



Town of Indian Trail
Minutes of Town Council
September 28, 2010
Civic Building
6:00 P.M.

The following members of the governing body were present:

Mayor: John J. Quinn

Council Members: Gary D'Onofrio, Jeffrey Goodall, John Hullinger, and Darlene Luther.

Absent Members: Robert Allen.

Staff Members: Town Manager Joe Fivas, Town Attorney Keith Merritt, Town Clerk Peggy Piontek, Finance Director Marsha Sutton, Planning Director Shelley DeHart, Town Engineer Scott Kaufhold, Tax Collector Janice Cook, Assistant to Town Manager Miriam Lowery, Senior Planner Katie Reeves, and Adam McLamb Engineering.

Press/Media: Marty Mitchen of the Charlotte Observer.

CALL MEETING TO ORDER

Mayor Quinn called the meeting to order.

PRESENTATIONS

- a. Certificate of Recognition for David Grant, Urban Forrester

Mayor Quinn read and presented Mr. Grant with the certificate.

Mr. Grant thanked the staff of Indian Trail, Council and other municipalities for contributing to his success.

ADDITIONS AND DELETIONS

Gary D'Onofrio made a motion to approve adding a discussion on a budget amendment for Crossing Paths Park as item 7c1

Council voted unanimously in favor of the motion.

Mayor Quinn announced that Council Members Luther and Allen being absent. Mr. Fivas advised that Council Member Luther is expected to attend late.

Mr. D'Onofrio advised he must leave by 8 pm.

MOTION TO APPROVE AGENDA

Jeffrey Goodall made a motion to approve Agenda
Council voted unanimously in favor of the motion.

PUBLIC COMMENTS

Mike Mull, 1007 Mossy Branch Court, Matthews, NC restated his objection to allow Brookwood Homes to build in Chesnut Place and allowing homes to be built on slabs instead of crawl spaces. Mr. Mull referenced several conditions and requirements on the Special Use Permit 2004-011M and requested the Town apply strict and complete enforcement of these issues.

Mr. Jalan Lindley, Holly Villa Circle, Indian Trail, NC advised he has been a resident here for six years and feels. He believes the issue of having an Indian Trail Police Department verses contracting with Union County Sheriff's office is an important topic and he supports the Deputy's. He feels the taxes will be increased if a Police Department is started.

Kathi Higgins, 3004 Clover Hill Road, Indian Trail, NC stated for the record that she supports Mr. Mull's public comments tonight.

CONSENT AGENDA

- a. September 14, 2010 minutes approval

Gary D'Onofrio made a motion to approve the Consent Agenda
Council voted unanimously in favor of the motion.

BUSINESS ITEMS

- a. Potter Road Sidewalk Contract

Mr. Fivas advised this is a project that extends down Potter Road towards Austin Village; the bid price came in at an acceptable range and is supported by staff. Staff is available to answer any questions Council may have. Mr. Hullinger inquired if the developer was required to install sidewalks in front of Austin Village. Mr. Kaufhold advised that they did, this project is for the purpose of providing connectivity to the nearby residents. There was general conversation pertaining to informal and formal bids.

Mayor Quinn announced Family Fun Day on October 16, 2010 and informed the citizens that Indian Trail Road will be closed from Matthews Indian Trail Road to Town Hall from 7:00 a.m. to 8:00 p.m.

John Hullinger made a motion to approve awarding the Potter Road Sidewalk Contract to M W Warr & Sons.

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

b. Closed Session Policy

Mr. Fivas explained that Council directed staff to develop a policy on closed meeting minutes. The Town Attorney, Town Clerk and Mr. Fivas worked on it and are presenting it for Council approval or modification. Mr. Fivas advised there are practices currently in place and it's our overall goal to try to sustain as many of those practices. Internally, we are trying to get our practices, policies and procedures on paper so there are no questions.

Mayor Quinn read the policy into the record providing his comments and perceptions of the policy to which he does not agree. General conversation pursued amongst Council as to modifications.

John Hullinger made a motion to direct staff to review paragraph one and two and amend to include current Elected Officials the opportunity review materials without Council approval and resubmit. Council voted unanimously in favor of the motion.

Mayor Quinn suggested that all due diligence be made to release Closed Session minutes. Mr. Merritt summarized the statute pertaining to the release of these minutes, as things become available they should be released. The reality is it involves much time, effort and energy to determine what can and cannot be released. If someone came to the Town and requested to review certain minutes we would go back through the process and made them available.

c. Crossing Paths Park Contract

Mr. Fivas provided the history of the conception, design and informal bidding procedures for the park. He complimented the staff on their diligence to ensure this project is completed as expeditiously as possible, with the hopes that it will be available within the next few months for our community members to enjoy. There were seven bids submitted, high \$460,625.00; low \$230,721.65. Staff is comfortable with the company that put the low bid in. Mr. Fivas pointed out the three Council considerations for tonight's meeting:

- Approval of the informal bid.
- Additional road modifications - does Council want curb on the railroad tracks side, adding levels of safety and aesthetic value; does Council want to put a thin layer of asphalt on the entire length of Blythe Road for aesthetic value. Costing on this can be discussed at a future time.
- A budget amendment will be requested in the amount of \$100,000 to bring us up to the required funding level. Mr. Fivas advised that when this fiscal year's budget was created this project was not discussed. He advised these funds can be taken out of the Parks Fund or funding designated in the budget as match money for a PARTF Grant. He believes we will not need the grant funds until the next fiscal year. He recommends using the PARTF Grant funding designated in the budget for this budget amendment, so we can preserve our Park Fund.

Mr. Fivas reviewed the agreement with the Rotary for the Amphitheatre, advising that the Town has to make the initial outlay of the funds for the amphitheatre and get repaid as the Rotary makes its payment installments over the next eight years. He advised that the Finance Director has confirmed that the auditors are comfortable with this process. Mr. Fivas is hopeful that other donations will be forthcoming.

Mr. Hullinger inquired if there is an itemized list (it was handed out to Council) and if this could be done cheaper and provided his concerns.

Mr. D'Onofrio read the itemized list and all the bid amounts, advising the vision is to provide a facility that we can be proud of.

Mr. Fivas said the bids reflect the drawings provided to the Council when the park was approved, but if there is a desire to do less, by removing items such as decorative fencing, brick, landscaping, etc. that the plan can still be modified with Council's direction. Mr. Fivas advised that to build a full service facility that will hold a number of events for the next 50 years is a pretty good investment. However it is up to the elected body to determine what kind of facility you want.

Mr. Goodall inquired if any research was done on what Matthews's expense was in Stumptown? Mr. Fivas advised that he understands the cost was approximately \$120,000.00 but that was several years ago. General conversation pursued concluding that the amphitheatre to be built on our park site is approximately \$80,000.00.

Mayor Quinn advised he has worked with the Park Committee and the first 2.5 years which resulted in a Park Plan, which was adopted by Council, providing many different ideas for possible locations and joint ventures with other entities such as schools. He advised the Committee lobbied to put that language into the Plan that partnerships were a good thing. He read the description of Crossing Paths Park from the Park Plan. Mayor Quinn advised that he is resigning as Chairman of the Park, Trees and Greenway Committee, effective immediately. He does not believe that what the committee tried to accomplish is being embraced by the Town.

Mr. Hullinger asked Mr. Fivas to clarify that the cost of the project will be an additional \$50,000.00 than what is before them? Mr. Fivas replied yes and explained.

Jeffrey Goodall made a motion to approve awarding the contract for Crossing Paths Park to TK Browne for the total amount of \$230,721.65.

Motion Passed 2 - 1 with John Hullinger opposing. **(COPY ATTACHED HERETO AND MADE A PART OF THE RECORD)**

7c1 Budget amendment for Crossing Paths Park

This matter was added as a result of a motion made in Additions and Deletions.

Mayor Quinn asked Mr. Fivas that if a fund balance appropriation in the amount of \$100,000.00 is being requested for the purpose of covering expenses related the park. Mr. Fivas confirmed he was correct, explaining the budget was created in April and the Council had not requested staff to pursue this project until July. This enables us to have the fiscal dollars appropriated for the expenses. He reminded Council that these funds would be taken from the funds appropriated for the PARTF Grant match, enabling us to

have resource funds available for park build out from the Park Fund. Mr. Fivas's goal is to hold costs down as much as possible. However staff will do what they can minimize any cost overruns. Mr. Fivas believes that the park being fully built out for under \$500,000, including picnic tables and other amenities is a reasonable expectation for the town. He believes this is the beginning of a vision to provide several parks throughout the community but at some point you have to build the first one.

Jeffrey Goodall made a motion to approve the budget amendment request submitted by Marsha Sutton, Finance Director and requested by Town Manager Joe Fivas.

Council Member Luther entered the meeting.

Motion Passed 3 - 1 with John Hullinger opposing.

d. Resurfacing Contract 2009-2010

Mr. Fivas provided the history of the Town's first substantial street reconstruction program, concluding it was a successful program. As is with roads that are worn and not built by us, there's no way to determine what will be found underneath, which adds to the initial cost estimates. Staff recommends approval of this contract addition.

Jeffrey Goodall made a motion to approve paying the unforeseen increase to Rea Contracting, LLC. Council voted unanimously in favor of the motion.

DISCUSSION ITEMS

a. Chestnut Place Subdivision

Mr. Merritt provided some history on this matter and advised 2 requests for permit, one by each of the builders, to build houses based upon the existing portfolio that was approved by the Williams Company. He read the condition attached to the Special Use Permit, "any change in builder shall require a new portfolio be submitted to the Town Council for approval". He explained that the Planning Director was uncomfortable granting the permits, given the action taken by Council to disapprove the prior portfolios which did include some of the Williams Company elevations that had already been approved. Mr. Merritt said that staff is requesting approval of the existing portfolio for the two builders that have submitted permits, to build houses based upon the already approved portfolio by the Williams Company, there are just different builders requesting to build those same elevations. Mr. Merritt advised the Council can approve elevations, not individual builders, that's up to the developer to choose who they want to build.

Mr. D'Onofrio said he received an email from Mr. Mull advising the SUP is out of compliance, asked if that is a legal ground for denying additional permits on the part of the Town?

Mr. Merritt informed Council that there are two different issues that need to be separated out. The first issue is approving the builder to build the portfolio. The second issue you're asking about is can the Town say these individual permits cannot be issued because the SUP is out of compliance. The action the Council can take is to approve the portfolio and then Ms. DeHart can address the issues of the individual permit on that. The UDO does have a section that states there are enforcement mechanisms in place to prevent issuing permits if something is not in compliance and provided a brief explanation of the process.

Ms. DeHart addressed the issues made during public comments:

We do have an active code compliance case (citation #1603) with this developer in this subdivision. She advised an extensive walk through was conducted, with the approved plans to ensure a complete listing of the violations. There are as follows: there are missing sidewalks within the development; all sidewalks were approved to be constructed 5' wide but were constructed 4' in width; landscaping done in front of the subdivision is not in compliance with the approved landscape plan for the subdivision and lacks the required irrigation system; there are inconsistencies with regard to drainage grading for some of the existing homes; and missing infrastructure at the end of one of the cul-de-sacs. This is an active case which has been appealed by the applicant and is scheduled to go before the Board of Adjustment on October 28, 2010.

Ms. DeHart addressed some of the other issues expressed tonight in Public Comments: the development is in compliance with the requirement for the open space and explained. With regard to the sidewalk on one side, the Town currently has two sureties for the infrastructure within that development totaling \$181,000.00, explaining each intended purpose, advising that the bonding is in place to ensure that compliance is completed, according to the approved plan, before any funds are released to the developer. Ms. DeHart addressed the agreement mentioned advising that it was specific to the improvements to Chestnut Lane pertaining to road widening, curb, gutter and left turn lane into the subdivision. There was an agreement with the developer to hold lots until that improvement was completed, which was done, inspected and signed off by NCDOT, which resulted in the release of the agreement.

Council had conversations and questions pertaining to this matter and were answered by Ms. DeHart, Mr. Merritt and Mr. Fivas.

Mr. Merritt clarified again that it is not the Council's job to approve the builders that a developer wants to use. There were objections to the elevations being put forth by these builders and the Council made a determination not to approve those elevations. The builders have now applied for permits on elevations that have already been approved by the Town for the Williams Company. They are building the exact same houses. This is a formality to get them, if they choose to build, they will build the same houses that have already been approved and built in this subdivision. To the issue about building on a slab as opposed to crawl space, the fact is the original elevations were approved for a slab. Mr. Merritt repeated this is simply approving these builders to build the portfolio that's already been approved for another builder.

Gary D'Onofrio made a motion to approve Brookwood Home Builders and Persis Nova Construction Company to build the already approved elevations for the Williams Company. Council voted unanimously in favor of the motion.

b. Community Survey Update

Mr. Fivas researched 6 companies that perform surveys and he recommends Council consider using the funds dedicated to perform the survey and explained why. He referenced the recent survey conducted by High Point. If Council is comfortable with using an outside firm, he advised staff will interview the 6 firms, narrow it down to 2-3 and have them present to Council for approval. By consensus Council agreed to use an outside agency for the survey.

c. Discussion of Large Park purchase

Council took and returned from a brief recess

Mr. Fivas requested Council direction for staff to pursue conversations or negotiations on the following properties as options for a large park: Poplin Road, Unionville Faith Church Road, and Hauser on Matthews Indian Trail Road, Genwove, and Funderburk property. He provided a brief description of each property. Council discussed the properties. Mr. Fivas requested clarification that Council wants staff to get offers for of these properties and bring back to them for their consideration.

John Hullinger made a motion to approve to authorizing staff to enter into negotiations for possible purchase for all the properties listed.

Council voted unanimously in favor of the motion.

Jeffrey Goodall made a motion to approve excusing Council Member D'Onofrio at 8:30 p.m.

Council voted unanimously in favor of the motion.

MANAGER'S REPORT

Mr. Fivas advised Council email will be down on Friday and Saturday October 1st & 2nd.

Mayor Quinn advised he will be out of town from noon Friday October 1st to the following Friday.

Mr. Fivas clarified that Crossing Paths Park has been designed at the lowest possible cost and asked that Council advise if they want to change any designs staff must know by next meeting. We don't know what the total overall cost will be until we get costs on landscaping, tables and benches, etc. At this point we are striving to bring this project in at the lowest cost possible.

The County Manger called him yesterday and requested we consider at the next meeting a contract for the Forestry person. The County is looking to have us partner with them on Mr. David Grant to help pay for his services. They are currently proposing \$6,400 contribution assistance.

Computer discussion update at some point we will have to go back in to update and modify your lap tops, we will need to discuss the best time to do that.

Mr. Fivas handed out a report for Law Enforcement activities. He updated Council on Task force, handed out the agenda and advised the meeting is scheduled for October 7th. List of attendees will be provided tomorrow. He advised that Sheridan has requested a number of their residents be a part of the task force, although understandable, we may create alternates and welcome them to attend, but it would not be a good idea for the task force to be compiled of Sheridan subdivision residents.

Mr. Goodall inquired about how the task force will be handled, who will lead and all parties represented. Mr. Fivas confirmed yes. Mr. Goodall said he believes Council should *not* be on this task force to avoid any idea of it being tainted. Mr. Fivas advised he has had no requests from Council nor have any of them been placed on it.

Mr. Goodall inquired which staff member will be assigned to assist this task force if needed. Mr. Fivas advised that he and Ms. DeHart will be there as observers and to advise to facilitate information. Mayor questions staff's role in task force, what does facilitating mean. Mr. Goodall clarified this is not a Town Committee; we can not direct our citizens to be on this.

Mr. Fivas provided an update on the Chestnut Connector, advising he has had discussion with the Stallings Town Manager and Barry Moose, options are being discussed. It's his understanding that Stallings is going to have a committee, he anticipates receiving an invitation. In the Union County Weekly, Mr. Moose was clear on his direction, we will set up a meeting to see what he anticipates. Mr. Goodall asked if Mr. Moose will be speaking with this Council before any discussions are had with Stallings. Has that request been made of Mr. Moose? Mr. Fivas advised that he has a meeting planned with Mr. Moose and will extend the invitation at that time.

Mr. Fivas clarified that the budget amendment approved tonight is coming from PARTF Grant, this is not new money, and its money already budgeted and shifted.

PLANNING REPORT

Ms. DeHart updated Council on the status of bike plan. It's moving forward, still in draft form. The steering committee will be meeting to plan activities for the next big workshop which is expected to take place at Extreme Ice with a bicycle rodeo and reveal the draft plan at a big fun event.

ENGINEERS REPORT

Mr. Kaufhold had nothing to report.

COUNCIL COMMENTS

Ms. Luther said on the large park, it's great to consider Genwove but we should pursue some of these other properties, get a good look at them and we might find something we like better. She is confused thinking back on this whole process with elevations, and hopes that the perception is not that the Town Of Indian Trail has not been tough enough enforcing the issues going on in Chestnut place. Citizens are frustrated, and she hopes that this developer is held accountable to finish off those issues.

Mr. Goodall said that the year of the park was set out to get a park system created and in place, hoping to have one in place by fall and a large park purchase by the end of the year. He's glad to see that we will pursue it aggressively and make some good decisions before the end of the year. He expressed condolences to Mr. Allen and his family on the loss of his father.

Mr. Hullinger expressed his condolences to the Allen Family.

Mayor Quinn feels that Chestnut Road is not and should not be the priority, without considering the road that will be accepting this traffic is two lanes. He feels that Monroe Road is the priority and should be going forward. Make it a four lane road as far down as 485 on up, yet Chesnutt Road keeps resurrecting itself. Solidifying Chestnut Road and then we'll talk about Old Monroe Road. Which is a step back from a month or two ago when Mayor Quinn had a conversation with Mr. Moose and Mr. Moose said Monroe Road is the issue. We had a meeting, Mr. Fivas, Mr. Kaufhold and I and we all discussed and agreed that

was the real issue and Mr. Fivas was going to try and promote the issue of widening of Monroe Road and Stallings is on board as well. Chestnut Road is not and should not be the priority; Monroe Road should be the priority. I was troubled by the fact that this was now being bantered about. With regard to talking separately, this is a joint effort we're talking about; Stallings has more money on the table than we do. While I certainly think it's beneficial to talk to DOT alone, they are major players, we have eight million dollars, and they have fourteen million dollars on the table. The comment that this is not the year of the Sheriff's, declaring it doesn't make it so. We have residents who have different ideas that some of the people on this Council, who have priorities other than the opinions of this Council. The Council ought to do more to listen to the wishes and desires of the residents and get their take on matters to align themselves more closely to the wishes of the taxpayers who are paying everything that we do here.

CLOSED SESSION

There were no items to be discussed in Closed Session this evening.

ADJOURN

Jeffrey Goodall made a motion to adjourn
Council voted unanimously in favor of the motion.

APPROVED:

John J. Quinn, Mayor

Attest:

Peggy Piontek, Town Clerk