

**TOWN OF HILDEBRAN
COUNCIL'S CHAMBER
ALBERT PARKHURST
MUNICIPAL COMPLEX**

**JULY 23, 2018
7:00 PM**

**REGULAR MEETING
MINUTES**

CALL TO ORDER	Mayor Hildebrand called the regular meeting of the Town Council to order at 7:00 p.m.
INVOCATION	A moment of silence was observed.
PLEDGE OF ALLEGIANCE	Council Member Herrell led the pledge of allegiance to the United States flag.
COUNCIL PRESENT	The following members of the Board were present: Mayor Wendell Hildebrand and Council Members Cole Herrell, Ben Honeycutt, Theresa Messer, Mike Smith and Jody York.
STAFF PRESENT	The following staff members were present: Attorney Redmond Dill, Town Manager Thomas Drum, Town Clerk Alice Sanders, Finance Officer Fredrick Rankins and Town Planner Becca Bleich.
CITIZENS & MEDIA PRESENT	See attached sheet.
APPROVAL OF AGENDA	Council Member York made a motion to approve the agenda. All voted in favor.
APPROVAL OF MINUTES	Clerk Sanders stated that the word "foot" needed to be added to the fifth line of the last paragraph on page 2 of the June 25, 2018 regular meeting minutes. Council Member Herrell made a motion to approve the June 25, 2018 regular meeting minutes, as amended. All voted in favor.
PUBLIC COMMENTS	Brian Martin, Beverly Nichols, Bettina Martin, Betty Martin and Diane Speigle all spoke about the forthcoming nuisance hearing regarding the property owned by Betty Martin.
OLD BUSINESS: DISCUSSION REGARDING SUPERVISION OF OPEN GYM ON SUNDAYS	At the June 25, 2018 regular meeting, Council approved an open gym for four hours on Sundays, with no cost to citizens, with supervision provided by Tim Limbo. Mr. Drum stated that when contacted by staff, Mr. Limbo was not in agreement to supervise a weekly open gym. Council directed staff to advertise for volunteers to supervise an open gym for four hours on the first Sunday

of each month from 1:00 p.m. to 5:00 p.m. It was suggested that two hours be offered for children less than 18 years old and two hours for adults that are 18 and over. Council will decide more details once the results of the solicitation of volunteers is reviewed.

**DISCUSSION OF LEASE
RENT FOR HHDA**

Council Member Herrell requested to address Council regarding the vote at the June 25, 2018 meeting to reduce Hildebran Heritage and Development Association's (HHDA) rent from the previously agreed upon rate of \$3,097 to \$1,800 for the property located in the basement of the auditorium. He addressed Council from the podium in the audience.

Council Member Herrell stated that he likes what HHDA does for the Town and stated that his comments are from a business perspective and is not personal. HHDA's mission is to preserve community heritage and promote future development. One of the ways HHDA preserves heritage is by maintaining the museum. Council Member Herrell stated that he had spoken to Johnny Childers from HHDA and after discussions, HHDA has decided to staff and open the museum during the hours of the farmers' market.

Council Member Herrell stated that he understands that one of the reasons other Council members wanted to reduce the rental rate for HHDA was due to actions taken from a previous Council. He stated that the current Council cannot let past, hurt feelings affect what it does now. The Council should govern from the head, not the heart. He stated that the reason he wanted to discuss HHDA's lease rent was because he felt that the Council set a precedent that should not have happened. He stated that he felt some members of the Council acted emotionally and in the heat of the moment, based off of hurt feelings. He stated that this was the third time Council had discussed rent for HHDA, after previously voting three to two at the April budget workshop to reduce the rent by one third (from \$1.50 per square foot to \$1.00 per square foot). He stated that he felt that the Council had bad information at the last meeting that allowed the Council to vote in a rushed manner. He stated that he wished to revote on the matter.

Council Member Herrell reviewed the history of HHDA's rental fees over the past few years. He stated that he understood that some people felt the increased rent from the previous Council was done out of spite due to the

lawsuit against the Town; however, he felt that if any progress was to be made, the problem has to be addressed in order to move forward. He stated that he felt that the action taken at the June meeting to reduce the rent was looking behind.

Council Member Herrell also discussed utility costs associated with the auditorium and pointed out that \$1,800 in rental fees for HHDA would mean that the Town is operating at a loss because utilities are higher than rent received. He stated that HHDA and the Town should be working in tandem with each other and that a nonprofit should support the Town, not be propped up by the Town. He stated that there should be a compromise. He also pointed out that East Burke Christian Ministries pays their own utilities and mows and maintains its own yard. He recommended to go back to the previously agreed upon rent of \$3,097 and to require that HHDA staff the museum a minimum of four hours a week.

Council Member Honeycutt stated that he would like to wait to take any action until HHDA Board members could be in attendance to address questions.

Council Member York stated that she would like for topics that the Board has already voted on to not be put back on the agenda for discussion. Council Member Herrell agreed and pointed out that the rental fee for HHDA had already been voted on at the April meeting. He stated that he would also like for the Board to follow the agenda and not bring things up that are not on the agenda so that all Board members and staff can be prepared, as well as the public, who may want to speak during the public comment section of the meeting.

Council Member Smith stated that he brought up the issue to reduce HHDA's rent at the June meeting because some citizens were not happy about the rate, as well as the fact that the rent was raised tremendously in the past, and he did not feel that was appropriate.

After further discussion about the rent for HHDA, Council Member Honeycutt made a motion to postpone the consideration of HHDA lease rent to the August 27th meeting. All voted in favor. It was decided to ask Johnny Childers and Rex Lail from HHDA to be in attendance at the August meeting to address any questions from the Board.

NEW BUSINESS:
NUISANCE HEARING-
BETTY MARTIN

Town Planner Bleich reported to Council that Betty Martin has been brought to the Council for a nuisance hearing because of the presence of rubbish (pallets) and junked vehicles on her property. Despite multiple communications from the Town outlining why these need to be removed, nothing has been done. Ms. Bleich reviewed the Town Code of Ordinances that defines a junked vehicle and rubbish as well as the prohibition of the same.

Ms. Bleich explained that she had received a complaint in January 2018 about a pallet repurposing business on the property and that the business was noisy and creating an environment that was attractive to rodents and vermin. In addition, there was a concern about the junked vehicles leaking hazardous fluids.

Ms. Bleich stated that on February 20, 2018, a meeting was held between her, Betty Martin and her two daughters. Ms. Bleich stated that Mrs. Martin specifically stated that she wanted her property cleaned up. It was agreed that all pallets and junked vehicles would be removed OR a shed to store the pallets would be constructed and all junked vehicles but one (which would be kept out of sight of the road) would be removed by April 15, 2018. A letter explaining this agreement was mailed to Mrs. Martin and her son Brian Martin.

On June 18, 2018, Mrs. Martin's son, Brian Martin, left a voicemail for Ms. Bleich, which Ms. Bleich played for the Board. She addressed his concerns stating that a citizen does not agree to be zoned a certain way; they are zoned based on the location of their property. Another issue Mr. Martin brought up was that his pallets and junked cars should be grandfathered in since they were there before the Town's Zoning Ordinance. Ms. Bleich stated that being grandfathered in does not apply to the Nuisance Ordinance.

Ms. Bleich stated that when she discovered that the violations had not been abated, she began sending letters, per the Nuisance Ordinance of the Code of Ordinances. Pictures of the property (dated June 25, 2018 and July 11, 2018) and all letters sent to Mrs. Martin and Brian Martin were attached to the documentation provided to Council. Ms. Bleich's recommendation was that the Town pay to have the nuisance abated and to bill the property owner. If

the fee is not paid, the Town should put a lien on the property.

Council Member Herrell asked if the vehicles on the property were tagged. Ms. Bleich stated that she could not tell from the road. Beverly Nichols, Betty Martin's daughter, stated that two vehicles were untagged and the rest were tagged. She also stated that most of the vehicles are mobile, but are being used for parts.

Ms. Bleich stated that at the February 2018 meeting, the Martins were given all applicable sections of the Zoning Ordinance and the Code of Ordinances to which Bettina Martin, Betty Martin's daughter, disagreed. Bettina Martin asked for copies of the Zoning Ordinance. It was confirmed that the Zoning Ordinance is on the Town's website.

Council Member Herrell asked Betty Martin if this was her property. Mrs. Martin stated that it was her property and that she could not get her son, Brian Martin, to move anything. She stated that she has tried to get him to do that for years and has not been able to. Council Member Herrell asked Mrs. Martin if she wanted her property cleaned up and she stated that yes, she did want her property cleaned up.

Council Member Herrell asked Betty Martin if she felt the current Board had sent these nuisance letters to her due to any past actions of prior Boards. Mrs. Martin stated that she did not think that. She reiterated that she has been trying to get her son, Brian Martin, to move those things for years and he has not done it. Council Member Herrell stated that he felt the property owner's wishes should be taken into consideration.

Beverly Nichols stated that they did not come to the agreement that is written in the letter and stated that Ms. Bleich came to that agreement on her own. Attorney Dill replied to both of Betty Martin's daughters informing them that since they were not the property owner, they were in no position to come to any agreement with the Town.

Council Member Herrell stated that he felt that both parties came to an agreement that something needed to be done and he did not feel that Ms. Bleich would fabricate an agreement. He stated that he wanted to abide by Betty Martin's wishes as the property owner.

Council Member Herrell made a motion to allow Betty Martin 60 days from today, July 23, 2018, to abate the pallets and junked vehicles, aside from the parts vehicle, from the property. If the aforementioned property is not abated after 60 days, the Town will abate the pallets and vehicles, aside from the parts vehicle, and bill the property owner the fee. If anyone tries to prevent the Town from abating the aforementioned property, he/she will be arrested for violating the law. All voted in favor.

NUISANCE HEARING-
RICKY TONEY

Town Planner Bleich reported to Council that Lowman's Motor Court has been brought to Council for a nuisance hearing because of the presence of a camper and horse trailer on the property. Despite multiple communications from the Town outlining why these need to be removed, nothing has been done. Ms. Bleich stated that the Town of Hildebran Zoning Ordinance does not allow campers, only manufactured homes. Manufactured homes can only be placed in the Mobile Home Overlay within the R-10 zoning designation. A citizen may have a camper on their personal property as long as it is not hooked up to utilities. However, a camper is not allowed on commercial property.

Ms. Bleich reported that Ricky Toney says that the camper is being used for storage but there is cause to believe that statement is false. The slide-out is open and a porch has been constructed on the front. Ms. Bleich stated that even if it is being used for storage, it still is not allowed on the property.

Ms. Bleich reviewed Section 10.2 B of the Zoning Ordinance. Ms. Bleich stated that the presence of the camper and horse trailer are also violations of the Town of Hildebran Code of Ordinances, citing Section 3.1 B as "any matter or object that is worthless, useless or of no substantial, practical value or matter that is of value only when it has been decayed or recycled." Ms. Bleich stated that these vehicles serve no purpose related to the business, making them useless and of no practical value. Pictures, dated July 11, 2018, of the camper and horse trailer and a copy of all letters sent to Ricky Toney were presented to Council.

Ms. Bleich's recommendation was that the Town pay to have the nuisance abated and to bill the property owner. If the fee is not paid, the Town should put a lien on the property.

Ricky Toney asked for a continuance. He also stated that he never received a copy of the Town's Zoning Ordinance. Ms. Bleich stated that she had emailed the applicable ordinances to Mr. Toney. Mr. Toney stated that he never received the email.

Mayor Hildebrand asked Mr. Toney if he had any evidence to present to the Council to dispute Ms. Bleich's statements. Mr. Toney stated that the camper and horse trailer are still on the property and asked where he was supposed to park his vehicles. Attorney Dill stated that the location of his property was zoned commercial.

Council Member Herrell asked whose name the equipment was registered to and Ms. Bleich stated that she did not know.

Council Member Honeycutt asked if Mr. Toney agreed to move the camper and horse trailer. He stated that "they" agreed to move the camper and trailer to the back of the building. He stated that if he moved them to the back, thieves would break in. He stated that they have already been broken into three times where they are currently sitting.

Council Member Herrell stated that he felt Ms. Bleich neither fabricated an agreement nor failed to send out the applicable ordinances.

Council Member York stated that she felt the Council should support the Town's ordinances. It was clarified that all zoning ordinances are on the Town's website or anyone can contact Town Hall and get a copy.

Council Member Herrell asked if the property can be seen from the road and Ms. Bleich confirmed that they can.

Ms. Bleich stated that she did not take copies of the Town's ordinances with her when she and Deputy Towery initially met with Mr. Toney, but there were printed copies of the applicable ordinances sent to him.

Council Member Honeycutt asked Mr. Toney if he had plans to remove the camper and trailer and Mr. Toney stated that he had not decided yet and that he was waiting on a copy of the ordinance.

Council asked what immediate action would need to take place. Ms. Bleich stated that when she comes in on Wednesday, July 25, 2018, she would contact a tow truck to come pick them up and the bill would be presented to Mr. Toney. Mr. Drum stated that if the equipment is towed, they will have to be towed to a storage facility and the storage fees will be billed to the Town. The towing fee and storage fees would then be presented as a lien on the equipment.

Council Member Honeycutt made a motion to allow Ricky Toney twenty (20) days to abate the camper and horse trailer; provided, that Mr. Toney comes to Town Hall on Tuesday, July 24, 2018 to pick up and sign for a copy of the Zoning Ordinance and the Nuisance and Junked Motor Vehicle Ordinance. If Mr. Toney does not pick up and sign for a copy of these ordinances, the Town will immediately abate the nuisance and bill Mr. Toney for the towing expense and storage expenses. If Mr. Toney does not abate said nuisances within twenty (20) days of July 24, 2018, the Town will abate the nuisances and bill Mr. Toney for the towing expense and storage costs. If these fees are not paid, the Town will place a lien on the property. All voted in favor.

The owner of Lowman's Motel stated that there was no way to get rid of the drug problem in the Country. He stated that he had a night watchman for ten years and it did not help. If he got rid of one druggie, another one came in the next day. He stated that he cannot control people and that nobody can stop the drugs.

**CONSIDER AWARD OF
PAVING CONTRACT**

Bids were solicited by West Consultants for the 2018 Street Improvements Project, with work to be completed by May 2019. The results were presented to Council for consideration. The lowest responsive and responsible bid was submitted by Carolina Paving of Hickory, Inc. in Hickory, N.C. in the amount of \$276,400, based on the unit prices submitted and based on the estimated quantities. West Consultants recommended awarding the contract to Carolina Paving of Hickory, Inc., in Hickory, N.C. Council Member Herrell made a motion to approve the contract for the 2018 Street Improvements Project with Carolina Paving of Hickory, Inc., in Hickory, N.C. not to exceed \$276,400.00. All voted in favor. The streets include: 5th Street Place, SW; 11th Street, NE; Shepherd Court; Oak Ridge Drive; and 3rd Avenue, NW.

Other bids submitted included: JT Russell and Sons, Inc. in the amount of \$318,050.00 and Evans Construction in the amount of \$394,367.50.

CONSIDER APPROVAL OF BOTH AGREEMENT WITH CELL TOWER CONSULTANT AND PAYMENT OF FEE FOR PREVIOUS CONSULTATION

Mr. Drum stated that in the past, the Town had an agreement with a consultant so as to review proposed cell tower/wireless facility plans. The previous consultant left the state and was replaced by the current company; however, a new agreement was never approved by the Town. In addition, the current consultant, acting in good faith, has already performed a review for the Town at a cost of \$1,000 which was paid by the applicant along with the Town's other application fees. The contract and invoice is presented for consideration.

Council Member Herrell made a motion to approve the agreement with Carolina Telecommunications Services, LLC of Wake Forest, N.C. for consultant services, as presented, and to approve payment of the invoice from Carolina Telecommunications Services, LLC, for review of the tower located at 100 4th Ave, SW, in the amount of \$1,000.00. All voted in favor.

CONSIDER REVISION TO THE ZONING FEE SCHEDULE

Mr. Drum stated that the Zoning Fee Schedule needs to be revised to agree with the consultant fees in the above mentioned Cell Tower Consultant Agreement as well as the prevailing municipal application fees statewide. Council Member Herrell made a motion to approve Revision 1 of the FY 18/19 Zoning Fee Schedule. All voted in favor. A copy of the schedule is hereby incorporated by reference and made a part of these minutes (Attachment A).

DISCUSSION REGARDING PAYOUT TO HHDA FOR CRUISE-IN/FESTIVAL SPONSORSHIP

Mr. Drum stated that HHDA had requested payment for the 2018-2019 Cruise Ins and Festival. The Town issued a check to HHDA for \$3,000 for the July 2018 Cruise In and asked for direction from Council on how to pay out the remaining funds. He stated that \$15,000 was listed as a contribution to HHDA in the budget and that the Town is a co-sponsor of the events.

Mr. Drum stated that it is normal business practice to pay for a service after the service has been provided, not up front. In addition, since the Town is using public funds for a contribution to a nonprofit, the Town should ask for a letter or an audit to account for how the funds are being spent. The statutes require that the funds must be used to

only carry out a public purpose that the Town is authorized by law to engage in.

After discussion, Council Member Messer made a motion to ask for a letter from HHDA with an accounting of how the entire \$15,000 (or \$3,000 per event) is being spent, as well as to approve a \$3,000 payment for each cruise in/festival, to be paid out by the Town no earlier than two weeks prior to each Cruise-In/Festival event. All voted in favor.

TAX SETTLEMENT
REPORT FROM DANNY
ISENHOUR FOR
REGISTERED MOTOR
VEHICLES

Danny Isenhour, Burke County Tax Collector, provided a tax settlement for registered motor vehicles for approval. Council Member Honeycutt made a motion to approve the settlement, as presented. All voted in favor. A copy of the settlement is hereby incorporated by reference and made a part of these minutes (Attachment B).

ORDER FOR THE TAX
COLLECTOR TO COLLECT
TAXES FOR 2018

Council Member York made a motion to approve the Order for the Tax Collector (Danny Isenhour) to Collect Property Taxes and Registered Motor Vehicle Taxes for 2018. All voted in favor. A copy of the order is hereby incorporated by reference and made a part of these minutes (Attachment C).

JUNE TAX REPORT

Tax Collector Sanders reviewed the June tax report. A copy of the report is hereby incorporated by reference and made a part of these minutes (Attachment D).

TAX SETTLEMENT
REPORT FROM TAX
COLLECTOR FOR
PROPERTY TAXES

Alice Sanders, Tax Collector, provided both a tax settlement for the FY 2017/2018 property taxes and the delinquent property taxes for tax years 2004-2016, not including registered motor vehicles, for approval. The overall collection rate for FY 2017/2018 was over 99%. Council Member Herrell made a motion to approve the FY 2017/2018 tax settlement, including the delinquent taxes for tax years 2004-2016. All voted in favor. A copy of the settlement is hereby incorporated by reference and made a part of these minutes (Attachment E).

ORDER FOR THE TAX
COLLECTOR TO COLLECT
TAXES FOR 2017 AND ALL
PRIOR YEARS

Council Member Honeycutt made a motion to approve the Order for the Tax Collector (Alice Sanders) to Collect Property Taxes for 2017 and all Prior Years. All voted in favor. A copy of the order is hereby incorporated by reference and made a part of these minutes (Attachment F).

JUNE DEPUTY REPORT

The June deputy report was provided to Council to review.

COMMITTEE REPORTS

Transportation Advisory Committee (COG) – No report.

WPCOG Policy Board – No report.

Burke Economic Development Representative – No report.

Recreation and Tourism Committee – No report.

Water Resource Committee – No report.

VEDIC – No report.

Library Board – The vacant seat on the library board was filled by Virginia “Jennie” Cook.

OTHER BUSINESS

Mr. Drum reported that the majority of the Town funds have been transferred from First Citizens to BB&T. The remaining funds will be transferred once the outstanding checks clear at First Citizens.

Mr. Drum stated that he had contacted Scott Carpenter at Burke County to discuss Planning Services and Code Enforcement at the request of Council. Mr. Carpenter stated that Burke County did not have enough personnel to provide Planning Services for the Town at this time. Mr. Carpenter stated that a Burke County deputy could provide code enforcement for two hours a week at a cost of \$50 per hour. Mr. Drum stated that he had spoken to Anthony Starr at the WPCOG concerning the existing contract with the Town for code enforcement. Mr. Starr stated that the WPCOG would be providing an estimated eight hours of code enforcement per week for \$50 an hour. Mr. Drum opined that the Town would most likely need code enforcement for more than two hours a week and Council was in agreement. No action was taken.

Finance Officer Rankins provided more detailed information regarding the necessity for Council and the Mayor to complete the NC4 and W4 forms.

Mr. Drum stated that the Town received a letter from N.C. Representative Hugh Blackwell and the Department of Commerce informing the Town that it had been awarded a grant in the amount of \$44,000 for Downtown Revitalization. The monies needed to be used for downtown revitalization/economic development. Council Member Herrell stated that Calvin Reyes and his group

may be able to provide recommendations for an eligible project after they complete their research that they will be providing for the Town. Mr. Drum stated that a contract between the Town and Calvin Reyes' group needs to be executed before any service or payment is rendered.

ANNOUNCEMENTS

None.

ADJOURN

All business being concluded, Council Member Messer made a motion to adjourn at 8:53 p.m. All voted in favor.

I attest these are the approved minutes of the Board.

Alice Sanders, Town Clerk

Wendell Hildebrand, Mayor