

**OPINION
59-205**

August 14, 1959 (OPINION)

MUNICIPAL GOVERNMENT

RE: Public Recreation System - Recreation Center as Memorial

We have received your request for an opinion as to the legality of a proposed memorial to be erected in the city of Hebron, Morton County, North Dakota, in memory of the veterans of said county. The memorial to be paid for in part with funds accumulated by virtue of the levy for which provision is made in chapter 11-32 of the 1957 Supplement to the N.D.R.C. of 1943.

You state that the memorial will be a swimming pool to be named "The Hebron Memorial Pool" and the pool will be constructed upon land owned by the city of Hebron and dedicated for park purposes.

You further state the County Commissioners intend to declare this a proper memorial by resolution and to authorize expenditure of no more than five thousand in memorial funds. They shall then work toward the final completion of the memorial with the Hebron Park Board, reserving unto themselves the right to approve the erection thereof.

Section 40-5511 of the 1957 Supplement to the N.D.R.C. of 1943 reads as follows:

RECREATION CENTERS OR SYSTEMS MAY BE ESTABLISHED AS MEMORIALS. The community centers, playgrounds, recreational centers and systems or any recreational or character building facility provided for herein, may be erected or established as memorials in commemoration of the men and women of the locality who lost their lives in the service of their country during World War II and in gratitude to all who served in the armed forces. In such cases the names of those so remembered shall be preserved in some manner in connection with the memorial."

Chapter 11-32 authorizes the county commissioners to erect a memorial or memorials or other suitable recognition, and to make a levy therefor. It provides for the creation of a fund and for the expending of the money. Further provision is made for the county to join with a city, school district, or other agencies in erecting and operating a suitable memorial.

Statutes which relate to the same person or thing, or to the same class of persons or things, or which have a common purpose are in pari materia, and it is a general rule that in the construction of a particular statute, or in the interpretation of its provisions, all other statutes in pari materia should be read in connection with it, as together constituting one law, and they should be harmonized, if possible." (See 82 C.J.S., page 801. section 366).

Section 40-5511 of the 1957 Supplement to the N.D.R.C. of 1943 was

passed in 1947 with an emergency clause and we believe it was passed by the Legislature before the enactment of chapter 11-32. In any event, section 40-5511 became effective before chapter 11-32 because it contained the emergency clause while chapter 11-32 did not.

Taking these enactments together seems clear to us that Morton County is authorized to invest money from the memorial fund in the construction of the swimming pool in the city of Hebron. However, we are inclined to believe that in order to justify the expenditure of the county memorial funds there should be erected a building adjacent to the pool which could be used in connection with it. That is, a building which would be a suitable memorial and would justify the investment of the funds. The reason for our belief is that chapter 11-32 refers repeatedly to the erection of a suitable memorial. We doubt that the construction of a swimming pool itself could be designated as an erection. We have noticed here in Bismarck in Hillside Park that they have a very fine structure and the same is true in Jamestown.

It is our opinion that some building of some consequence should be erected at the pool to be used in connection with it, and that on this building there should be a plaque containing the names of the men and women of the Hebron locality who lost their lives in the service of their country during World War II. The plaque should contain a memorial statement indicating the dedication of the pool and building for memorial purposes.

It is further our opinion that the procedure contemplated will constitute proper joining and cooperation with the park board in the erection of the memorial within the authority granted by sections 11-3202 and 11-3202 of the 1957 Supplement to the N.D.R.C. of 1943.

The above constitutes our views on the subject at the present time, and if there is any question that you care to raise concerning same, we will be pleased to hear from you further.

LESLIE R. BURGUM

Attorney General