a Street Diagnostic Report on the current condition of the proposed streets. The Town will do a pavement core analysis where core samples shall be taken at 500' intervals (minimum of 1 core per street block), and no more than 4.0' from the centerline of the road.
- 4) After the Reports are turned into the Town, the Town Engineer will review the information and complete a comprehensive Street Acceptance Report on the current condition of the streets for the Town Council.
- 5) The Town Engineer will make a determination using current labor costs and unit prices for the replacement cost of the entire section of streets or roads. This will only include the cost of the streets and/or roads, and does not include stormwater replacement or curb replacement.
- 6) Town will use the following formula to determine the amount of used life cycle on the streets:

-Determine the age of the roadway. This is determined by the estimated date of the last layer of asphalt to be laid on the road.

-Use 15 years as the average life cycle expectancy of the commercial street.

-Divide the age of the street/road by 15 years.

-The Town will reduce the cost by 1/4 to compensate for future Powell Bill revenue, etc.

7) The Town will apply the average Pavement Condition Index to final cost.

70 rating or more: No reduction

50 rating or more: add 25% to final cost

25 rating or more: add 50% to final cost

0 rating or more: add 75% to final cost

Example:

Town Replacement Cost: \$1,000,000

Roadway Age: 6 years

Pavement Condition Index Rating: 82 rating

6 years divided by 15 years= 40%

\$1,000,000 (Replacement Cost) multiplied by 40.0%= \$400,000

\$400,000 divided by 25%= \$300,000

\$171,428 multiplied by 0%= **\$300,000 Cost to Applicant**

- 8) Once a number is formulated the Town will present the Report and the Street Acceptance Agreement to the Town Council for consideration of acceptance into the Town's system. Once approved the Town will accept the streets/roads into the town maintenance system.
- 9) If the Street Acceptance Policy contemplates a Special Assessment District, all of the Assessment District requirements will be met before the Town Council's approval. The Town will require bonds and/or letter of credit for any Agreements not using a Special Assessment District.
- 10) NCDOT or developers may request to pay the Cost to Applicant with actual work to streets or roads in the application.
- 11) The Town Council reserves the right to reject any and all application requests.
- 12) The Town will have sole discretion on when to perform maintenance on Town streets.
- 13) Construction of 98% of all platted lots need to completed before the transfer of maintenance.

## **NEWLY CONSTRUCTED STREETS PLATTED FOR TOWN MAINTENANCE**

To initiate the acceptance procedure for newly constructed streets platted for town maintenance, the following information shall be submitted to the Town Engineer:

1. A letter to the Town Engineer requesting that the Town consider accepting subject streets for public maintenance. The streets shall not have had the final layer of asphalt laid for more than 2 years.
2. One (1) copy of the recorded map(s) of the subject street(s).
3. One (1) Pavement Core Results Report. The report will include a cover letter, table of contents, project scope, data collection methodology, description of project limits, a map at a legible scale of the project limits containing street names, lengths, widths, and the location of the pavement core samples. The report will also include a core results table with street name, applicable Town of Indian Trail Land Development Standard (ITLDS) Typical Section, core result material and thickness (in inches), a statement of whether or not the core result meets the current minimum design standard per the ITLDS Typical Section. Pavement core samples shall be taken at 500' intervals (minimum of 1 core per street block), and no more than 4.0' from the centerline of the road. This report must be signed, dated, and stamped by a North Carolina registered professional engineer. The Town may acquire its own pavement core samples as a quality control measure.

Once the Pavement Core Results Report has been submitted, an inspection shall be conducted by the Town of the subject street(s). The Town shall notify the owning entity of all construction deficiencies required to be corrected. Upon satisfactory completion of corrective measures, re-inspection, and approval by the Town Engineer, the Town Council shall accept the subject street(s) for maintenance.

4. A two (2) year warranty is required for construction of all new subdivision streets and drainage facilities.
5. A warranty surety for 1/3 of the original cost of all the street improvements is required during the warranty period to secure repair of any deficiencies or failures.

### **NCDOT Main Corridors:**

The Town Council shall have full discretion in determining the acceptance of any NCDOT Main Corridor Roads.



Note:  
12/9/14 mins.

Bonterra  
Street Maintenance  
Agreement  
Discussion Item  
a. @ TOP of  
page 6

Town of Indian Trail  
Minutes of Town Council  
December 9, 2014  
Civic Building  
6:30 P.M.

The following members of the governing body were present:

Mayor: Michael L. Alvarez

Council Members: David Cohn, Gordon B. Daniels, David W. Drehs, Christopher King, and Gary M. Savoie.

Staff Members: Town Manager Joe Fivas, Town Attorney Keith Merritt, Town Clerk Peggy Piontek, Senior Planner Rox Burhans, Director of Community & Economic Development Kelly Barnhardt, Finance Director Marsha Sutton, Human Resources Director Carey Warner, Director of Engineering and Public Works Scott Kaufhold, Interim Planning Director Rox Burhans, Assistant Director of Parks & Recreation Jason Tryon, and Communications Coordinator Lindsey Edmonds.

CALL MEETING TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Alvarez called the meeting to order and led in the Pledge of Allegiance. He announced that ZT2014-004 is not on the agenda because of error on the part of Charlotte Observer, also the Economic Development Advisory Committee Update has been cancelled.

## ADDITIONS AND DELETIONS

David W. Drehs made a motion to approve to move Closed Session from item 7 to item 3a  
Council voted unanimously in favor of the motion.

Mayor Alvarez announced that all Council Members are present.

Gordon B. Daniels made a motion to approve deleting item 4 Presentation of the Economic Development  
Advisory Committee Update.  
Council voted unanimously in favor of the motion.

Mr. Cohn inquired why are we going into closed session now, Council had a brief discussion about this.

David W. Drehs made a motion to approve having closed session in Cultural Arts Center.

## MOTION TO APPROVE AGENDA

Christopher King made a motion to approve the agenda modified.  
Motion Passed 4 - 1 with David Cohn opposing.

## CLOSED SESSION

Christopher King made a motion to enter closed session:

**NCGS 143-318.11(a)(3)** Consult with attorney to protect attorney-client privilege

**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. To hear or investigate a complaint,  
charge, or grievance by or against a public officer or employee.

Council voted unanimously in favor of the motion.

Gary M. Savoie made a motion to approve coming out of closed session.  
Council voted unanimously in favor of the motion.

Mr. Drehs rescinded motion to go to Cultural Arts Center.

Gary M. Savoie made a motion to approve suspending the rules to the agenda to add a line item and have  
Mayor Alvarez read a letter.  
Motion Passed 4 - 1 with David Cohn opposing.

Mayor Alvarez read the letter of confidence:

"At the November 25<sup>th</sup> Town Council Meeting a letter was read which portrayed some staff members in a negative light. The Town Council has reviewed and investigated the issues presented in the letter with the Town Manager. The Mayor and Town Council should have been more diligent in enforcing the current Town Council public comment rules. Regarding references to specific persons the Town Council apologizes to the Town Manager, Finance Director, Human Resource Director and the Community and Economic Development Director for the missteps. The Town Council will amend our Public Comment Policy and adequately train our Elected Officials to make sure similar events do not occur in the future. Moving forward we have confidence in the Town Manager, his leadership team and his other employees to continue to move Indian Trail forward into the future."

Mr. Cohn stated that he vehemently disagreed with the letter. In his opinion, at the last meeting there was nothing done that was illegal and was done in a professional manner. He apologized to Ms. Cook and the others that sent letters to the Council indicating they agreed with Ms. Cook on what her letter said. He stated this isn't right, he is tired of decisions being made before meetings. It's not right and will make the problem worse and if there are more employees let us know. Because it's a free country to say what you want to say and how you want to say it. If by going over the time limit was the only thing done wrong, he's sorry to the Town of Indian Trail, and hopes we get to the bottom of it and hopes those that do work for the town voice their opinion. He would like to see a nonpartisan come and speak to the staff to determine what's wrong or right, it's another sweeping under the rug, and is sorry it happened.

Mayor Alvarez agreed with Mr. Cohn stating he has worked with many people, it's unfortunate but when accusations came out whether real or fictitious in each and every case they were independently investigated to vindicate whichever side deserved it. Apologizing for going over the policy this Council put in place undermines the authority of this Council and how seriously you might be taken in the future. It is 38,000 people's town, not 5.

Mr. Daniels provided his professional background stating people have different manager styles that agree with some and disagree with others. People come and go for different reasons. He was offended with the timing and environment that the letter was read; there could have been another venue that the letter could have been read. We spent 2.5 hours in closed session it was voted to be read 4-1. We are an employment at will State and in his opinion the Council has a certain responsibility according to the charter to hire the Town Manager and Town Attorney. Employee issues are up to the Town Manager and in his opinion he has no problem with the content or purpose that the letter was meant for.

Mr. Cohn explained the content of letter stating he most regretted that they went into Closed Session and heard from only one side without any rebuttal from the person who wrote the letter. In his opinion it was not done fairly.

Gary M. Savoie made a motion to approve the Council accept the letter.

Motion Passed 4 - 1 with David Cohn opposing.

**PRESENTATIONS - *This matter was deleted as a result of a motion made under Additions and Deletions***

a. Economic Development Advisory Committee Update

**COMMITTEE APPOINTMENT**

a. Economic Development Advisory Committee - Andy Morrison

David W. Drehs made a motion to appoint Andy Morrison for the Economic Development Advisory Committee.

Council voted unanimously in favor of the motion.

**CONSTRUCTION MANAGEMENT AT RISK**

a. Overview

Ms. Barnhardt introduced Mr. Greene from Creech Associates. Mr. Green explained the duties and methods in delivering a project with a Construction Manager @ Risk. Ms. Barnhardt introduced Choate Construction.

b. Interview #1

Choate

Mayor Alvarez excused himself for a couple of minutes and passed the gavel to Mayor Pro Tem Cohn.

Scott Harris Vice President of Choate Construction introduced his associates. They provided some company background, experience and photographs of past projects with client references. They reviewed site analysis, building information modeling advising their focus is on sustainability, quality control, and the advantages of and how they execute the plan in preconstruction and construction. **(A COPY OF THE PRESENTATION CAN BE FOUND IN THE OFFICIAL PACKET IN THE CLERK'S OFFICE).**

Mayor Alvarez returned to the meeting during the presentation.

Council asked several questions, topics included: results of going off task of budget, hiring of Veterans, 3 things that appeal to them for this building.

c. Interview #2

Gary Creed, Chief Operating Officer of Edifice introduced Mike Carlisto, Andy Aldridge, David Andrews, Chuck Jacobs as the Project Team, providing a corporate overview with necessary features and project experience in community rooms, offices, Council Chambers. The presentation included several local and nonlocal projects they worked on, a Construction Manager@ Risk required General Statues compliance requirements, preconstruction cost control, encouragement of local participation, HUB program, communications, community, post project requirements and why Council should choose Edifice. **(A COPY OF THE PRESENTATION CAN BE FOUND IN THE OFFICIAL PACKET IN THE CLERK'S OFFICE).**

Council asked several questions, topics included: do they have 3d models and if they hire Veterans.

d. Discussion and consideration of approval

David W. Drehs made a motion to table until the first meeting in January.  
Council voted unanimously in favor of the motion.

PUBLIC COMMENTS

Samantha Townes, 104 Pinelake Dr., Indian Trail, NC stated tonight the Council displayed a behavior that some of you knew what was going on while others didn't, asking if we are having a council that is a sub council? Some of you are privy to certain information while others are not. Ms. Towns referenced Ms. Cook's letter stating that she had no recourse except to bring it public. Ms. Towns stated that certain citizens were retaliated against by certain Council Members after making public comments. She advised that Council is not listening to their citizens or staff, suggesting the Town conduct an independent audit. The citizens pay Council, Manager and staff to run the town and feels it would be only fair to have an independent to come in and investigate.

LAW ENFORCEMENT UPDATE

Lieutenant Coble advised that the driver in the school bus crash yesterday was a citizen of Indian Trail. On Thanksgiving Day they responded to a suicide at the Golf Course and the past month they have been wrapping up training on taser recertification, radar, and seminar on first responders. He provided the statistics for calls for the month of November.

CONSENT AGENDA

- a. Approval of November 25, 2014 draft minutes
- b. Approval of 2015 Council Meeting Schedule **(COPY ATTACHED HERETO AND MADE A PART OF THE RECORD)**
- c. Approval of Sanitary Sewer Extension Agreement **(COPY ATTACHED HERETO AND MADE A PART OF THE RECORD)**
- d. Approval of Citizen Academy Applications

Gary M. Savoie made a motion to approve the Consent Agenda.  
Council voted unanimously in favor of the motion.

PUBLIC HEARINGS

*None*

BUSINESS ITEMS

*None*

## DISCUSSION ITEMS

### a. Street Maintenance Agreement

Mr. Merritt stated staff was directed to create a draft of an agreement to take over the Bonterra Streets, asking that Council review it and provide him with comments at the next meeting. Council had a brief discussion on it.

David Cohn made a motion to approve the Street Maintenance Agreement contingent upon Bonterra Homeowners Association reviewing and giving their acceptance and the acceptance of the Powell Bill Funding. **(COPY ATTACHED HERETO AND MADE A PART OF THE RECORD)**  
Council voted unanimously in favor of the motion.

## MANAGERS REPORT

Mr. Fivas wanted to shout out to staff and deputies for pulling off a wonderful parade and tree lighting, it was well attended. Everyone needs to understand that on the personnel issues the Council doesn't have the ability to address these issues, everything is taken seriously and it is his hope that there are solutions and we find a place to address anything that comes out in the future. He thanked staff and guests for staying late. The 19 and 20th meeting might be rescheduled. There is no second meeting in December. He wished everyone a happy holiday

## COUNCIL COMMENTS

Mr. Drehs thanked everyone for their support of the Miracle Field/League, staff and deputies on great job of parade he wished everyone a safe and happy holiday.

Mr. Cohn stated in connection with tonight he's sorry that we're not interested in determining if anyone had done anything, it would make him happy to discover that nothing stated in that letter was done. He noted that the Clerk was asked to leave the Closed Session he thought it was odd. He believes we need a bigger rug, perhaps a wall to wall carpet to sweep things under it because the list is getting longer. What are we going to do if we get more letters, that's why we need a bigger rug? We have people scared to say anything, he hopes if there are more that they come out and if not he hopes nothing else becomes of it. His experience with the Town Manager working with him in past and today I'm disappointed, Sheriff's contract he was disappointed on how that came out and how it was handled. We need to clear things up and have the Town start finding the answers instead of covering things up. Merry Christmas

Mayor Alvarez wished everyone happy holidays and apologized for the delay with a long Closed Session and is grateful to those who stayed. The staff and deputies did a great job with the parade. He appreciates the commitment of the deputy's working on the holidays. He asked everyone to remember those who won't be home with their families who are out defending us so we can have long winded Closed Session meetings. Go to the funding page for Mr. McManus to help him, I knew him, he was a nice man. He was an amazing, kind person; keep his family in your prayers as well. Mr. Cohn it was real concerning when you get a call from a

Council Member that says: you don't want to put anything on the agenda that says something is broken in the town. Can't fix it unless you know it's broken, there's nothing wrong with things being broken but you have got to meet the demons face head on and fix what's wrong. If it's broken, you're human; it's what you do after it that determines your ethics. Happy Holidays

Mr. Daniels looked at the calendar and tomorrow is December 10th, a year went by since Councilman Savoie and he were sworn in, and wow it went fast. I guess the next 3 will go just as fast and I hope we can accomplish some good things for this Town in the next 3 years. This is our last meeting for 2014 he thanked everyone for hanging out tonight, wished everyone happy holidays and happy new year.

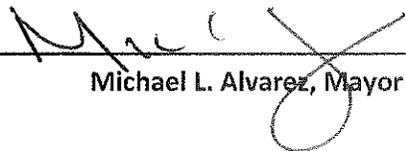
Mr. Savoie thanked everyone for coming out tonight, especially as late as it is. He thanked staff leaders in Indian Trail, the Town Manager for all they have done; all the wonderful projects that we've seen. He thanked those who are responsible for having the right policies in place to protect the employees and hope the employees do use them and he looks forward to a good new year.

Mr. King said let's go home.

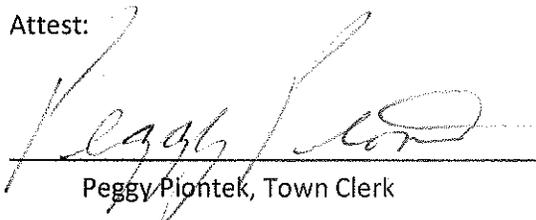
**ADJOURN**

Gordon B. Daniels made a motion to adjourn  
Council voted unanimously in favor of the motion.

**APPROVED:**

  
\_\_\_\_\_  
Michael L. Alvarez, Mayor

Attest:

  
\_\_\_\_\_  
Peggy Piontek, Town Clerk

This is the agreement included w/ the 12/9/14 minutes. Exhibits A & B are referenced but not included + no executed agreement has been located

## STREET MAINTENANCE AGREEMENT

This Street Maintenance Agreement (this "Agreement") is entered into this \_\_\_ day of \_\_\_\_\_, 201\_\_, by and between the TOWN OF INDIAN TRAIL (the "Town") and Bonterra Village Homeowners Association, Inc. ("BVHA").

WHEREAS, BVHA represents the persons who own homes in the Bonterra neighborhood ("Bonterra"); and

WHEREAS, the streets within the first two phases of Bonterra were constructed as private roads with maintenance of those streets to be the responsibility of BHVA; and

WHEREAS, the remaining phases of Bonterra are to be constructed with streets which will be dedicated to the Town for public use and maintenance; and

WHEREAS, the private streets in the first two phases of Bonterra will necessarily be used as a means of access from the public streets in the final phases of Bonterra to major public thoroughfares; and

WHEREAS, it would be inequitable for the owners of homes in the first two phases of Bonterra to bear the cost of maintaining private streets when they will, in essence, be used as public streets; and

WHEREAS, BVHA has requested that the Town take over the maintenance of the private streets in the first two phases of Bonterra,

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Town and BVHA, both for themselves, and their successors, heirs, and assigns, hereby agree as follows:

1. Pursuant to the terms of this Agreement, the Town agrees to take over Maintenance of the private Streets identified on the final plats for Phase 1 and Phase 2 of Bonterra. A map of the Streets the Town is taking over for Maintenance is attached hereto as Exhibit A.

2. For purposes of this Agreement, “Streets” are defined to mean the concrete curb and gutters, the physical surface and substructure of the asphalt of the street, and the storm water system from curb to curb beneath the street structure.

3. For purposes of this Agreement, “Streets” shall not include the following:

- a. Landscaping within the island median at the entrance to Bonterra;
- b. The guard house at the entrance to Bonterra;
- c. The parking areas for the Bonterra clubhouse and all areas constructed for on-street parking;
- d. Any alleys or driveways;
- e. Any planting strips;
- f. Sidewalks.

4. For purposes of this Agreement, “Maintenance” is defined as the repair, maintenance and replacement of the Streets. The Town shall have the option, but not the absolute responsibility, to undertake the Maintenance of any portion of the Streets damaged by activities outside of the normal use of the Streets, such as construction activities by homeowners in Bonterra. In the event that the Streets are damaged and the Town undertakes Maintenance the Town shall have a right to seek compensation for such Maintenance from any party responsible for causing damage to the Streets.

5. The Town shall notify BVHA at least forty-five (45) days in advance of the start of any major repaving being undertaken by the Town within Bonterra so that BVHA can, if it chooses, enter into discussions with the contractor performing the repaving work for the Town regarding any paving BVHA may want performed in the parking areas at the Bonterra clubhouse or the on-street parking areas.

6. BVHA shall be responsible for installing required regulatory street signs that comply with the requirements for public roads and as designated by the Town. Thereafter, the Town shall be responsible for the maintenance of all required regulatory street signs within Phase 1 and Phase 2 of Bonterra and shall provide regulatory street signage of the same quality and type utilized by the Town for streets dedicated to the Town. If BVHA desires to have

decorative signs or poles then the cost for such signs and poles, and the cost of maintenance and replacement of such signs and poles, shall be the responsibility of BVHA.

7. BVHA shall be responsible for all electrical poles, Street lighting and the cost of such lighting for Phase 1 and Phase 2 of Bonterra.

8. BVHA shall be responsible for all irrigation systems and landscaping installed along the Streets. However, the Town agrees to repair the irrigation systems and landscaping if they are damaged by the Town as a result of any Maintenance undertaken by the Town.

9. BVHA shall amend its Declaration of Covenants, Conditions and Restrictions (“CCRs”) in the manner set forth in the attached Exhibit B to allow for the following:

- a. dedication of the Streets as public streets for the use and enjoyment of the public;
- b. an easement in favor of the Town over the Streets for the purpose of Maintenance, as well as an easement on property adjoining the Streets to the extent necessary and sufficient to accomplish Maintenance of the Streets;
- c. transfer of the Maintenance of the Streets to the Town.

10. Upon dedication of the Streets as being open to the public, and transfer of the street Maintenance to the Town, the Streets for all purposes shall be treated as public streets and shall be subject to all applicable laws, rules and regulations for public streets, including the setting of speed limits, and the residents of Bonterra shall abide by such laws, rules and regulations. BVHA shall file a document with the Register of Deeds for Union County North Carolina indicating that the Streets are available for use by the public.

11. BVHA shall convey and dedicate to the Town a public greenway trail to be located within the floodplain areas in Bonterra (the “Trail”) to be used by the Town as part of the Town’s pedestrian public trail system. The Town shall be responsible for the cost of constructing and maintaining the Trail and the timing of its construction shall be within the sole and absolute discretion of the Town. The Trail shall be a minimum of twenty (20) feet in width.

To the extent that parts of the Trail are not currently in common area owned by the BVHA it agrees to dedicate such areas of the Trail to the Town if and when such areas do become a part of the common area of Bonterra. A map of the area to be dedicated to the Town is attached hereto as Exhibit C. The Trail shall be open for use by the public.

12. BVHA shall pay to the Town the amount calculated by the Town's Street Acceptance Policy representing the estimated cost for the wear and tear on the Streets up to the time they are dedicated for public use and the Town accepts responsibility for Maintenance of the Streets.

13. This Agreement shall only become effective upon the occurrence of the LAST of the following events:

- a. approval of this Agreement by the Indian Trail Town Council;
- b. approval by the BVHA of the amendments to the CCRs, the offer of dedication of the Street Maintenance to the Town, the conveyance to the Town of the Street easements set forth in the amendments to the CCRs, and the offer of dedication of the Trail to the Town;
- c. acceptance by the Town of the dedication of the Streets for public use and acceptance of the responsibility of Maintenance for the Streets, and acceptance of the dedication of the Trail;
- d. installation of the regulatory street signs as set forth in paragraph 6;
- e. payment of the amounts set forth in paragraph 12;
- f. receipt of a letter from the State of North Carolina indicating that it has reviewed this Agreement and that Powell Bill Funds can be used by the Town for Maintenance of the Streets.

14. BVHA shall indemnify, defend and hold harmless, on demand, the Town, its elected or appointed officials, agents, boards, councils, commissions, employees and representatives, for, from and against any and all liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses, including but not limited to reasonable attorneys' fees, of any character or nature arising out of or resulting from any act or occurrence arising from

the validity of this Agreement, the Town entering into this Agreement, and from any action undertaken by the Town with respect to the Maintenance of the Streets. In any case in which BVHA provides a defense to the Town pursuant to this indemnity, the defense will be provided by attorneys acceptable to the Town. BVHA's obligations under this section shall survive any expiration or earlier termination of this Agreement. To the extent BVHA maintains insurance that is applicable to the Maintenance of the Streets then the Town shall be named as an additional insured on such policy of insurance.

15. This Agreement shall be terminated upon the happening of any of the following events:

- a. the Streets are not available for use by the general public;
- b. the State of North Carolina determines that the Town cannot use Powell Bill Funds for the Maintenance of the Streets;
- c. BVHA is for any reason dissolved pursuant to the CCRs;
- d. the easements granted to the Town by BVHA are revoked or terminated;
- e. the BVHA CCRs are amended in a manner that does not allow Street Maintenance to be conducted by the Town;
- f. any other act that would not allow the Town to legally provide Maintenance for the Streets.

16. General Provisions.

a. Survival of Provisions. The covenants, acknowledgements, representations, agreements and obligations contained in this Agreement shall survive the consummation of the transactions contemplated by this Agreement.

b. Construction of Agreement. Each party acknowledges that it has participated in the negotiation of this Agreement, and no provision of this Agreement shall be construed against or interpreted to the disadvantage of any party hereto by any court or other governmental or judicial authority by reason of such party having or being deemed to have structured, dictated or drafted such provision. All parties have at all times had access to an

attorney in the negotiation of the terms of and in the preparation and execution of this Agreement, and have had the opportunity to review and analyze this Agreement for a sufficient period of time prior to the execution and delivery thereof. No representations or warranties have been made by or on behalf of any party or relied upon by any party pertaining to the subject matter of this Agreement, other than those set forth in this Agreement. This Agreement embodies the entire agreement and understanding among the parties relating to the subject matter hereof and supersedes all prior proposals, negotiations, agreements and understandings relating to such subject matter.

c. No Modifications. The terms of this Agreement may not be changed, modified, waived, discharged or terminated orally, but only by an instrument or instruments in writing signed by the party against whom the enforcement of the change, modification, waiver, discharge or termination is asserted.

d. Authority. Each party represents that they have taken all necessary action to authorize the execution, delivery, and performance of this Agreement and have the authority to execute, deliver and perform this Agreement and all the transactions contemplated hereby.

**IN WITNESS WHEREOF**, the parties, individually and by their duly authorized representatives, have executed this Agreement and agreed to its terms.

**BONTERRA VILLAGE HOMEOWNERS  
ASSOCIATION, INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

TOWN OF INDIAN TRAIL

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Town Manager

This instrument has been pre-audited in the manner required by Local Government Budget and Fiscal Control Act.

Date: \_\_\_\_\_

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Town of Indian Trail Finance Director