

**TOWN OF HILDEBRAN
Council's Chamber
Albert Parkhurst
Municipal Complex**

**JUNE 21, 2021
7:30 PM**

**SPECIAL MEETING
MINUTES**

CALL TO ORDER

Mayor Hildebrand called the special meeting of the Town Council to order at 7:30 p.m.

COUNCIL PRESENT

The following members of the Board were present: Mayor Hildebrand and Council Members Derek Cline, Cole Herrell, Ben Honeycutt, Mike Smith and Terry Weaver.

STAFF PRESENT

The following staff members were present: Town Manager Logan Shook, Town Clerk Alice Sanders, and Finance Officer Fredrick Rankins. Attorney Redmond Dill arrived at 7:57 p.m.

CITIZENS PRESENT

See attached sheet.

ADOPT AGENDA

Council Member Honeycutt made a motion to adopt the agenda. All voted in favor.

**ORDER OF BUSINESS:
CONSIDER APPROVAL OF
SUBMISSION OF A
BUILDING REUSE
APPLICATION FOR
PROJECT HUSKY II AND
AUTHORIZE TOWN
MANAGER TO SIGN AND
EXECUTE ALL GRANT
PAPERWORK**

Town Manager Shook stated that the company requesting the submission of the building reuse grant came to Hildebran in 2019 and successfully completed its first building reuse grant in 15 months and employs 72 employees. He stated that with this next grant, the company plans to spend nearly \$2.8 million to renovate approximately 20,000 square feet of space for more manufacturing area. The company plans to hire 60 new, full-time employees by the end of 2022 with an average annual wage of more than \$44,300. The company will be applying for a \$500,000 grant. The Town would split the cost of a 5% match with Burke County, making the Town's portion \$12,500.

Council Member Herrell made a motion to approve the submission of the building reuse application for Project Husky II and to authorize the Town Manager to sign and execute all grant paperwork on said project. All voted in favor.

**REVIEW PROGRESS ON
TOWER RENOVATIONS**

Town Manager Shook reviewed the progress of the tower renovations to date. He showed pictures and video of the tower to Council Members pointing out specific issues of concern and items that have not been met according to the contract agreement provided to the Town. He also

provided this review to members of the public. He reviewed the following issues:

- A concrete walk was installed without the Board's approval. The Town was notified at 6:07 p.m. after formwork was started. It was finished the following day.
- The concrete walk does not have handrails installed to meet ADA guidelines. (Picture provided)
- Doors inside the tower were not removed according to the contract provided to the Town.
- There are nails protruding out from the walls that were not removed that could cause harm. (Pictures provided)
- The outside portion was left jagged instead of being made flush according to the contract provided to the Town. (Pictures provided)
- All loose brick was to be removed and then re-mortared back into place making it flush according to the contract provided to the Town. Instead, mortar was placed on top of the loose bricks and the mortar has started to crack. (Pictures provided)
- Additional loose bricks were discussed. (Video shown)
- At the base of the tower, loose bricks were laid to break up water but not secured. The loose bricks are a safety hazard and are not secured in the ground to keep them long term. (Video shown)
- There is loose mortar at the metal gated entrance on the side. There were cracks in the mortar and pieces were breaking off. (Video shown)
- Interior plaster was not removed according to the contract provided to the Town. The existing plaster is peeling and flaking off. (Video shown)
- Additional locations of mortar and plaster peeling and falling off were discussed. (Video shown)
- The concrete walk was signed with the architect's and contractor's names permanently traced in the concrete. (Picture provided)

The Board waited until Attorney Dill arrived at 7:57 p.m. before moving forward with the meeting.

Mr. Shook informed Attorney Dill that prior to his arrival, he reviewed the progress of the tower renovation with Council by showing them pictures and video of work performed to date. He stated that he had asked both Icard Architecture and Lail Builders to attend the meeting so that Council may address any issues. He stated that they

had contacted Mayor Hildebrand and asked if they could meet with Council members one on one at the tower and Mr. Shook stated that meeting one on one was not an option. Mayor Hildebrand stated that he felt that it would have been better to have talked personally than to have called a public meeting. Attorney Dill stated that the Town has to abide by the open meetings law, especially after the litigation the Town experienced four to five years ago with allegations that the Town violated the open meetings law. He stated that as Town officials we have certain responsibilities and loyalty to the Town. He stated that the previous litigation stirred up a lot of controversy and he would make absolutely certain it did not happen this time.

Mr. Shook stated that he had reviewed pictures and videos of certain deficiencies between the work and the contract agreement provided to the Town. He stated that he emailed Mackie Johnson with Icard Architecture on June 8, 2021 asking where the project was at in the project timeline. He stated that Mr. Johnson replied that the contractor, Lail Builders, was finished. A copy of the email is hereby incorporated by reference and made a part of these minutes (Attachment A).

Mr. Shook stated that he then emailed Mr. Johnson on June 17, 2021 a list of items that had not been completed according to the contract agreement provided to the Town, detailing what the Town expected and describing what the deficiencies were. He stated that the issues described in the email were as follows:

- Any loose interior plaster was to be removed (not finished)
- Existing door removed and provided to the Town (not finished)
- Existing corbeling projections shall be removed back flush (flat) with outward brick walls from 32" above grade to top of existing walls and all loose brick shall be removed and re-mortared into place (1. corbeling projections not flush/still jagged 2. Loose bricks were not removed and re-mortared but new mortar was placed over the bricks that is now cracking in spots)

A copy of the email is hereby incorporated by reference and made a part of these minutes (Attachment B).

Mr. Shook stated that he asked the architect and contractor to attend this meeting to address the issues but they responded to Mr. Shook that they would not be in

attendance. A copy of the emails are hereby incorporated by reference and made a part of these minutes (Attachment C and D).

Council Member Herrell stated that he looked at the tower after June 8th, when the project was completed according to the architect. He then looked at the tower on June 15th and saw that additional work had been performed since June 8th, after the architect stated that the project was completed. Mr. Shook stated that in his communication to Mr. Johnson on June 8th, he stated that he would speak with Council, speak with the County, review the contract, and then he would report back to Mr. Johnson any deficiencies by the next Wednesday, June 16, 2021. However, before he could do that, as Council Member Herrell pointed out, certain work on the tower had been done. He stated that some of the jagged brick had been removed and some of the nails had been removed before he could send out the letter on the 16th.

Council Member Herrell asked that after more work was done after June 8th, which was when Mr. Johnson stated that the contractor had finished the work, and after Mr. Shook had sent an email with a list of deficiencies on June 17th to Mr. Johnson, had Mr. Shook heard anything back from Mr. Johnson regarding the project or concerning the list of deficiencies in the email. Mr. Shook stated that he had not had any communications with Mr. Johnson after the June 17th email other than Mr. Johnson's email stating that he would not be in attendance at this meeting. Council Member Herrell stated that the purpose of this meeting was to get clarification from the architect and contractor why certain things were not done but neither would agree to attend the meeting. He asked if the only reason they said they did not want to attend the meeting was because they did not want to be in an opening meeting and instead they wanted to talk to Council members individually. Mayor Hildebrand stated that that was what they told him. Mr. Shook stated that he was only aware of the request to meet Council at the site from the Mayor as he was not contacted by the architect or contractor directly for that request.

Mr. Shook stated that since the work has not met the contractual conditions, he has been advised to contact a structural engineer to make sure that the tower is safe and secure as well as to have an architectural review of the architect's work to ensure that the Town has been provided

with the services that it was supposed to have been provided and to ensure that the Town's contract has been upheld.

Council Member Honeycutt asked if we have already had a structural engineer review the tower. Attorney Dill stated that early on Mr. Johnson stated that he would employ a structural engineer but if he has employed a structural engineer, the Town has not received any reports. Mr. Shook stated that the Town would receive a Certificate of Occupancy, a letter from the Architect, the request for payment, and one additional document but the Town has not received all of these documents to date. The Town has not paid any funds to the architect or contractor to date.

Council Member Herrell asked if Mr. Shook had received a report on the Certificate of Occupancy. Mr. Shook stated that he had received that late today. Council Member Herrell asked when the Certificate of Occupancy was issued. Mr. Shook stated that he did not know the exact date, however, the architect informed him that it was issued prior to June 8th. Council Member Herrell wanted to clarify that Mr. Johnson, the Architect, stated to Mr. Shook that the Certificate of Occupancy was issued prior to the completion of work and prior to addressing the ADA issues. Mr. Shook stated that that was correct.

Mr. Shook stated that when he spoke to the Burke County building inspector concerning the Certificate of Occupancy, the building inspector stated that he was told no one would be allowed into the interior of the tower and that there was a padlock when he was onsite. Mr. Shook informed him that that was incorrect and that there would be people inside the lower level of the tower. He explained that the Town assumed the walkway was built, without the Town's proper approval, for handicap access to the inside of the tower. Mr. Shook also informed the building inspector that the Town owned the property and the tower and the Town determined if people will or will not be allowed in the tower, not the contractor or architect. Mr. Shook stated that the building inspector informed him that he would review the Certificate of Occupancy.

Council Member Herrell stated that he wished the contractor and architect were here to help answer questions. He stated that the Town previously asked for the report on the Certificate of Occupancy and was denied.

The Town asked for various forms of paperwork, sometimes multiple times, and was denied. The Town asked to have the architect and the contractor here at this meeting to answer questions that could have been done by email but they chose not to answer those emails and chose to not be here in person and thinks that speaks volumes and it does not smell good at all. He stated that as elected public officials, our greatest loyalty is to the taxpayers of the Town and we should not stand for this.

Council Member Herrell went on to discuss other cosmetic and structural issues with the tower, including the lack of any bracing. Mr. Shook stated that he had contacted the engineering firm that reviewed the tower in the past and was told that a letter was provided stating that the tower was structurally sound. He asked for a copy of the letter multiple times and the engineer is unable to produce the letter.

Council Member Cline had issues with the mortar, drainage flow, lack of support at the part that burned and the walkway. He also had concerns that people may be hurt during the Cruise In this weekend and wanted the area secured.

Further discussions regarding safety of the tower, budget of the project, and the two bids received for the project occurred.

Attorney Dill provided advice to the Town to secure the building, issue a cease and desist letter, contact the building inspector regarding the issuance of the Certificate of Occupancy, contract with a structural engineer to provide a structural review and architectural review, contact our insurance company and contact the PARTF grant administrator.

Council Member Herrell made a motion to 1. Secure the tower as soon as possible so no one can enter the tower. 2. Issue a cease and desist letter to the architect and contractor to stop work and not to enter the property. 3. Contact the Burke County building inspector and find out how the Certificate of Completion was issued prior to completion and if it was issued to the Town or the contractor. 4. Contact the Town's insurance company and determine if the Town is covered based on the current condition of the tower. 5. Contract with a structural engineer to determine if the tower is structurally safe and

to provide an architectural review to determine that the project was completed as the contract was written.

Further discussions occurred regarding the construction work, safety of the tower, the walkway, Certificate of Occupancy, PARTF grant requirements in regards to the tower, etc.

Council Member Herrell made a motion to call the question to end discussion and to vote on the motion. All voted in favor.

Mayor Hildebrand called for a vote on the aforementioned motion by Council Member Herrell. Council Member Weaver seconded the motion. All voted in favor.

ADJOURN

All business being concluded, Council Member Honeycutt made a motion to adjourn at 8:35 p.m. All voted in favor.

I attest these are the approved minutes of the Board.

Alice Sanders, Town Clerk

Wendell Hildebrand, Mayor