

**TOWN OF HILDEBRAN  
COUNCIL'S CHAMBER  
TOWN HALL**

**APRIL 24, 2017  
7:00 PM**

**REGULAR MEETING  
MINUTES**

**CALL TO ORDER AND  
INVOCATION**

Mayor Cook called the regular meeting of the Town Council to order at 7:00 p.m. Mr. Messer led a prayer.

**PLEDGE OF  
ALLEGIANCE**

Attorney Dill led the pledge of allegiance to the United States flag.

**COUNCIL PRESENT**

The following members of the Board were present: Mayor Virginia Cook and Council Members Brenda Banks, Theresa Messer, Barbara Lowman, Lee Lowman and Jody York.

**STAFF PRESENT**

The following staff members were present: Attorney Redmond Dill, Town Administrator Thomas Drum, Town Clerk Alice Sanders, Finance Officer Fredrick Rankins, and Administrative Support Specialist Laurie Brawley.

**CITIZENS & MEDIA  
PRESENT**

See attached sheet.

**APPROVAL OF  
AGENDA**

Council Member Messer made a motion to approve the agenda. All voted in favor.

**APPROVAL OF  
MINUTES**

Council Member Banks made a motion to approve the March 27, 2017 closed session meeting minutes. All voted in favor.

Council Member York made a motion to approve the March 24, 2017 special meeting/budget workshop minutes. All voted in favor.

Mayor Cook read a revised statement for the first paragraph of page 9 of the March 27, 2017 regular meeting minutes as follows:

Council Member Banks made a motion to amend the current purchasing policy so as to give the Town Administrator the authority to approve all expenditures, contracts and construction change orders up to, and including, \$5,000 without the approval of Town Council. All voted in favor. A copy of the policy is hereby incorporated by reference and made a part of these minutes (Attachment A).

Council Member Messer made a motion to approve the March 27, 2017 regular meeting minutes, as amended. All voted in favor.

**OLD BUSINESS:  
CONSIDER  
STRUCTURAL**

Mr. Drum solicited bids from several structural engineers. He contacted Mark Thomson and the Town's architect, James

ENGINEER CONTRACT  
TO PERFORM  
EVALUATION ON  
TOWER AND  
BREEZEWAY AT OLD  
HILDEBRAN HIGH  
SCHOOL BUILDING

Ratliff. Mr. Thomson was unable to submit an official bid due to health reasons; however, he did inform Mr. Drum that if he would have submitted a bid, he probably would charge \$2,500 to determine if the tower and breezeway were structurally sound. He would probably charge between \$5,000 and \$6,000 to evaluate the structures and determine how much it would cost to make them usable.

Mr. Drum stated that he talked to several structural engineers that stated that they could give an estimate to keep the structures in place and what it would take to make them secure; however, they would not be able to give a cost estimate to make the structures safe and usable as proposed by Mr. Greenhill. They stated that an amount to make the structures available for occupancy would be difficult to determine.

Mr. Ratliff provided a price of \$150 to determine if the structures were structurally sound and a price of \$5,600 to do further studies to make sure the structures will remain standing. Mr. Ratliff informed Mr. Drum that he would not be able to determine a cost estimate to use the breezeway for a concession stand, to connect the two structures, to have access to go up and down the tower, or to use the stairs or elevator. He would only be able to determine the work to make sure the structures would remain standing. Mr. Drum stated that the Board will not be able to get a final number of costs like it was requesting.

Council Member L. Lowman asked if other structural engineers would provide different opinions. Mr. Drum stated that he talked to three engineers and the third engineer would not provide an estimate on a final cost estimate to make the structures usable.

Council Member Messer asked if the \$5,600 expense would obligate the Town in any way. Mr. Drum stated that the \$150 fee would be for the engineer to state that the structures are salvageable and can be structurally sound. The \$5,600 charge will be to determine how much it will cost to preserve and guarantee that they are structurally sound. Once the Town decides how it wants to use the structures, a third step and additional costs will be required. Paying these fees will not obligate the Town to do the work, but would obligate the Town to pay the engineer to do his reports.

Council Member B. Lowman stated that she felt the Town should determine what its plan would be in the future before paying an engineer. Mr. Drum stated that the engineers informed him that after the debris around the structures are removed, they will then determine how much of the walls beside the tower need to be

kept in order to stabilize the structures. He was also informed that the stairway behind the tower needs to remain for stability. There will be some work that needs to be done to the tower and breezeway to preserve them. Once the additional building is torn down, and the structures are stable, another estimate by the engineers would be required to determine how to use the structures.

Mr. Drum stated that the \$5,600 fee would provide how much it would cost to redo the staircase, redo the inside of the tower, repair the floor and ceiling on the breezeway, etc. Beyond those costs, the engineers are not going to be able to tell the Town how much it would cost to do a concession stand, connect the structures, etc.

Council Member Messer suggested that the Board come up with a list of options and then decide what it wants to do. Mr. Drum stated that the engineers will not be able to determine a cost to do those options until the first step is done, which is completing the work of making them structurally sound. He clarified that the \$150 fee and the \$5,600 fee is simply a plan to get the two structures stabilized. He also clarified that in order to leave the two structures, it will cost more money during the demolition process so as not to do any damage to the structures. Council Member L. Lowman suggested to table this topic and it was the consensus of the Board to move forward on the agenda and discuss the demolition bids before making a decision.

CONSIDER OLD  
HILDEBRAN HIGH  
SCHOOL BUILDING  
DEMOLITION AND  
ASBESTOS  
ABATEMENT  
CONTRACT

Mr. Drum stated that he solicited bids from Foothills Recycling, D.H. Griffin and Clearsite Industrial. Foothills Recycling did not bid. Clearsite was late to the bid opening and their bid was not accepted. D.H. Griffin was the only qualified bidder. Their bid to demolish the building in its entirety and to perform asbestos abatement was \$143,850 with a 90-day completion time. If the Board decides to save the tower and breezeway, a change order or amendment to the contract would be done.

Council Member L. Lowman asked Mr. Drum to solicit a bid from D.H. Griffin to demolish the building, except for the tower and breezeway, and bring back the bid to the Board at the suggested recessed meeting.

Council Member L. Lowman made a motion to table both topics concerning the old Hildebran High School building to a recessed meeting to be scheduled on Friday, April 28, 2017 at 5:00 p.m. in the Council's Chamber. All voted in favor.

NEW BUSINESS:

CONSIDER  
PROCLAMATION FOR  
MENTAL HEALTH  
AWARENESS MONTH

The Town has been asked by Partners Behavioral Health Management to approve a proclamation designating May as Mental Health Awareness Month. Lisa Schell was in attendance. Council Member B. Lowman made a motion to accept the proclamation. All voted in favor. A copy of the proclamation is hereby incorporated by reference and made a part of these minutes (Attachment A).

CONSIDER  
ORDINANCES FOR  
TEMPORARY ROAD  
CLOSURES FOR CRUISE  
INS, OKTOBERFEST  
AND CHRISTMAS  
PARADE

Mayor Cook stated that the NCDOT requires Council to approve an ordinance to temporary close NCDOT roads for Town events. Several ordinances were presented to the Board for approval. It was clarified that the NCDOT has already approved the closures and copies of the approved ordinances will be sent to them. Council Member B. Lowman made a motion to approve the ordinances for temporary NCDOT road closures for the cruise ins, Ocktoberfest and the Christmas parade in 2017. All voted in favor. Copies of the ordinances are hereby incorporated by reference and made a part of these minutes (Attachment B, C, D, E, F, G, and H).

CONSIDER  
RESOLUTION TO LEASE  
A FLATBED TRAILER  
TO BE USED AS A  
STAGE

Mayor Cook stated that a flatbed trailer to be used for a stage for the cruise ins will be borrowed from Dana Burns. Mr. Burns asked for the trailer to be insured by the Town in case of damage or theft. The Town can include the trailer on its insurance for \$30-\$50 and a lease, by resolution, is presented to the Board for approval. Council Member Messer made a motion to approve the lease, by resolution, #04/24/17, beginning May 1, 2017 and ending at midnight on October 31, 2017. All voted in favor. A copy of the resolution is hereby incorporated by reference and made a part of these minutes (Attachment I).

CONSIDER EXTERIOR  
TOWN LOGO  
PROPOSALS FOR NEW  
TOWN HALL

Ms. Brawley presented three logos for consideration by the Board. She explained that the purpose of the logos is to develop a brand for the Town hoping to attract younger people. The logo would be placed on the new Town Hall, letterhead, stationary, and the Town vehicle. She explained the meaning of each logo. It was the consensus to use "Hildebran, NC." Council Member L. Lowman made a motion to have Ms. Brawley get feedback from the community and to table this topic until the next regular meeting. All voted in favor. Ms. Brawley will post on the Town's social media.

CONSIDER AWARD OF  
NETWORK EQUIPMENT  
PURCHASE AND  
INSTALLATION

Mr. Drum stated that he solicited a bid from B&L Telephone for putting a brand new system and wiring in the new Town Hall, which is already included in the budget. He stated that there was discussion about moving the current system to the new building, but the logic to leave it at the current space is to accommodate

CONTRACT FOR NEW  
TOWN HALL

any new renter in that space. Council Member L. Lowman opined that the pricing in the bid for labor was excessively high and had questions and concerns about the wiring. He also felt that the current equipment was only a few years old and felt it was better to move the equipment to the new building which would provide about an \$8,000 savings. If the Sheriff's Department decides to rent the space, the current system is not secure and they would not be able to use it. The current wiring will remain. He stated that the wiring should not be run during construction in order to prevent debris from getting on the wires. He stated that he would provide Mr. Drum with additional vendors to contact for additional bids. Council Member L. Lowman made a motion to table this topic until the next regular meeting. All voted in favor.

CONSIDER CHANGE  
ORDER FOR  
INSULATION AT NEW  
TOWN HALL

Mr. Drum stated that during renovation of the bank building, it was discovered that there was no insulation in the walls or ceiling. The architect had the contractor price out foam insulation. To blow foam in the walls, the price is \$4,746. The price to blow foam in the ceiling is \$11,705. The architect informed Tom that he felt the foam in the ceiling could wait until the roof is replaced in the future. The architect recommended the foam insulation in the wall due to the humidity and moisture that would occur if there was no insulation.

Mr. Drum reported that there was another change order of \$867 for carpet. The carpet that was chosen is the same carpet that is in the WPCOG building. To help compensate the additional carpet cost, a less expensive molding was chosen, saving \$250. Mr. Drum pointed out that these two change orders, including the previously approved asbestos removal change order, has used all of the contingency.

Council Member Banks made a motion to approve the change orders in the amount of \$867 for carpet, and \$4,746 for foam insulation in the walls. All voted in favor.

CONSIDER REQUEST  
FROM JAMIE CANIPE'S  
ATTORNEY, DATED  
APRIL 13, 2017

Mr. Drum reported that the Town received a formal demand letter from Jamie Canipe's attorney. The original contract price for Mr. Canipe to demolish the old Hildebran High School building was \$90,000. The contract terms were that \$45,000 was to be paid upfront, and the remaining \$45,000 was to be paid upon completion of the project. The lawsuit and fire took place after the contract was signed and Mr. Canipe was unable to complete the project. The Town paid Mr. Canipe \$45,000 upfront. The letter states that Mr. Canipe feels he is owed the remaining \$45,000.

Mr. Drum also reported that Mr. Canipe paid \$1,804 for an asbestos inspection. The contract states that the Contractor shall obtain an asbestos inspection, which is part of the contract, in Mr. Drum's opinion. Mr. Drum stated that the Town has paid Mr. Canipe \$45,000 and it was his contention that Mr. Canipe did not perform \$45,000 worth of work and he did not feel that the Town owed Mr. Canipe the remaining \$45,000. Mr. Drum also reported that the demolition and asbestos abatement bids, which were presented to the Board tonight, referenced the asbestos inspection that Mr. Canipe paid for. Mr. Canipe feels that the use or reference of this survey in the bid documents was not allowed since he paid for the survey. Mr. Drum felt that the survey was public record. The Town could rebid the project not referencing the survey. Mr. Drum stated that he has made the Town's insurance aware of this demand letter.

Attorney Dill stated that he reviewed the letter from Mr. Canipe's attorney and the letter is asking for the remaining \$45,000, which he feels Mr. Canipe is not entitled to since the project was not completed. The letter also demands the salvage value of what was lost due to the fire. Attorney Dill stated that the salvage value was dimensioned by the fire, an act of God that was no fault of the Town, and that the Town was not responsible for making up a price for something that was never established. Attorney Dill also stated that the contract clearly states that the Contractor is responsible for providing an asbestos inspection and he believes the Town has already paid for that in the first \$45,000 payment. He recommended that all requests from Mr. Canipe be denied.

It was unclear if Mr. Canipe had his own insurance on the building. He has repeatedly requested payment from the Town's insurance. Those requests have been denied.

Council Member York made a motion to deny all requests from Mr. Canipe, as referenced in his attorney's letter dated April 13, 2017. Council Member B. Lowman asked if he was entitled to all of the \$45,000 payment, since he did not perform \$45,000 worth of work. Attorney Dill explained quantum meruit. When there is a contract, and the contractor starts the job but the job is not finished, the contractor is entitled to the reasonable value of his services. The only way to evaluate Mr. Canipe's service is to determine what he spent, what is reasonable to spend, and what he is entitled to get back. Attorney Dill stated that he does not have a way, at this point, to tell the Board that amount. All voted in favor of the motion.

CONSIDER  
RESOLUTION OF  
INTENT TO CONSIDER  
AN ORDINANCE THAT  
WOULD CHANGE THE  
FORM OF  
GOVERNMENT

Mr. Drum stated that he had heard discussions asking what it would take to change the form of government for the Town from Mayor-Council to Council-Manager. The process is to adopt a resolution of intent, set up a public hearing, and then consider adopting the ordinance. The main difference between the two forms is the designation of who has the statutory authority to hire and fire employees. Most towns are under the Council-Manager form of government. It was pointed out that other small towns in the area have adopted this form. Council Member Banks made a motion to adopt the resolution of intent, #04-24-17A, to consider an ordinance amending the charter of the Town of Hildebran to adopt the Council-Manager form of government and to set the date for a public hearing at 202 S. Center St., Hildebran, N.C., in the Council's Chamber, at 6:45 p.m. on Monday, May 22, 2017. Council Members Banks, B. Lowman, L. Lowman and Messer voted in favor of the motion. Council Member York was opposed. The motion carried. A copy of the resolution is hereby incorporated by reference and made a part of these minutes (Attachment J).

Council Member B. Lowman made a motion to call a special meeting at 202 S. Center St., Hildebran, N.C., in the Council's Chamber, at 6:45 p.m. on Monday, May 22, 2017 for the purpose of holding a public hearing concerning a proposed ordinance amending the charter of the Town of Hildebran to adopt the Council-Manager form of government. Council Members Banks, B. Lowman, L. Lowman and Messer voted in favor of the motion. Council Member York was opposed. The motion carried.

FACILITES REPORT

Mayor Cook read the facilities report. Mr. Drum reported that the final price to fill in the hole behind Town Hall was \$4,400, a savings of \$2,300. The project was submitted to insurance since the damage resulted from the heavy equipment used during the fire.

MARCH TAX REPORT

Tax Collector Sanders reviewed the March tax report. Ms. Sanders requested approval of a \$125.69 refund for the property located at 101 10<sup>th</sup> St, N.E. due to duplicate payments received on the same day. She requested to accept the check from Core Logic and refund the citizen his payment. Council Member L. Lowman made a motion to approve a refund of \$125.69 to the property owner. All voted in favor. A copy of the report is hereby incorporated by reference and made a part of these minutes (Attachment K).

MARCH DEPUTY  
REPORT

The March deputy report was provided to Council for review.

COMMITTEE REPORTS  
& UPDATES

Transportation Advisory Committee (COG) – Mayor Cook reported that the State has put traffic counters around Town.

WPCOG Policy Board – Council Member B. Lowman reported that the Burke County Quality of Life Explorer mapping application can be used with the online GIS website. NCWorks Career Center was discussed to help people become employed. The budget was reviewed and there were changes made due to cuts made by the President. The WPCOG purchased 4.4 acres of property, beside its existing site, for future use.

Burke Economic Development Representative – Mayor Cook stated that the 5-year comprehensive economic community development initiative was discussed.

Recreation and Tourism Committee – Council Member York reported that the roof at the fieldhouse is leaking.

Water Resource Committee – Ms. Schotte had no report.

VEDIC – Mayor Cook had no report.

OTHER BUSINESS

None at this time.

ANNOUNCEMENTS

None at this time.

PUBLIC COMMENTS

Harold Greenhill thanked Mr. Drum for acquiring numbers from structural engineers to save the tower and breezeway. He requested the Town to contact its insurance company for reimbursement of repairs to both structures that resulted from the fire. He also requested to be present if future meetings with engineers are held.

Barry Hildebrand provided remarks in response to comments made by Council Member L. Lowman at the last meeting. He requested that Council give the community information and listen to its wishes.

Cole Herrell requested that trees at the entrance of Shepherd Court be trimmed so that two cars can pass.

CLOSED SESSION

Council Member Messer made a motion at 8:20 p.m. to recess into closed session pursuant to General Statute 143-318.11 (a)(6) to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual

public officer or employee. Council Members Banks, B. Lowman, L. Lowman and Messer voted in favor. Council Member York was opposed. The motion carried.

Council Member B. Lowman made a motion to return to open session at 9:02 p.m. All voted in favor.

Attorney Dill stated that the Council discussed the position of a town administrator/manager and, specifically, discussed Mr. Drum, the Town's part-time administrator, and whether or not to convert the part-time administrator into a full-time position and extend that offer to Mr. Drum. The Board expressed interest and wanted to review it further. Attorney Dill suggested that the Board table this topic until the recessed meeting.

Council Member L. Lowman made a motion to table this topic until the recessed meeting on Friday, April 28, 2017 at 5:00 p.m. located at 202 S. Center St., Hildebran in the Council's Chamber. All voted in favor.

RECESS

Council Member Banks made a motion, at 9:05 p.m., to recess the meeting until Friday, April 28, 2017 at 5:00 p.m. to be held in the Council's Chamber located at 202 S. Center St., Hildebran. All voted in favor.

I attest these are the approved minutes of the Board.

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Alice Sanders, Town Clerk

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Virginia Cook, Mayor