

MORTON COUNTY COMMISSION REGULAR MEETING
November 8, 2018

The Morton County Commission Regular Meeting was called to order on November 8, 2018 at 5:30 PM by Chairman Strinden at the Morton County Courthouse, 210 Second Avenue NW, Mandan, North Dakota. Others present were Commissioners Zachmeier, Leingang, Schulz and Boehm, Auditor Rhone, States Attorney Koppy and Assistant States Attorney Grosinger.

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

Boehm moved and Leingang seconded to approve the minutes of the October 23, 2018 meeting. All voting aye, motion carried.

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

Zachmeier moved and Schulz seconded to request that the HR director draft a policy for a floating holiday for further commission action prior to January 1, 2019. All voting aye, motion carried.

Zachmeier moved and Leingang seconded to close the County Courthouse on Christmas Eve with employees receiving holiday pay as per Governor Bergum's order. All voting aye, motion carried.

Zachmeier moved and Leingang seconded to request the HR Director to draft a policy to add the entire day of Christmas Eve as a permanent County paid holiday beginning in 2019 for further commission consideration. All voting aye, motion carried.

Boehm moved and Leingang seconded to approve reassessment abatement 5196. All voting aye, motion carried.

Leingang moved and Boehm seconded to approve abatements 5197-5198. All voting aye, motion carried.

Zachmeier moved and Leingang seconded to deny the Special Use Permit for Little Heart Botanicals, also known as Little Heart Compassion Care Center, Brian & Angela McGinnis, applicants. This Motion to deny is based on the following 2 parts as rationale:

Part 1: Granting the Special Use Permit would violate Federal authority, specifically:

1. Marijuana is defined as a controlled substance per 21 U.S.C. §6
2. Marijuana, Cannabis, and THC are Schedule I Controlled Substances per 21 U.S.C. §812;
3. Marijuana is illegal under the Federal Controlled Substance Act
4. There are currently no provisions under United States Law that allows for Medical Marijuana
5. Article VI §2 of the United States' Constitution states that Federal Laws made pursuant to the Constitution and treaties made under its authority, constitute the supreme law of the land. It provides that State Courts are bound by the supreme law; in case of conflict between Federal Law and State law, the Federal Law must be applied, State Constructions are subordinate to Federal Law.
6. The United State's Supreme Court in *Gonzales v. Raich* 545 U.S. 1 (2005) ruled that under the Commerce Clause of the united State's Constitution, Congress may criminalize the production and use of home grown cannabis even if a State Law allows its use for medicinal purposes.

Part 2: Granting the Special Use permit would not comply with §10-040 of the Morton County Land Use Code, (subsection (b) reprinted below) in that:

1. Pursuant to (b) (2) the proposed use WILL adversely affect public, the residents, and the neighbors. This is established by the public comments made by neighbors at the Planning and

Zoning public hearing held on March 29, 2018, and in the public comment permitted during the Meeting of the Morton County Commission, April 12, 2018.

2. Concern over law enforcement and emergency response. More specifically, the proposed location is such that the ability to guarantee a necessary response from law enforcement and/or emergency services in a timely fashion cannot be guaranteed.
3. Concern over the adequacy of the water supply. The operation's water requirements are substantial. The adequacy of supply at present is not fully known.

Voting aye: Zachmeier, Boehm, Leingang; voting nay: Strinden and Schulz. Motion carried.

Zachmeier moved and Schulz seconded to approve the final plat of a short-form subdivision known as Laubner Subdivision and a rezoning from Agricultural (A) to Residential (R) on approx. 4.11 acres in the NW ¼ of Section 16, Township 137N, Range 81W. All voting aye, motion carried.

Schulz moved and Leingang seconded to approve the amendments to the Morton County Land Use Code regarding right-of-way and the subdivision platting process. Section 2-210(f) Roadway Setback Table; Section 7-050 Streets: Section 7-050(g) Table/Road Section Widths; and Article
Voting aye: Schulz, Leingang, Boehm, Striden; Voting nay: Zachmeier. Motion carried.

Zachmeier moved and Leingang seconded to approve the MOU between the City of Mandan and Morton County for road maintenance with a change to #6 under the county responsibilities on Chokecherry Lane to read "gravel as needed". All voting aye, motion carried.

Approve out of state travel for Engineer Saiki to attend a tour of Caterpillar factory in Little Rock, AR and a Caterpillar foundry in Peoria, IL, on November 27-28, at no expense to the county. All voting aye, motion carried.

Leingang moved and Boehm seconded to appoint Joel Opp to the County Weed Board to a term expiring 8/1/2022. All voting aye, motion carried.

The total of all county funds expended from October 24, 2018 through November 8, 2018, equals \$2,325,523.90.

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.

Schulz moved and Leingang seconded to adjourn at 7:05 PM. All voting aye, motion carried.

Bruce Strinden, Chairman, Morton County Commission _____

Dawn R Rhone, County Auditor _____