

UNAPPROVED MINUTES OF  
September 9, 2021

The Moody County Commissioners met in regular session on Thursday, September 9, 2021 in the Commissioner's room in the Courthouse at 9:00 AM, with the following members present: Chair Carla Bruning, Randy Hemmer, Dan Miles, John Schiefelbein and Rick Veldkamp, with Kristina Krull, Auditor as Clerk of the Board. Also present Tawny Heinemann, Commission Assistant, Paul Lewis, States Attorney, Kendra Eng, Zoning Administrator, DeAnna Berke, Director of Equalization and Brenda Wade Schmidt, Moody County Enterprise.

AUDITOR'S ACCOUNT WITH THE COUNTY TREASURER

To the Honorable Board of County Commissioners, Moody County:

I hereby submit the following report of my examination of the cash and cash items in the hands of the County Treasurer of this County as of August 31, 2021, which includes money collected for schools, cities, townships and state:

Total amount of deposits in bank:	\$ 11,907.30
Total amount of actual cash:	\$ 2,240.93
Register of Deeds Cash:	\$ 247.00
Total amount of checks and drafts in Treasurer's possession not exceeding 3 days:	\$ 20,233.52
Outstanding Credit Card payments:	\$ 2,736.97
Itemized list of all items, checks and drafts which have been in the treasurer's possession over 3 days:	\$ 0.00
First National Bank Flandreau Savings	\$ 1,379,369.41
Flandreau First Savings Bank CD	\$ 4,375,000.00
TOTAL	\$ 5,791,735.31

Dated this 2<sup>nd</sup> day of September, 2021  
Kristina Krull  
Moody County Auditor

Chair Bruning called the meeting to order. Motion by Hemmer, seconded by Miles to approve the agenda. All voted "aye". Motion by Veldkamp, seconded by Hemmer to approve the following consent agenda with all voting "aye":

Invoices over \$1000:		
Corelogic	Director of Equalization-valuation/cost handbooks	\$1028.15
Alpha Training	Sheriff-bulletproof vest	\$1009.91
US Imaging	ROD/Mod&Pres-scanning	\$3185.60

Personnel request:

Tawny Heinemann, Commission Assistant 1 year increase      Step C \$48,021.99/year      Effective August 31, 2021

Travel Request:

Troy Wellman, Sheriff      SD/ND Sheriff Conference      November 9-11, 2021      Bismarck, ND

As advertised, the Board conducted the public hearing at 9:05 AM for the consideration of the Provisional Budget for 2022. The Board discussed changes to be made to the Budget. Auditor Krull will prepare the revised budget for the Board's review on September 21<sup>st</sup>.

As advertised a hearing was held for the Great Plains Indian Rodeo Liquor License. Motion by Miles, seconded by Hemmer to approve the Temporary Special Beer Permit and Temporary Special Permit for Consuming or Blending Alcoholic Beverages for the Great Plains Indian Rodeo, September 17-19, 2021. All voted "aye".

As advertised, the Board conducted the public hearing for The Moody County Five Year County Highway and Bridge Improvement Plan (Transportation Plan). Robert Anderson, Spring Creek Township, Melvin Kiecksee, Union Township and Wayne Holt and Gary DeClerk, Alliance Township were present. Open discussion was held with questions, concerns and input on the roads and bridges throughout the county including the bridges to be fixed in the next 5 years.

The 2<sup>nd</sup> reading was held for Ordinance No. 2021-02 AN ORDINANCE TO AMEND ORDINANCE 2020-02 OF THE ZONING ORDINANCE OF MOODY COUNTY, SOUTH DAKOTA, TO ESTABLISH AND REGULATE CANNABIS DISPENSARIES. Motion by Hemmer, seconded by Miles to adopt the following ordinance with all voting "aye":

ORDINANCE NO. 2021-02

AN ORDINANCE TO AMEND ORDINANCE 2020-02 OF THE ZONING ORDINANCE OF MOODY COUNTY, SOUTH DAKOTA, TO ESTABLISH AND REGULATE CANNABIS DISPENSARIES.

BE IT ORDAINED by the Board of County Commissioners of Moody County, South Dakota: that CHAPTER 2.03 "DISTRICT REGULATIONS", SECTION 2.03.02 "Prohibited Uses" adopted by Ordinance 2020-02 on November 5, 2020, of the Zoning Ordinance of Moody County be amended by bolding and underline to read as follows:

**Section 2.03.02. Prohibited Uses**

**All uses and structures not specifically listed as a permitted use or a conditional use in a particular zoning district shall be prohibited in said district.**

BE IT ORDAINED by the Board of County Commissioners of Moody County, South Dakota: that Chapter 2.05 "CI" COMMERCIAL/INDUSTRIAL DISTRICT, Section 2.05.02 "Permitted Use" adopted by Ordinance 2020-02 on November 5, 2020, of the Zoning Ordinance of Moody County be amended by adding language in bold and underline font as follows:

**8. CANNABIS DISPENSARY (subject to Section 4.43)**

BE IT FURTHER ORDAINED by the Board of County Commissioners of Moody County, South Dakota: that ARTICLE IV "SUPPLEMENTAL REGULATIONS" adopted by Ordinance 2020-02 on November 5, 2020, of the Zoning Ordinance of Moody County be amended by adding language in bold and underline font as follows:

**CHAPTER 4.43 CANNABIS DISPENSARIES.**

1. **Maximum Number of Cannabis Dispensaries.**
  - a. **In the development and execution of these regulations, it is recognized that there are some uses which because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a potential deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area.**
  - b. **The County shall allow up to three cannabis dispensaries provided the time, place, and manner of said dispensaries comply with this ordinance.**
2. **Required Separation Distances**
  - a. **A cannabis dispensary shall be located not less than 1,000 feet from a public or private school existing before the date of the cannabis dispensary application;**
  - b. **A cannabis dispensary shall be located not less than 1,000 feet from churches, residences, public parks, libraries, and other cannabis dispensaries existing before the date of the cannabis dispensary application;**
  - c. **Exemption from separation requirements. Any separation distance requirement, other than the State requirement from schools (1,000 feet), may be waived, provided:**
    - i. **The applicant provides documentation waiving the setback requirement from the title holder of the land benefiting from the separation.**
  - d. **Prescribed separation/setback distances from certain existing uses are to be measured from the lot line of the property where the dispensary is proposed**
3. **Other Locational Requirements**
  - a. **Permanent or temporary dispensaries are prohibited in all other zoning districts and not eligible for a home occupation use.**
  - b. **It shall be unlawful to operate a dispensary in a building which contains a residence or a mixed-use building with commercial and residential uses.**
4. **Controlled Access - No cannabis establishment shall share premises with or permit access directly from another medical cannabis establishment, business that sells alcohol or tobacco, or, if allowed by law, other cannabis establishment.**
5. **Hours of operation:**
  - a. **Cannabis dispensaries are allowed to be open Monday through Saturday, excluding federally recognized holidays, between the hours of 8:00 A.M. and 6:00 P.M.**
6. **Documentation of State Licensure.**
  - a. **No cannabis dispensary shall acquire, possess, store, deliver transfer, transport, supply or dispense cannabis, cannabis products, paraphernalia without providing documentation of licensure from the State of South Dakota.**
7. **The zoning official is authorized to issue permits (building/use) for cannabis dispensaries subject to following:**
  - a. **Submission of a site plan containing the following:**
    - i. **Any information required for applicable building permit,**
    - ii. **Ingress and egress plan**
    - iii. **Parking plan**
    - iv. **Lighting plan (including security lighting)**
    - v. **Screening/security fencing plan.**
    - vi. **Refuse plan;**
    - vii. **Hours of Operation;**
    - viii. **Any other information as lawfully may be required by the Zoning official to determine compliance with this ordinance**

- b. Documentation of ability to meet setback/separation requirements.
  - c. Documentation of State Licensure.
8. All Cannabis Establishments are required to be constructed in conformance with the 2021 Edition of the International Building Code and International Fire Code.

BE IT FURTHER ORDAINED by the Board of County Commissioners of Moody County, South Dakota: that ARTICLE V "DEFINITIONS" adopted by Ordinance 2020-02 on November 5, 2020, of the Zoning Ordinance of Moody County be amended by adding language in bold and underline font as follows:

**Cannabis (or Marijuana): all parts of any plant of the genus cannabis, whether growing or not, in its natural and unaltered state, except for drying or curing and crushing or crumbling. The term includes an altered state of marijuana absorbed into the human body. The term does not include fiber produced from the mature stalks of such plant, or oil or cake made from the seeds of such plant. The term does not include the plant Cannabis sativa L. (hemp) and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis.**

**Cannabis Cultivation Facility: in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a cannabis establishment.**

**Cannabis Dispensary: in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials.**

**Cannabis Establishment: a cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary.**

**Cannabis Product Manufacturing Facility: in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary.**

**Cannabis Products: any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof, and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures.**

**Cannabis Testing Facility: in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity legally authorized to analyze the safety and potency of cannabis.**

Passed and adopted this 9<sup>th</sup> day of September, 2021.

ATTEST: Kristina Krull  
Moody County Auditor

Carla Bruning, Chair  
Moody County Board of Commissioners

First Reading: August 31, 2021  
Second Reading: September 9, 2021  
Adopted: September 9, 2021  
Effective Date: October 6, 2021

Discussion was held on Ordinance 2021-03 An Ordinance Adding Chapter 4.43 to the Revised Ordinances of Moody County, South Dakota Creating Licensing Provisions for Cannabis Establishments.

Terry Albers, Emergency Manager met with the Board to discuss the Drainage Ordinance. Also present Rhonda Nelson, NRCS and Kris Grootwassink, Register of Deeds.

Albers discussed with the SLA agreement with the Board. Motion by Veldkamp, seconded by Miles to opt out of the SLA agreement. All voted "aye".

DeAnna Berke, Director of Equalization met with the Board to discuss Ag Exemption. Motion by Veldkamp to remove the 35% Ag Exemption. Motion died due to lack of a second.

Tawny Heinemann, Commission Assistant discussed staffing with the Board. Motion by Miles, seconded by Hemmer to accept the resignation of Anthony Gengler, Ambulance Director, effective September 26, 2021. All voted "aye". Motion by Hemmer, seconded by Veldkamp to advertise for the open Ambulance Director position. All voted "aye". Motion by Hemmer, seconded by Veldkamp to set Emergency Management/VSO position to match the Ambulance Director and Commission Assistant Grades in the pay scale. All voted "aye". Motion by Miles, seconded by Schiefelbein to advertise for an Emergency Manager/VSO. All voted "aye".

Heinemann presented a purchase request to the Board. Motion by Schiefelbein, seconded by Miles to authorize Chair Bruning to sign the service order with Vast. All voted "aye".

Heinemann discussed the Rural Access Infrastructure Program with the Board.

The following reports for August were received and filed in the Auditor's Office: Sheriff's fees 1445.60 and Register of Deed's fees \$10548.50.

Motion by Schiefelbein, seconded by Hemmer to approve the following claims and issue warrants, All voted "aye":  
General: A&B Business, supplies 199.60, Alpha Training, vest 1009.91, AT&T, utilities 339.04, Avera/Flandreau Medical Center, county nurse 3200.00, Barnes & Noble, publications/supplies 685.64, Booster, publications 407.00, Bound Tree supplies 231.90, Bruning & Lewis, office expense 2913.84, Center Point Large Print, publications 170.16, Century Business, supplies 123.94, City of Flandreau, utilities 2491.69, Daniel Feldhaus, transcripts 542.60, Davison Sheriff, jail housing 760.00, Dust-tex, supplies 73.82, Moody County Enterprise, publications/paper subscription 1060.29, First Bankcard, postage/supplies/travel/grill guard 2992.75, Tyler Lumber, supplies 479.61, Interlake's August 737.42, Jennifer Hayford, reimbursement 5.60, Krull's Garage, repairs 507.18, Lake County Sheriff, jail housing 7413.74, Lammers, Kleibacker & Dawson, ct apt atr 1565.00, Madison Community Hospital, blood alcohol 93.00, Marshall & Swift, valuation/cost handbooks 1028.15, Matheson Tri-Gas, supplies 35.11, Maynard's, supplies 305.04, Mcleods, supplies 80.34, MidAmerican Energy, natural gas 84.73, Jurors, fees 428.56, Northern Hills Collections, services 14.70, Patricia Hartsel, transcripts 88.40, Bob Pesall, ct apt atr 5730.00, Powers/Dakota Stop, gas 57.94, Ramkota Pierre, travel 77.00, Redwood Toxicology, labs 1942.50, Rising Hope Counseling, jail medical 601.00, Robert Bowden, reimbursement 5.99, Robert County Detention, jail housing 315.00, SD Achieve, services 180.00, SDPAA, liability insurance 58780.38, South Dakota Planners Association, travel 100.00, Stan Houston Equipment, supplies 232.10, Steve's Tire, repairs 661.00, Stryker, supplies 451.82, Sturdevant's, supplies -19.99, US Imaging, scanning 2134.39, Vast, utilities 1251.53, Wex, fuel 1586.10. Highway: A-1 Portable Toilets, service 200.00, B&H Contractors, supplies 5653.48, Booster, publications 191.25, Bowes, services 406.57, Buffalo Ridge Concrete, supplies 655.00, C&B Operations, supplies 113.97, City of Colman, utilities 96.84, City of Flandreau, utilities 499.52, Dakota Fluid Power, supplies 922.83, Dells Diesel, service 184.35, Diamond Mowers, service 619.12, Dust-tex, supplies 98.57, Dware, service 985.43, Moody County Enterprise, publications 52.00, Tyler Lumber, supplies 81.79, Graham Tire, tire repair 24.50, Jebro, supplies 240.00, MidAmerican Energy, utilities 8.00, Napa, supplies 24.31, Rental Depot, service 349.85, River's Edge, supplies 129.64, SDDPT, service 3333.72, SDDPAA, liability insurance 21941.17, Sturdevant's, supplies 125.49, TAPCO, supplies 923.30, Vast, utilities 319.56. 911: Vast, utilities 9.04. Emergency Mgmt: Active 911, service 1422.00, City of Flandreau, utilities 29.88, SDPAA, liability insurance 518.07, Sturdevant's, supplies 220.30, Vast, utilities 36.16. 24/7 Sobriety Fund: Redwood Toxicology, supplies 1556.25. Mod & Press Fund: Tyler Technologies, supplies 233.37, US Imaging, scanning 1051.21. State Remittance: State Treasurer, motor vehicle remittance August 158184.15. State Fire Fund: 2021 distribution, Aurora Fire 868.12, Brookings Fire 1481.61, Chester Fire 852.52, Colman Fire 8019.08, Dell Rapids Fire 1183.48.17, Elkton Fire 807.43, Flandreau Fire 16146.09, Jasper Fire 882.86, Trent Fire 5917.89. 24/7 Sobriety Fund: SD Attorney General's Office, scam 477.00. August Payroll by Department: Commissioner 12907.89, Auditor 8765.50, Treasurer 14397.52, States Attorney 14704.51, General Government Building 5068.80, Director of Equalization 7509.64, Register of Deeds 8774.55, Sheriff 32783.50, Ambulance 18169.46, Library 6275.00, Extension 6046.99, Soil Conservation 4381.26, Weed 1262.07, Drainage 317.82, Planning & Zoning 4707.37, Highway 51294.39, 911 19111.69, Emergency Management 4349.93, 24/7 Sobriety 613.88.

Motion by Schiefelbein, seconded by Miles to adjourn the meeting at 11:56 AM. All voted "aye".

ATTEST: Kristina Krull  
Moody County Auditor

Carla Bruning, Chair  
Moody County Board of Commissioners