

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

**SEPTEMBER 18, 2018
6:30 PM**

**SPECIAL MEETING
MINUTES**

CALL TO ORDER

Mayor Hildebrand called the special meeting of the Town Council to order at 6:30 p.m.

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 and Finance Officer Rick Rankins.

CITIZENS PRESENT

See attached sheet.

APPROVAL OF AGENDA

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

**ORDER OF BUSINESS:
CONSIDER HOW THE N.C.
DEPARTMENT OF
COMMERCE \$44,000
GRANT MONEY WILL BE
SPENT FOR DOWNTOWN
REVITALIZATION AND
ECONOMIC
DEVELOPMENT**

Mr. Drum reported that the Council had asked him to research if the Town could use the \$44,000 grant money awarded to the Town from the N.C. Department of Commerce (NCDC) for the proposed Cline Mill building improvements in order to rent out space(s) for tenants (manufacturing/retail arts/crafts). He stated that he reviewed both the relevant N.C. General Statute pertaining to economic development, 158-7.1, and the relevant case law ("Maready v. City of Winston-Salem") and had discussions with Tyler Mulligan, an expert in economic development law at the UNC School of Government, and Melody Adams, the Director of the Rural Grant Program. Mr. Drum stated that it was the consensus of all the above-mentioned individuals that the proposed Cline Mill building project would probably have difficulty passing the test created by "Maready," if challenged in court. Mr. Drum explained that although G.S. 158-7.1 allows the Town to allocate public funds to a private business for economic development, the Town must receive at least two things for consideration, both to be guaranteed in an agreement. The first is a guarantee of new jobs. The second is an increased property tax value that increases future tax revenues so that the owner of the building would ultimately pay back the grant money via increased tax payments over the next seven to ten years. Mr. Drum emphasized that the N.C. Supreme Court, in "Maready,"

was very clear about what the Town had to receive for “consideration” in exchange for the \$44,000 cash grant for building improvements at the mill. The issue here is that multiple parties are involved. Funds would be given to the mill owner for improvements, but the proposed retail tenants leasing sections of the mill would actually be the parties that would have to guarantee the jobs. In addition, the property owner would have to guarantee that enough additional improvements would be performed at the mill so that the property would generate an increase in tax revenues over the next ten (10) years to pay back the \$44,000 cash grant, which may be difficult due to the Town’s current low tax rate and both the present condition and low assessed value of the mill. In both cases, it is difficult to obtain those types of binding contracts in this type of arrangement so that a “net public benefit” is derived from use of public funds at a private facility. In addition, after reviewing property tax maps, it was discovered that a portion of the building and parking lot were on the railroad right-of-way which may make it hard to show that a clear title exists for the mill owner. Although this may be resolved, there is no clear-cut answers at this time.

Mr. Drum also spoke to Mr. Mulligan and Ms. Adams about using the grant money for a project at the old school building site, in particular, a permanent stage area for concerts, a permanent cover for a farmer’s market, and memorial areas, etc. Both agreed that these projects would qualify for the grant money, especially since they would be constructed on municipal property.

Council Member Herrell stated that the Cline Mill building project would also include a visitor’s center, which would serve as a public purpose and asked for Calvin Reyes to address the Board. Mr. Reyes stated that the project would include retail space and a visitor’s center via a public-private partnership. He stated that Catawba County is voting to build a state park along Henry Fork and this project could bring around 800,000 visitors to this area each year, including the Henry River Mill area for water activities. He stated that the building owner, James Maynard, and the retail business owners would not be opposed to signing a contract guaranteeing new jobs. He stated that if the project was approved, they would look at working with non-profits to build the visitor’s center. Mr. Reyes stated that the first tenants (a woodworking business) expressed that they could create ten jobs within three years.

Council discussed other options that included buying the Cline Mill building and renovating to sell or rent, loaning money to the owner of the Cline Mill building, applying for a building reuse grant for the building, and buying the strip mall across the street on HWY 70 to renovate and sell, with no consensus from the Board.

Attorney Dill and Mr. Drum reiterated that if the Board moves forward with the Cline Mill building improvements, there will be risks that the desired outcome could fail by not creating the required new jobs and increased tax revenue. The potential for lawsuits exists, and this type of arrangement was not on strong legal footing when tested against the requirements of the "Maready" decision. In the event the Board proceeded, Attorney Dill advised that all payments to the owner should be based on reimbursement requests substantiated by paid receipts. Mr. Drum recommended that the Town have an agreement with both the owner and the tenants agreeing that if the aforementioned requirements are not met, they will reimburse the \$44,000 to the Town.

Council asked for more information about the number of jobs that need to be created and the salary. Mr. Drum was not sure about the number, but stated that the jobs should pay at, or above, the median average wage in Burke County; BDI might be the best resource to obtain that number. Council Member Herrell stated that he would contact Alan Wood at BDI for more information.

It was the consensus of the Board to continue with its plan for Mr. Reyes to complete the NCDC grant application for the Cline Mill building project, as originally discussed at the August 27, 2018 regular meeting, with notation that both the property owner and retail tenants would guarantee additional jobs and tax value to the Town; same will be considered for approval at the September 24, 2018 regular meeting.

ADJOURN

All business being concluded, Council Member Herrell made a motion to adjourn at 7:30 p.m. All voted in favor.

I attest these are the approved minutes of the Board.

Alice Sanders, Town Clerk

Wendell Hildebrand, Mayor