



Town of
INDIAN TRAIL
north carolina

Town of Indian Trail
Minutes of Regular Council Mtg.
September 8, 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: Interim Town Manager Peggy Piontek, Town Attorney Keith Merritt, Planning Director Shelley DeHart, Town Engineer Scott Kaufhold, Finance Officer Marsha Sutton, Tax Collector Janice Cook, Assistant to Town Manager Miriam Lowery, Interim Town Clerk Trena Sims, Adam McLamb Engineering, and Junior Planner Jonathon Edwards.

Press/Media: Marty Mitchin of the Charlotte Observer

CALL MEETING TO ORDER

Mayor Quinn called the meeting to order. He stated that the Town had received a thank you card from Deputy James Kirkley and family; this is the deputy that was hit by a drag racing car over on Poplin Road. He also made the following announcements: 1) Town Council will hold a Special Meeting on September 30, 2009 at 6:00 to discuss the Town Manager search in Closed Session; 2) Candidate debate will be held on Tuesday, October 6th at 7:00 pm at the Sun Valley High School and will be facilitated by the League of Women Voters; 3) Family Fun Day will be on October 10th on the front lawn of Indian Trail Elementary School from 11:00 am-5:00 pm, this is a free event, the town is looking for volunteers and vendors to participate.

PRESENTATIONS

Recognition of David and Monica Cohn

Mayor Quinn recognized the David and Monica Cohn and their family for their contributions in sponsoring golf tournaments for families in need within the community and presented them with a Certificate of Recognition for their efforts. **(COPY ATTACHED HERETO AND MADE A PART OF THESE MINUTES.)**

Recognition of Covington Family

Mayor Quinn recognized Mitchell and Peggy Covington and family for their input with Family Circle magazine in which the Town of Indian Trail was chosen one of the "Ten Best Towns for Families" and presented them with a Certificate of Recognition. **(COPY ATTACHED HERETO AND MADE A PART OF THESE MINUTES.)**

Ms. Cohn spoke a few words as to why they choose to put on the golf tournament.

Mrs. Covington spoke a few enthusiastic words concerning the article.

Proclamation of Constitution Week

Mayor Quinn read the Proclamation of Constitution Week. **(COPY ATTACHED HERETO AND MADE A PART OF THESE MINUTES.)**

Swearing in of Appointed Board and Committee members

Ms. Sims swore in the following appointed officials: Christopher Copelas as an alternate member to the Board of Adjustment and Edward Dubisz as a member to the Parks, Greenway and Tree Committee.

ADDITIONS AND DELETIONS

Dan Schallenkamp made a motion to add report from Sgt. Chase Coble on the agenda as Item 4a.

Council voted unanimously in favor of the motion.

Dan Schallenkamp made a motion addition of Item 9c under New Business; he would like to respond to false statements made about him by the Mayor during the August 11 Council meeting and false statements made by the Mayor in the newspaper today about him.

Motion Passed 3 - 2 with Gary D'Onofrio, and John Hullinger opposing.

Shirley Howe made a motion delete Item 7a from the Agenda.

There was general discussion as to why this item was on the agenda.

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

Mr. Merritt stated that he still needed to receive a copy of the e-mails in order to comply with the public information request.

MOTION TO APPROVE AGENDA

Dan Schallenkamp made a motion to approve Agenda.

Motion Passed 3 - 2 with Gary D'Onofrio, and John Hullinger opposing.

Update on Citizens Observer

Sgt. Chase Coble updated the Council and citizens regarding the Citizens Observer. The contract with Citizens Observer is complete. He pointed out that this will allow for citizens to sign up for e-mails or text messages regarding any situation in their neighborhoods. He has left forms on the table in back for citizens to sign up for this free service and explained how the service worked.

PUBLIC COMMENTS

Doris Aldridge, 2033 Fripp Lane, thanked Council for their service and suggested beautification of the downtown area and to have obvious markers to indicate Indian Trail downtown area. She also feels it would be beneficial to have a town park for family gatherings and such.

Hal Jones, 3004 Thorndale Road, addressed the Council and Mayor regarding the Council-Manager form of government and how their representation should contribute to the positive image of the Town. He also addressed ethics of elected officials.

Teresa Allen, 5347 Courtfield Drive, also the owner of Bear's Lair and Sports Bar addressed the Council about displaying an NFL football banner for the upcoming football season. After applying for a permit for the banner, she was informed the banner could only be displayed for a period of two weeks; football season is, of course, much longer. She is appealing to the Council to suspend the current sign and banner ordinance during this tough economic time to help the small businesses succeed.

Darlene Luther, 6973 Honey Tree Lane, complimented Council regarding their ability to work through issues together and in spite of the escalating friction between Council and the Mayor, they still make it work.

Robert Allen, 5347 Courtfield Drive, addressed the economic difficulties of the small business owner and requested that the sign ordinance be suspended for a while.

CONSENT AGENDA

- a. Tax Report - Month End Tax Report for August 2009(COPY ATTACHED HERETO AND MADE A PART OF THESE MINUTES.)
- b. Comprehensive Bicycle Plan MRA (COPY OF THE CONTRACT CAN BE FOUND ON FILE IN THE FINANCE OFFICE.) (COPY OF THE ORDINANCE IS ATTACHED HERETO AND MADE A PART OF THESE MINUTES.)
- c. MSLO for Wincrest Subdivision (COPY ATTACHED HERETO

AND MADE A PART OF THESE MINUTES.)
d. SR2 for Forsyth Avenue (**COPY ATTACHED HERETO AND
MADE A PART OF THESE MINUTES.)**

Dan Schallenkamp made a motion to approve Consent Agenda.

Council voted unanimously in favor of the motion.

OLD BUSINESS

Family Circle E-mail Correspondence
(This item was deleted by prior motion.)

FY 09-10 Stormwater Maintenance Contract

Mr. McLamb presented the 09-10 Stormwater Maintenance Contract. He recapped the purpose of the contract which is to provide a source of funds for continuous work to improve and maintain the existing stormwater system. To date there are 40 outstanding projects and in the last year and a half, over 32 projects have been completed ranging in price from \$100 to \$50,000. All the work is based off of citizens' request; Mr. McLamb gave a brief overview of the process.

The bid opening on the contract was opened on August 18th; with eight companies submitting bids. Staff recommends Bullseye Construction who was the lowest responsible bidder with a bid amount of \$224,170 for the 2009-2010 Stormwater Maintenance Contract.

Gary D'Onofrio made a motion to approve awarding the FY 09-10 Stormwater Maintenance Contract to Bullseye Construction.

Council voted unanimously in favor of the motion. (**COPY OF THIS CONTRACT IS ON FILE IN THE ENGINEERING DEPARTMENT.**)

FY 09-10 Resurfacing Contract

Mr. Kaufhold presented the information regarding the 09-10 Street Resurfacing Contract. He reminded Council that effective on July 1st, the Town assumed responsibility for an additional 34 streets. The focus of the contract is to improve Town owned streets and hopefully, relieve some driver frustrations; as road improvements is a top concern of citizens. The funding source would be the Powell Bill funds. This contract includes a variety of street maintenance repair and resurfacing operations on a minimum of seven streets totaling five miles and has a completion date of June 1, 2010.

Signs will be placed near the construction area to let the public know there will be delays. Mr. Kaufhold briefly went over the bid process. There was a mandatory pre-bid meeting on August 31st with the bid opening date held on September 4th. Staff recommends Rea Contracting be awarded the contract at a bid price of \$1,396,693.64; they were the lowest

responsible bidder. Rea Contracting does work for local government and the state; they have an extensive resume.

Councilmember Schallenkamp confirmed with Mr. Kaufhold that with this contract, Rea Contracting will be paid for work performed not just handed the contract bid amount upfront.

Councilmember D'Onofrio requested that Mr. Kaufhold explain the funding source for this work and had we not undertaken these roads/contract, when would the improvements of these roads be done. Mr. Kaufhold replied that the work would probably not be done without the Town's involvement as DOT has cut back significantly on their maintenance efforts and on the quality of those repairs. The funding source is the Powell Bill which is basically from the gas tax. The amount each municipality receives is based upon population and the miles of roads they maintain.

Ms. Piontek asked if this information could be tied into the Citizens Observer to alert the neighborhoods when work is being performed in their area. Mr. Kaufhold stated the public would be informed by posting flyers on mailboxes, by working with HOAs for notification on their websites or newsletters and road work signs.

Councilmember Howe asked Mr. Kaufhold to explain the road ranking and how these roads were chosen. Mr. Kaufhold explained that the roads chosen were based on a pavement conditions rating survey taken last summer by a third party. The roads to be worked on are a mix of different road conditions; addressing some of the worst streets which are in Beacon Hills and also addressing the most heavily traveled roads such as Brandon Oaks Parkway, which will quickly deteriorate if not addressed.

Jeff Goodall made a motion to approve awarding the FY 09-10 Street Resurfacing Contract to Rea Contracting.

Council voted unanimously in favor of the motion. **(COPY OF THIS CONTRACT IS ON FILE IN THE ENGINEERING DEPARTMENT.)**

DISCUSSION & POSSIBLE ACTION

Review Administration Building Renovations

Mr. McLamb presented the administration building renovations information. To date there have been three different designs, three different bid submittals and over 80 hours of staff time dedicated to this project. He presented the newest revision of the building. The lowest responsible bidder is Book Construction in the amount of \$24,800; the bid has been checked for arithmetic correctness and completion. Also needed is a phone system and phones, new computer lines and four workplace cubicles; with everything included the total is approximately \$42,478. He explained the differences between this estimate and the previous proposals presented.

Mr. McLamb asked that Town Hall possibly be closed on a Thursday and Friday for the construction crew to take care of the majority of the work.

Councilmember Schallenkamp suggested adding some windows if they can be done for \$1,000 a piece.

Jeff Goodall made a motion award contract to Book Construction Company and Compunet World and B&B Electronics for the Administration Building Renovations with a cap of \$50,000 for this project.

Council voted unanimously in favor of the motion.

Council was complimentary to staff for their efforts in the substantial reduction of cost for the renovations.

Ms. Piontek asked for approval of the Town Hall closure for a Thursday and Friday. Council felt this was the manager's decision, but that notice would need to be posted for the residents.

Mayor Quinn called for a short break.

Council returned from the break.

Union County Governance Committee

Councilmember D'Onofrio explained the function and makeup of the committee; which has 24 members, with 14 representing each municipality and the others at-large. The committee was charged with researching, debating, discussing and looking at various options and making recommendations to the commissioners. The committee has decided to study a seven commissioner option. They have not yet decided on whether to have seven at-large seats or to consider some type of districting. They have Commission Kuehler is running the meetings and she has made the suggestion that they may want to consider making a motion for seven at-large members. If this motion passes then the committee would be mute; there would be nothing left for the committee to do. Councilmember D'Onofrio asked for consensus on how the Council would like to be represented. It has been noted that while the districts look reasonable, there is no control of the districting once it is legislative. Lines could be redrawn potentially and he is not comfortable handing over this control to the state when it is a local issue. His opinion is to vote for seven at large members.

The Council discussed this issue. The Council's consensus was in favor of seven at-large members for the Board of Commissioners.

Jeff Goodall made a motion appoint Mr. Hullinger as the alternate to the Board of Governance.

Council voted unanimously in favor of the motion.

Branding Logo

Mr. Merritt presented the Resolution for use of the Town seal and logo. This came to staff's attention because a candidate for Council has been using the Town Seal in their flyers. The proposed Resolution allows for the Town Manager to permit the Town Seal or Logo to be used for any non-profit or political purpose for the Town; if it is proposed to be used for any for profit reason, this must be approved by the Town Council. Unapproved use would be punishable in accordance with Section 10.99 of the Municipal Code which is a fine not to exceed \$50.00; it can also be considered a Class Three misdemeanor. This would also allow us to seek an injunction with the courts to protect the Town's intellectual property rights. Council held general discussion of this item.

Councilmember Schallenkamp questioned the wording in the last "Whereas" it says "seeks to restrict the use of the Town Seal and Logo for non-official Town business"; it sounds as though the Town is restricting their own official use of the seal and logo. He feels it should read as to restrict non Town related business. Mr. Merritt will work to change the language.

Mr. Merritt is looking for direction from Council. Council can look at under advisement and he can bring back at a later date. Letters to the candidate will be sent out for them to cease the use of the Town Seal in their election materials.

Jeff Goodall made a motion adopt the Resolution with the correction in wording in the last "Whereas".

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

NEW BUSINESS

ZT 2009-006 VARIOUS TEXT AMENDMENTS

Jonathon Edwards presented the text amendments for the various chapters of the UDO. The first is a request to amend Section 360.010 of the UDO to specifically exempt temporary event uses from requirement of getting a written consulting report in reviewing an SUP. Due to the nature of temporary event uses and their duration of use, the written consulting report requirement is excessive and this amendment preserves the requirement for all other SUP applications while recognizing the nature of temporary event uses. He briefly touched upon the process of the SUP.

In addition, this text amendment is amending UDO Section 360.030 to allow, per the recommendation of the Town Attorney, that the required findings for an SUP be placed in language that affirms the findings if the SUP is found by the Board of Adjustment, rather than reading as it currently does, which is in the negative sense.

Additionally, this text amendment is adding UDO Chapter 7170, which adds back from the prior zoning ordinance the section outdoor storage and sales, particularly in regards to outdoor displays. Features limit these types of uses to be accessory uses to primary ones, provide for property pedestrian access to prevent blockage by the display, provides for proper screening of

the display, and deals with industrial and commercial uses specifically no changed from the previous UDO.

Furthermore, this text amendment amends UDO Section 830.040(A) which now explicitly requires that the required tree inventory/survey in this section for any development review be conducted by a certified arborist and/or licensed surveyor. This will be required of the applicant prior to any submission of any tree inventory as part of development review.

Finally, the addition of UDO Chapter 13130. This text amendment adds in and augments the original zoning ordinance on dumpster enclosures, along with adding in standards and regulations for grease trap facilities into this new section. By doing so, this new section will reflect what is already stated in the Indian Trail Land Development Standards regarding grease trap facilities and trash enclosures. The features are the enclosure and/or facility wall must be a minimum of 8' high, gates to be made of painted corrugated metal or synthetic wood, and must screen 25% of the enclosure and/or grease trap facility.

The Planning Board heard this item at is August 18, 2009 meeting and voted unanimously in favor of recommendation to the Council with one modification, which is to strike out the word "deny" from the language of the proposed UDO Section 360.030 ordinance change portion of the text amendment.

Mr. Edwards read the consistency finding into the record. 1. The following findings were made consistent with the Comprehensive Plan:

1.3.1 of the Comprehensive Plan - Quality of Life; the proposed UDO ordinance amendments will help to streamline the current UDO and allow for the promotion of a greater quality of life for the citizens of the Town of Indian Trail.

1.3.2 of the Comprehensive Plan - Lane Use; the proposed UDO ordinance amendments will help to promote a quality mix of different land uses while avoiding land use conflicts with the neighboring properties and surrounding municipalities through a streamlined process of review, and;

2. This UDO ordinance amendment is in the best interest of the public because it promotes a more efficient development system and review process, while providing a greater quality of life for all residents of the Town of Indian Trail.

Mayor Quinn opened and closed the public comments of this public hearing; no one signed up to speak.

Councilmember Schallenkamp noted that in the proposed amendment for Section 360-030 in changing from the negative to the affirmative, the "or"s should be replaced with "and"s.

Councilmember Hullinger expressed concern that this would place more restrictions on businesses. Mr. Edwards stated that this is more for clarification and augments what has been done in the past. Ms. DeHart stated that other than the grease trap enclosure everything else is for streamlining purposes. Asking for screening in the same manner as the materials used in the

primary building allows for the builder to plan ahead. This would be grandfathered for existing facilities and required for new commercial construction.

There was additional discussion by Council for clarification of a couple of these amendments.

Jeff Goodall made a motion to approve ZT 2009-006 Various Text Amendments with suggested modification specifically Section 360.030 replace "or" with the word "and".

Motion Passed 4 - 1 with John Hullinger opposing. **(COPY ATTACHED HERETO AND MADE A PART OF THESE MINUTES.)**

ZT 2009-009 DIVISION 500 TEXT AMENDMENT

Ms. DeHart presented a request to amend Division 500 of the Unified Development Ordinance to allow for storefront religious assembly within all commercial and industrial zoning districts within the Town. The Planning Board directed staff to start the text amendment as proposed after having received applications to establish religious assemblies with storefront locations within the Town. The adopted UDO allows for religious assemblies within all residential districts and institutional districts within the town by right. The regulations do not accommodate the case of a proposed storefront location because zoning runs with the land not an individual suite. In researching eight other jurisdictions, it was found that all jurisdictions allow in residential zones; two allow in all commercial; two allow in certain commercial zones; four remaining no commercial zones; all allow within Institutional zoning by right; and two allow in Industrial Districts.

The Planning Board heard this at a special meeting in August and after receiving the report, public testimony, and deliberations, the Board voted unanimously to allow for storefront locations only within the all commercial zoning districts thus not amending our current ordinance to allow within industrial zoning districts. The Board request Council to consider directing staff to rezone existing religious assembly properties to the Institutional Zoning Classification at no cost to the property owners.

The Planning Board made the required findings which Ms. DeHart read into the record as follows: 1. The proposed amendment is consistent with the Goal 1.3.2 of the Comprehensive Plan- Land Use because it provides a mix of land uses to serve the residents of Indian Trail and our surrounding communities while reducing potential land use conflicts. 2. The granting of this amendment is in the best interest of the public because the intent is to provide all types of services that will enhance the quality of life for the residents of Indian Trail.

Mayor Quinn opened and closed the public comments section of this public hearing; no one had signed up to speak.

Council held a general discussion on the matter. Concern was expressed regarding compatible uses with the adjoining property. Ms. DeHart confirmed that any changes in zoning would be on a voluntary basis; in an area that is less intense and perhaps a transitional area between

residential and commercial property. This is meant to protect the general public and the only way the Town can protect them is by zoning.

Dan Schallenkamp made a motion concur with the findings and approve ZT 2009-009 DIVISION 500 TEXT AMENDMENT as transmitted by the Planning Board.

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

Allegation Response

Councilmember Schallenkamp stated that the Mayor made comments at the 8/11 Town Council meeting that made a reference to a recent Union County Weekly article wherein it stated that Councilmember Schallenkamp was quoted as saying that the Mayor had some "mental incapacity" or "aberrations". These allegations are untrue and unfounded; the reporter at the Union County Weekly did not recall any such statements in any of his articles. Councilmember Schallenkamp requested by e-mail from the Mayor a copy of said article; to date the Mayor has not responded to the e-mailed request. Councilmember Schallenkamp stated that in today's editorial in the Enquirer Journal the Mayor had made additional unfounded statements. He expressed his frustrations of what he feels are untrue statements that were made.

Mayor Quinn gave a brief history of the events that he believes has lead to this point. The article he spoke of was in the Charlotte Observer. He expressed his frustration of what he feels is a double-standard treatment.

MANAGERS REPORT

Ms. Piontek informed Council of the following: 1) approval from the Justice Department was received and liquor by the drink will be on the ballot in November; 2) in regards to the post office zip code change, comments from Council have been forwarded to John Hill, who will be at the September 22nd meeting; 3) the water tower will not be painted after polling the Council; 3) there will be a 2K Breast Cancer walk on Saturday, October 3rd, hosted by Curves of Indian Trail; 4) for the upcoming candidate debate topics should be her and she will forwarded to the League of Women Voters; 5) she requested information regarding HOA Forum to be able to give out at Family Fun Day. She also addressed the 8/11 meeting in which some residents indicated that since come employees of the town did not live in the town that they do not have dedication and passion for Indian Trail; she found these statements were insulting and ludicrous.

PLANNING REPORT

Ms. DeHart stated that the Complete Count Committee will be meeting tomorrow morning; this committee has been tasked with promoting the upcoming census. The Holly Park conditional zoning process has been started as instructed by Council; there will be two community meetings, one on September 21st from 4-6 pm at the Sun Valley High School Cafeteria and the other on September 24th from 6-8 pm in the Town's Civic Building. Staff has also been busy preparing

for the upcoming Business Showcase to be held at Carolina Courts on September 15th from 11 am-7 pm.

ENGINEERS REPORT

Mr. Kaufhold related MPO information regarding an endorsement of Alignment D which would run through our business park; at the TCC level the vote was in favor of the alignment. It appears the driving factor is the environmental impact, although there is more impact with business and residents with this alignment, the environmental agencies are willing to sign off on. A positive is the NC Turnpike may potentially help to relocate the businesses in the jurisdiction they are being moved from.

NCDOT is letting the Unionville-Indian Trail Road project be handled by Boggs and it should be complete by end of year.

Councilmember D'Onofrio stated that the improvements at intersection at Wesley Chapel Stouts Road and Old Monroe Road have made a big improvement in moving traffic. He asked for an update regarding other proposed improvements at other intersections in Town. Mr. Kaufhold stated 25% of intersection improvement project possibilities to be presented by HNTB to the state next week. Intersection ranking data is being gathered as well.

Councilmember Goodall gave his compliments on the Indian Trail "Welcome Signs"; staff is still working with DOT for approval. He asked why the speed limit through the intersection at Old Monroe Road and Indian Trail Road was still 45 mph, which he feels is ridiculous. Mr. McLamb stated that a speed limit reduction has been requested about 1 1/2 years ago, but NCDOT denied the request. He feels this should be resubmitted. There was a brief discussion about this matter.

COUNCIL COMMENTS

Mayor Quinn addressed the choice of keeping the contract police coverage or taking on a police department which would include a tax increase, the citizens would have a chance to weight in on this.

Councilmember D'Onofrio stated that in regards to the police coverage, he is not convinced that everyone is satisfied with what we have now.

Councilmember Howe would like to be able to give our businesses some relief and perhaps revisit in a year once the economy is better. She is an advocate for public records and feels they should be transparent.

Councilmember Hullinger had no comments.

Councilmember Goodall feels that as individuals endorse candidates, they not speak as a council person, as the Town does not endorse anyone.

Councilmember Schallenkamp commented on the police department and the potential alcohol issue up for vote in November.

CLOSED SESSION

Jeff Goodall made a motion enter into Closed Session pursuant to NCGS 143-318 (a)(5) To establish or instruct the staff or agent concerning the negotiation of the price and terms of a contract concerning the acquisition of real property.

Council voted unanimously in favor of the motion.

Shirley Howe made a motion enter into Open Session.

Council voted unanimously in favor of the motion.

Mr. Merritt requested the Family Circle e-mail from Mayor Quinn as he understood he would have these tonight. Mayor Quinn gave Mr. Merritt the copies of e-mails he brought.

ADJOURN

John Hullinger made a motion Adjourn.

Council voted unanimously in favor of the motion.

APPROVED:

John J. Quinn, Mayor

Attest:

Trena Sims, Interim Town Clerk