

Morton County Commission Meeting Agenda

October 8, 2015

Commission Room, Morton County Courthouse

210 2nd Ave NW, Mandan ND

5:30 PM

Call to order

Roll Call

Approval of Agenda

Approval of minutes of previous meetings

Approve monthly bills and payroll – Commissioner Boehm

1. Wendy Bent/County HR Director
2. Tom Doering/County Emergency Manager
 - Ordinance Enactment – consider enacting a county ordinance under home rule charter prohibiting the possession and use of luminary fireworks
3. Kyle Kirchmeier/County Sheriff
 - Out of state travel - training
4. Natalie Pierce/County Planner
 - Variance request on Lot 2 Block 1 Berger Acres Section 33 Township 138N Range 81W.
 - Morton County Land Use Code amendment, Section 5-200, Section 2-110, and Article 12.
 - Morton County Land Use Code amendment Section 5-210, Section 2-110 and Article 12.
 - Request for a motion to recognize Section number 5-190 in place of 5-168 in the record, to identify the section of the code that lists specific use standards for “Telecommunications Facility.”
5. Mike Aubol/County Engineer
6. Dawn Rhone/County Auditor
 - Appointment to School Reorganization Board
 - Abatements for the boards consideration

*ISSUES MAY BE ADDED OR DELETED BY MEETING DAY.

Please note: These are unofficial minutes and are subject to change. They will be approved and become official at the next regularly scheduled meeting.

MORTON COUNTY COMMISSION REGULAR MEETING
September 22, 2015

The Morton County Commission Regular Meeting was called to order on September 22, 2015 at 5:30 PM by Chairman Strinden at the Morton County Courthouse, 210 Second Avenue NW, Mandan, North Dakota. Others present were Commissioners Zachmeier, Boehm, Leingang and Schulz, Auditor Rhone, States Attorney Koppy and Assistant States Attorney Grosinger.

Boehm moved and Schulz seconded to approve the agenda. All voting aye, motion carried.

Schulz moved and Leingang seconded to approve the minutes of the September 10, 2015 meeting. All voting aye, motion carried.

Zachmeier moved and Boehm seconded to approve bills. All voting aye, motion carried.

Schulz moved and Leingang seconded to approve \$15,000 of Morton County Development funds to be awarded to the Morton County Fair Board to be used for installation of electrical pedestals for the campground at the County Fairgrounds. All voting aye, motion carried.

Boehm moved and Leingang seconded to approve cancelling and sending the following uncashed checks to State Unclaimed Property.

Auditor's Warrant #38261 11/13/2013	To	Monte Volk	\$32.91
Treasurer's Checks #12814 3/5/13	To	Malcom Brown	\$10.00
#12835 5/20/13		Gate City Bank	9.00
#12842 6/12/13		Wells Fargo Funding	6.00
#12860 7/17/13		FM Title	21.00

All voting aye, motion carried.

Schulz moved and Boehm seconded to approve the Pledges of Securities as presented by Treasurer Lippert. All voting aye, motion carried.

Boehm moved and Leingang seconded to approve abatement #4765. All voting aye, motion carried.

Schulz moved and Boehm seconded to approve the reduction in 2015 values as presented. All voting aye, motion carried.

Schulz moved and Leingang seconded to implement the recommendation on the break policy as presented in the handbook. All voting aye, motion carried.

Chairman Strinden opened the Public Hearing on Special Assessment District #1588 for Chip Seal of Roadways in Riverview Heights 1st and 2nd Addition, Lots 1 & 2 of Auditor's Lob "B" located in the S1/2, Section 4, T139N, R81W at 6:00PM.

Chairman Strinden closed the Public Hearing at 6:03PM.

Leingang moved and Boehm seconded to approve Special Assessment District #1588 and to authorize the County Engineer to advertise for bids for this project. All voting aye, motion carried.

Boehm moved and Leingang seconded to approve the gravel pit lease with James Helbling, Fred Helbling & Wayne Helbling located in the SE ¼ of Section 2, Township 137N, Range 83W, in the amount of \$2.00 per cubic yard for 2 years. All voting aye, motion carried.

Leingang moved and Boehm seconded to approve the gravel pit lease with James Helbling located in the NW ¼ Section 11, Township 137N, Range 83W in the amount of \$2.00 per cubic yard and a \$500 per year royalty payment for 5 years. All voting aye, motion carried.

Zachmeier moved and Schulz seconded to approve the background check employment policy as presented in the Morton County Handbook pages 35-38. All voting aye, motion carried.

Chairman Strinden opened the Public Hearing on Special Assessment District #1587 for reconstruction of paved roadways in Monte's Rancho's 2nd, 4th & 5th Subdivision at 6:17PM.

Chairman Strinden closed the public hearing at 6:19PM.

Boehm moved and Leingang seconded to approve Special Assessment District #1587 and to authorize the County Engineer to advertise for bids for this project. All voting aye, motion carried.

Schulz moved and Zachmeier seconded to deny the changes to the bereavement policy. All voting aye, motion carried.

Chairman Strinden opened the Public Budget Hearing at 6:30PM.

Chairman Strinden closed the Public Budget Hearing at 6:38PM.

Schulz moved and Zachmeier seconded to approve the Morton County Employee Handbook as presented. All voting aye, motion carried.

Boehm moved and Leingang seconded to approve the liquor license for the 1806 Bar LLC in Fort Rice. All voting aye, motion carried.

Zachmeier moved and Leingang seconded to approve sending a letter to NDHS stating that the additional position in Social Services is needed and that the Commission would have funded this position regardless of SB 2206. All voting aye, motion carried.

Schulz moved and Boehm seconded to approve the final 2016 budget with total expenditures of \$30,771,312. All voting aye, motion carried.

Leingang moved and Boehm seconded to approve maintaining up to 5 positions in the Communications Center. All voting aye, motion carried.

Schulz moved and Zachmeier seconded to send a letter to State Radio requesting 911 dispatching services effective January 1, 2016. All voting aye, motion carried.

Schulz moved and Zachmeier seconded to approve expending up to \$21,975 for tower upgrades to be compatible with State Radio. All voting aye, motion carried.

Zachmeier moved and Leingang seconded to rescind the following motion made earlier in today's meeting:

"Leingang moved and Boehm seconded to approve the gravel pit lease with James Helbling located in the NW ¼ Section 11, Township 137N, Range 83W in the amount of \$2.00 per cubic yard and a \$500 per year royalty payment for 5 years. All voting aye, motion carried."

All voting aye, motion carried.

Boehm moved and Leingang seconded to deny the gravel pit lease with James Helbling located in NW ¼ of Section 11, Township 137N, Range 83W pending some clarification and additional information. All voting aye, motion carried.

Schulz moved and Zachmeier seconded to appoint Chairman Strinden as the Morton County delegate to the State Fair Board. All voting aye, motion carried.

The total of all county funds expended from September 11, 2015 through September 22, 2015, equals \$333,270.43. A detailed list of funds expended by check is available for public inspection anytime during regular business hours at the Morton County Auditor's Office.

Boehm moved and Schulz seconded to adjourn at 8:12 PM. All voting aye, motion carried.

Bruce Strinden, Chairman, Morton County Commission _____

Dawn R Rhone, County Auditor _____

Morton County Commission Meeting

Commission Packet – Consider Enacting a County Ordinance under Home Rule Charter Prohibiting the Possession and Use of Luminary Fireworks

MEETING DATE: 10/08/2015

PREPARATION DATE: 09/29/2015

SUBMITTING DEPARTMENT: Morton County Emergency Management

DEPARTMENT DIRECTOR: Tom Doering

PRESENTER: Tom Doering

SUBJECT: Ordinance Enactment

LUMINARY FIREWORKS (*definition*): A balloon that requires fire underneath to propel the balloon, or an incendiary balloon, or an unmanned free floating device capable of producing an open flame, such as, but not limited to, sky lanterns or celebration lanterns.

STATEMENT/PURPOSE:

Prevent accidental fires caused by luminary fireworks.

BACKGROUND:

On August 26, 2015, Todd Dixon (Vice President, Mandan Refinery) wrote to the Morton County, Burleigh County and Mandan City Commissions:

There exists a significant safety concern regarding the sale and use of luminary fireworks. The floating luminary fireworks result in serious fire and safety risks at the Mandan refinery. Refinery personnel patrol the refinery, and during the July 4th period they have extinguished numerous luminary fireworks. To date, the refinery has been fortunate that these luminaries have not resulted in a major tank fire or other catastrophic event.

The luminary fireworks create a unique hazard due to the uncontrolled flight path, long range travel distance, and by design carrying an open flame. The luminary fireworks have been the ignition source for numerous grass fires in the area over the years and have created a serious hazard to the refinery and our refinery neighbors.

The Tesoro Mandan Refinery intends to begin working with the City and County Emergency Managers to consider potential mitigation measures for this risk, and to propose potential additions to the emergency response plan.

On September 14, 2015, a meeting was called by Morton County Emergency Management to discuss mitigation measures to prevent accidental fires caused by luminary fireworks. In attendance at the meeting were:

Jim Neubauer (City of Mandan)
Ron Day (Mandan Refinery)
Steve Nardello (Mandan Fire Department)
Dennis Bullinger (City of Mandan)
Paul Leingang (City of Mandan)

County Commissioners

Agenda Packet Documentation

Meeting Date: October 8, 2015

Subject: Consider Enacting a County Ordinance under Home Rule Charter Prohibiting the Possession and Use of Luminary Fireworks

Page 2 of 2

Joel Rostberg (Morton County)

Cody Mattson (Morton County)

Tom Doering (Morton County)

Based on discussion during the meeting, the City of Mandan determined it necessary to enact an ordinance which would exclude luminary fireworks from the definition of allowed fireworks permitted between the hours of 12:00 p.m., and 12:00 a.m., on July 2 and 3, from the hours of 12:00 p.m. on July 4 to 2:00 a.m. on July 5 of each year, and from the hours of 5:00 p.m. on December 31 to 1:00 a.m. on January 1.

Also upon subsequent discussion with Lynn Gustin (Mandan Rural Fire Chief), Mr. Gustin believes it necessary for Morton County to enact an ordinance similar to the one proposed by the City of Mandan. The Mandan Refinery is within the Mandan Rural Fire Department's district. Mr Gustin is also concerned that luminary fireworks could cause fires in other parts of Morton County.

In speaking with Commissioner Cody Schulz, under Morton County's Home Rule Charter, there is a mechanism by which county ordinances can be enacted.

It is likely fireworks vendors throughout the area may be in the process of placing their orders for the 2016 Fourth of July period.

Attachment:

"Draft" Mandan City Ordinance No. 1220

Attachment

ORDINANCE NO. 1220

An Ordinance to Amend and Re-enact
Chapter 10-02 of the Code of Ordinances
of the City of Mandan
Relating to Incendiary Balloons and Sky Lanterns

Be it Ordained by the Board of City Commissioners as follows:

Section 10-02-10 Amendments to International Fire Code of the Code of Ordinances of the City of Mandan relating to incendiary balloons and sky lanterns is hereby amended and re-enacted to read as follows:

Section 5601.1.13. *Fireworks.* The possession, manufacture, storage, sale, handling and use of fireworks are prohibited within the city limits.

Exceptions:

c. The use of fireworks for display as permitted in section 5608 is an exception to the prohibition of use of fireworks in the city, provided that the requirements of sections 5601.2.3 and 5601.2.4 are met. The possession, use, discharge, or explosion of fireworks, as defined by N.D.C.C. §23-15-01, not including bottle rockets, or a balloon that requires fire underneath to propel the balloon, or an incendiary balloon, or an unmanned free floating device capable of producing an open flame, such as, but not limited to, sky lanterns or celebration lanterns, is permitted between the hours of 12:00 p.m., and 12:00 a.m. on July 2 and 3, from the hours of 12:00 p.m. on July 4 to 2:00 a.m. on July 5 of each year, and from the hours of 5:00 p.m. on December 31 to 1:00 a.m. on January 1.

A violation of this ordinance is an offense.

By: _____
President, Board of City Commissioners

Attest:

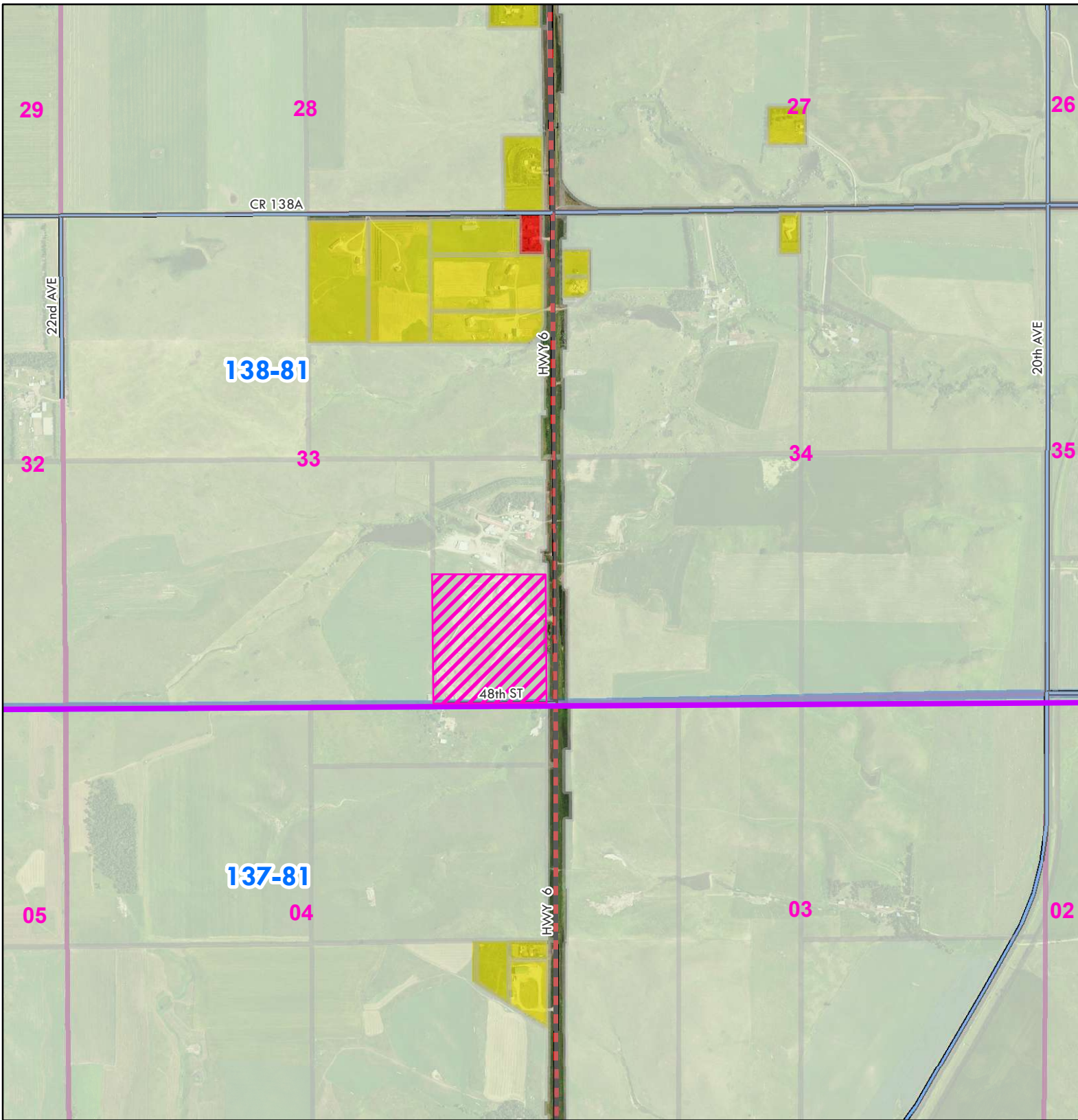
City Administrator

First Consideration: _____
Second Consideration and Final Passage: _____
Publication: _____

P&Z SUMMARY | FOR OCTOBER 8, 2015 COMMISSION MEETING

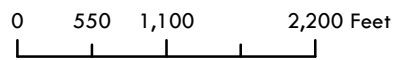
1. Request denial of a variance request on Lot 2 Block 1 of Berger Acres, SW¼ Section 33 Township 138 N Range 81 W, Morton County.
 - a. Summary: Applicant is requesting permission to locate two housing units on one lot within the Agricultural district for the purpose of housing one full-time employee (with family) and one summer-time employee (with family) of Chad Berger Bucking Bulls Inc.
 - b. **P&Z Actions:**
 - i. Recommended denial of the variance request.
 - ii. Referred the matter back to Planning & Zoning staff to consider approval of a temporary use permit which would allow the applicant to store an existing trailer home on his property until the Morton County Planning and Zoning Commission and County Commission would have the opportunity to review, and potentially approve, an amendment to the Morton County Land Use Code regarding specific use standards for temporary farmworker housing.
 - iii. Recommended waiving the \$50 fee for a temporary use permit.
2. Request approval of an amendment to the Morton County Land Use Code through the addition of Section 5-200, the amendment of Section 2-110, and the amendment of Article 12.
 - a. Summary: Section 5-200 provides specific use standards for “Outdoor Storage,” Section 2-110 “Use Table” would be updated with the use “Outdoor Storage”, and Article 12 would be amended with definitions of “Outdoor Storage” and “Outdoor Retail Sales.”
 - b. **P&Z Action:** recommended approval
3. Request approval of an amendment to the Morton County Land Use Code through the addition of Section 5-210, the amendment of Section 2-110 and the amendment of Article 12.
 - a. Summary: Section 5-210 provides specific use standards for long-term vehicle storage, Section 2-110 “use table” would be updated with the use “Long-term Vehicle Storage,” and Article 12 would be amended with the definition of “Long-term Vehicle Storage.”
 - b. **P&Z Action:** recommended approval
4. Request for a motion to recognize Section number 5-190 in place of 5-168 in the record, to identify the section of the code that lists specific use standards for “Telecommunications Facility.”

Berger Variance Request



Zoning

- | | | | | | |
|--|-------------------------|---|--------------------|---|--------------|
|  | Agricultural |  | Limited Commercial |  | Industrial |
|  | Residential |  | Commercial |  | Recreational |
|  | Residential Multifamily | | | | |



Proposed boundaries of site not exact.
For planning purposes only.

August 27, 2015

To whom it may concern:

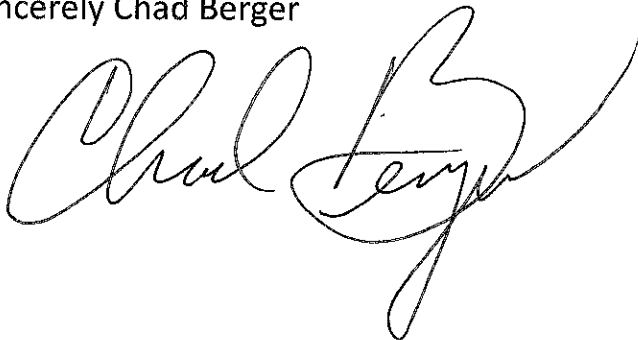
I need to put 2 trailer houses on my property south of Mandan for my employees. 1 is for a full time employee who I need close by to be available at all times, with our unpredictable weather it is a must for the safety and well being of our livestock and bucking bulls which are a huge investment.

The second trailer is for an employee who will be here in the summer only as we winter our bulls in the south. That being said I don't know of anyone that would want to rent a house or an apartment for 3 or 4 months only!

I will take all the precautionary measures for the health and well being of my employees. The trailers will be on a hill west of the feedlot and will have rural water.

Thank you for your consideration, for this to not be approved would be a huge hardship for the functioning and growing of my business.

Sincerely Chad Berger

A handwritten signature in black ink, appearing to read "Chad Berger". The signature is written in a cursive style with a large, looping initial "C" and "B".

Natalie,

Both of the trailer houses are necessary on our property for endless reasons. As a local business owner here in Morton County I pride myself on providing my employees with everything they need in order to live and that includes housing. My employees aren't responsible for finding their own place to live because they cannot find a place to live that is close to our property and will allow them to do their jobs.

We run a 1,000 head feedlot all winter and the conditions vary from day to day. The cattle require around the clock care especially in harsh conditions. If my employees are unable to live here full time they are unable to care for the animals full time. Also, my employees that come and live in the summer months (June-September) need a place to live and it is nearly impossible to rent a place for that amount of time.

I have tried to purchase land close to my property that can house the employees, but have thus far been unsuccessful to find anyone willing to sell me what I need. I have offered enough money for the land that I have tried to purchase and was still unable to get anything close enough.

The homes would be located on the hill to the West of the feedlot and I am certain there are no health concerns with my employees living up hill from the feedlot with their own water supply separate from that of the feedlot.

I am not trying to start a community or neighborhood here, I just need my employees to be able to do their jobs 100% of the time and unfortunately with their current living situations that has become hard to do. Please consider the several reasons above as to why the trailers are necessary for the operation of my businesses. I will discuss these points at the meeting.

Thank you,

Chad Berger

Proposed Changes to the Morton County Land Use Code for Consideration by Planning & Zoning and County Commissions

Request to amend Section 2-110 Use Table with the following provisions:

- Add “Outdoor Storage” to the Use Table
 - Permitted by right in the Industrial District and Limited Industrial Districts
 - By special use permit in the Agricultural District

Request to add Section 5-200 “Outdoor Storage”

Section 5-200 Storage, Outdoor

- (a) **Permitted Districts:** Outdoor Storage may be permitted by right in the Industrial (I) and Limited Industrial (IL) Districts and by special use permit in the Agricultural (A) District, subject to the additional standards in this section.
- (b) **Standards:** Outdoor Storage shall meet the following standards:
- (1) All stored items shall be screened entirely from the view of public rights-of-way and from the view of R (Residential) and RM (Residential Multifamily) Districts by a compact evergreen or equivalent hedge, or opaque barrier – of uniform material, design, and color – not less than six (6) feet in height, but tall enough to completely screen stored items from the lines of sight described above.
 - (2) Outdoor storage shall be permitted only in rear yards. Where no principal structure is present, rear yard shall be understood to mean the rear half of a lot.
 - (3) Stored items shall be subject to the same setbacks that are applied to structures on the lot or tract.
 - (4) Stored items shall be oriented in such a way as to permit free access of fire-fighting equipment to all areas of the property where structures and/or stored items are present.
 - (5) Semi-trailers, cargo containers, railroad cars and similar structures shall not be used for storage.
 - (6) In all zoning districts, garbage/trash/waste shall be stored in appropriate containers. All garbage cans, dumpsters and waste receptacles shall be stored within the principal structure, within an accessory building, or within a screened enclosure. The only exceptions to this article are solid waste facilities, which are approved through the State Health Department.
 - (7) Junk, scrap and similar items of little to no value shall not be stored under the provisions of this section. In these instances, Section 5-130 Salvage Yard shall apply.

Proposed Changes to the Morton County Land Use Code for Consideration by Planning & Zoning and County Commissions

(c) **Exclusions:**

- (1) The provisions of this Section shall not be applied to the following:
 - A) Vehicle parking areas required by the Morton County Land Use Code
 - B) Expressly permitted vehicle storage (see Section 5-210 “Vehicle Storage, Long-term”)
 - C) Plant nurseries
 - D) Display of vehicles intended for sale by a licensed dealership (see Article 12 “Retail, Automotive”)
 - E) Outdoor Retail Sales (see Article 12, “Retail Sales, Outdoor”)
 - F) Machinery, implements, equipment and supplies used specifically for farming and/or ranching activities
 - G) Retail Sales of Farm Implements (see Article 12 “Retail, Farm Implements”)

Request to add the following definitions to Article 12 of the Morton County Land Use Code

Outdoor Storage: The keeping of any equipment, machinery, inventory, goods, materials, substances, or merchandise, including raw, semi-finished, and finished materials or products for more than 72 hours in an outdoor environment (an environment that is not completely enclosed), and covering a surface area of 200 square feet or greater. See Section 5-200 for exclusions to this definition.

Retail Sales, Outdoor: Use of a property for the display of sales inventory of products that are intended for outdoor use, including but not limited to, manufactured homes, burial monuments, swimming pools, storage sheds, and the like, by a person or persons whose primary occupation is the retail of such items.

Morton County Land Use Code Proposed Changes for Consideration by Planning & Zoning and County Commissions

Request to amend Section 2-110 Use Table with the following provisions:

- Add “Long-Term Vehicle Storage” to the Use Table
 - Permitted by right: Industrial District and Limited Industrial District
 - By special use permit: Agricultural District

Request to add Section 5-210 “Vehicle Storage, Long-Term”

Section 5-210 Vehicle Storage, Long-Term

- (a) **Permitted Districts:** Long-Term Vehicle Storage may be permitted by right in the Industrial (I) and Limited Industrial (IL) Districts and by special use permit in the Agricultural (A) District, subject to the additional standards in this section.
- (b) **Applicability:** The following uses shall abide by the provisions of this section. If such uses occur in a zoning district in which Long-Term Vehicle Storage is not permitted, the land owner shall be compelled to remedy the zoning violation. Applicability of this section shall be triggered when one or more vehicles are stored for a period of time exceeding 21 calendar days.
- (1) Storage of a vehicle in exchange for payment or other compensation.
 - (2) Storage of vehicles that are used for commercial or industrial purposes and which do not fall under an excluded category, as listed in article (c)(1) of this section.
 - (3) Storage of personal vehicles when the number of vehicles stored exceeds the maximums described in article (c)(1)(F) of this section.
- (c) **Exclusions:**
- (1) The provisions of this Section shall *not* be applied to the following uses:
 - A) Daily/short-term parking (less than 21 days) in vehicle parking areas required by the Morton County Land Use Code.
 - B) Storage of operational new or used vehicles for sale by a licensed dealership (see Section 12 “Retail, Automotive”).
 - C) Storage of farm implements or vehicles for sale by an established retailer (see Section 12 “Retail, Farm Implements”).
 - D) Storage of operational farming equipment, used specifically for farming and/or ranching purposes by the landowner or lessee.
 - E) Parking of Recreational Vehicles in camps or campgrounds that have been approved by the State Health Department and/or Morton County.

Morton County Land Use Code Proposed Changes for Consideration by Planning & Zoning and County Commissions

- F) Storage of personal vehicles on one's own land for any length of time shall not be considered Long-Term Vehicle Storage unless more than twenty (20) vehicles in the Agricultural District or ten (10) vehicles in the Residential and Recreational Districts are stored outdoors on the property. Personal vehicles stored within fully enclosed structures need not be counted toward the vehicle maximums. Personal vehicles shall be understood to mean vehicles registered to the property owner, leased or titled in the property owner's name. Vehicles not required to be registered by the State of North Dakota need not be registered.

(d) **Standards:** Long-Term Vehicle Storage shall meet the following standards:

- (1) All operations shall be located within a fully enclosed structure or screened from public rights-of-way and from the view of R (Residential) and RM (Residential Multifamily) Districts by a compact evergreen or equivalent hedge, or opaque barrier – of uniform material, design, and color – not less than six (6) feet in height.
- (2) All internal parking areas and driveways shall be paved with concrete, asphalt, gravel, or scoria. If gravel is used as a paving material, gravel depth must be maintained at a minimum of 4 inches on parking areas and 6 inches on driveways. Gravel driveways leading to public rights of way must extend to within 60 feet (or closer) of the centerline of each right of way.
- (3) Driveways shall not exceed a maximum grade of 6 percent as measured along the driveway centerline. Parking areas shall have a minimum grade of 2 percent and a maximum grade of 6 percent, measured in any direction.
- (4) Parking configuration for stored vehicles shall be arranged into orderly rows.
- (5) Vehicle storage facilities shall not be used for the storage of vehicle parts, salvage vehicles, trash, or junk.
- (6) No individual(s) shall be allowed to reside, for any length of time, in a recreational vehicle or other vehicle that is stored under the provisions of this section.

Request to add the following definition to Article 12 of the Morton County Land Use Code

Vehicle Storage, Long-Term: use of a site for the storage of cars, trucks, vans, recreational vehicles, ATVs, motorcycles, other vehicles, trailers, and/or boats for a period of 21 or more calendar days. No individual(s) shall be allowed to reside, for any length of time, in a recreational vehicle or other vehicle that is in Long-Term Vehicle Storage. See Section 5-210 for exclusions to this definition. See also the definition of a vehicle under North Dakota Century Code 39-01-01.101.

DATE: 10/8/15

TO: MORTON COUNTY COMMISSIONERS

FROM: LINDA MORRIS, MORTON COUNTY TAX DIRECTOR

RE: OCTOBER 8, 2015 ABATEMENTS

TAX YEAR	ABATEMENT NUMBER	TYPE OF ABATEMENT	PARCEL NUMBER	ORIGINAL VALUE	OWNER	NEW VALUE	PROPERTY ADDRESS	ABATED VALUE	REASON FOR ABATEMENT
2014	4766	HOMESTEAD CREDIT	653303000	\$58,800	VIRGIL SAMPLE	\$58,800	210 5TH ST NW	0	HOMESTEAD CREDIT