

The Deuel County Zoning Board met on Monday October 17, 2016 at 6:30 P.M., at the 4-H Service Center, Deuel County Fairgrounds in Clear Lake. Those present were members Dennis Kanengieter, Gary Jaeger, Steve Rhody, Paul Brandt, and Mike Dahl. Also present were Attorney John Knight and Zoning Officer Jodi Theisen.

Chairman Dennis Kanengieter called the meeting to order. Motion by Jaeger, seconded by Brandt to approve the September 12, 2016 minutes at the end of the meeting. All voted in favor and motion carried.

Motion by Brandt, seconded by Dahl, to approve the October 17, 2016 Agenda. All voted in favor and motion carried.

John Knight asked the Zoning Board to go into executive session. Motion by Rhody, seconded by Jaeger to go into executive session. All voted in favor and motion carried.

Kanengieter declared that the zoning board was out of executive session.

1. Tyler Ronne applied for a Variance Permit. The request, if granted, would permit the applicant to use the following property: W475' N460' in N1/2NE1/4 Section 4-114-48, Norden Township, to build 36' x 56' pole shed closer than 150' from the road right-of-way in an AG zoned district. Ronne stated that he would like to build the pole shed 61 feet from the road right-of-way. Motion by Brandt, seconded by Jaeger, to grant a Variance to build 36' x 56' pole shed closer than 61' from the road right-of-way in an AG zoned district. The new shed is not a safety issue and will not cause a snow problem. It is located behind the trees to the west and it is on a minimum maintenance road and there is no other other area to build the shed on the property. All voted in favor of and the motion carried.
2. Motion by Brandt, seconded by Rhody, to approve Plat of Lots 2E, 2F & 2G of Rhea Fourth Addition in NE1/4SE1/4 4-114-47, Norden Township, on condition that the road gets vacated. All voted in favor and motion carried.
3. Motion by Brandt, seconded by Jaeger, to table the Plat of Lot 3 in SE1/4NE1/4, Section 26-113-48, Scandinavia Township. All voted in favor and motion carried.
4. Town of Astoria applied for a Special Exception permit. The request, if granted, would permit the applicant to use the following property: Lot 3 in SE1/4NE1/4, Section 26-113-48 Scandinavia Townships, to construct a waste water treatment pond for the Town of Astoria in Ag zoning district. Motion by Brandt, seconded by Dahl, to table the special exception to construct a waste water treatment pond on Lot 3 in SE1/4NE1/4, Section 26-113-48 Scandinavia Township, for the Town of Astoria in Ag zoning district. All voted in favor and motion carried.

5. Motion by Jaeger, seconded by Rhody, to approve Plat of Meadow Creek Valley Addition in the SW1/4NW1/4 & N1W1/4SW1/4, Section 33-116-47, Glenwood Township. All voted in favor and motion carried.
6. Motion by Rhody, seconded by Dahl, to remove from the table the Flying Cow Wind LLC application for a Special Exception permit. The request, if granted, would permit the applicant to construct up to 12 wind turbines that are 3.45 megawatts in size for a wind farm in Norden Township (T114N, R47W) in sections 21 & 22, and in Herrick Township (T115N, R47W) in Sections 16,21,22,27,28 & 29, Deuel County.
7. Flying Cow Wind LLC applied for a Special Exception permit. The request, if granted, would permit the applicant to construct up to 14 wind turbines that are 3.45 megawatts in size for a wind farm in Norden Township (T114N, R47W) in sections 21 & 22, and in Herrick Township (T115N, R47W) in Sections 16,15, 21,22,27,28 & 29, Deuel County. Jackson stated that 1/3 of the project would be in Deuel County. The project would have 2 towers south of Lake Cochrane and 12 towers north of Lake Cochrane and south of Gary, SD. Jackson stated that they have done an environmental impact study. They have done a lot of surveys and reviews of this area during the summer and have contacted the SD Game & Fish. Jackson stated that the biologist and archeologist were in this area and will have them in this area in the future to collect data.

Jackson stated that their company recognizes the concerns of the public. Jackson stated that they contacted some of the lake residents in early 2016. Jackson stated that their reputation is very important to the company. Jackson stated that they had met with the Lake Cochrane Lake Association before this meeting. Jackson stated that they supplied the Zoning Office and Deuel County's State Attorney with final versions of the noise and shadow flicker reports performed by their independent engineer. Also they supplied the bios for the company to get a sense of their qualifications. Additionally, after discussions with the Lake Association and others, they have decided to offer the below conditions to the permit that the Board members can include with their decision to approve or deny. They are:

1. Implementation of a radar-activated FAA lighting system
2. A shadow flicker limitation of only 30 hours per-year for non-participating homeowners
3. A setback of 1,500 feet from residences occupied at the time of permit application
4. A requirement to provide a noise and shadow flicker assessment from an independent engineer verifying compliance with the above limitations and those included in the county ordinance (eg. 50 decibel limit).

The above limitations meet or exceed current industry standards. Jackson stated that the max decibel would be 47.5 decibels at a residence. Jackson stated that the company is committed that the towers will be 1500 feet from any residence. Jackson stated that they could help remedy the shadow flicker by compensating the property owner, maybe move the tower, possibly move the tower, plant trees for the property owner to help limit the flicker, or possibly shut the tower down during that time.

Jim Ekholm, who represented the Lake Cochrane Association, stated that they are concerned about the noise, the view, and the environmental impact. Ekholm stated that the lake is flat and the noise will be a big concern to the residents of the lake. The lake residents stated that they would like no towers near the lake. They would like them at least 4 to 5 miles away. Ekholm called several people to speak about their concerns.

Jim Ekholm read a letter from David Janes, a small acreage owner, that stated his concerns about property values, the setbacks concerning noise, and impact he has with some towers located around his property by Astoria, SD. Brenda Taylor, a small acreage owner, stated her concerns about property values, the setbacks concerning noise, the shadow flicker, and the ice throw because they would have towers to the north, east, and south of their property.

Anna Baumiller stated a statement of opposition to the board. She did a survey of the people around the lake and some of the property owners in Norden & Herrick Townships.

Duane Thompson stated that he is an ag land owner and producer and was approached by Paul Tol to sign his property up for an easement or maybe a tower. Thompson stated that he didn't sign up any of his land and was concerned about the chemicals that are used in these towers, and if there was a tornado what would happen. Thompson stated that he is not in favor of the wind turbines. Al Cochrane from Nebraska stated his family was the first family to settle Lake Cochrane. He stated his concerns about the placement of the towers, the tranquility and the peacefulness of the lake, and what the turbines would disturb.

A.J. Swanson, an attorney from Canton, SD for the Lake Cochrane Association, stated that he is dealing with wind farms south of Sioux Falls. This farm would have seven hundred turbines and Lincoln County is in the process of changing their wind ordinance. Swanson stated that Lincoln County has concerns about the setbacks, shadow flicker, and the noise. Swanson stated that the Lake Cochrane Association has the same concerns. Chad Nelson, an attorney from Milbank who is also representing the Lake Cochrane Association, stated that it is due process to consider all the aspects of the wind towers. Brandt and Jaeger stated that they have done a lot of research about the wind towers.

Brain Thomas stated that he didn't work for the wind turbine company and he was for the turbines because it would produce more cash flow in the county and for the land owners. He stated that there is good and bad with everything. Dan Litchfield with Invenergy stated that they would like to do some wind projects in Deuel County in the future.

Kanengieter stated that Mike Dahl will refrain from voting, because he has signed a lease with another wind company in a different part of the county, but will participate with the discussion of the wind towers.

Motion by Rhody, seconded by Jaeger to approve a temporary suspension on all current and future Wind Energy Systems (WES) applications until proposed changes to Ordinance Section 1215 are addressed. The change is necessary to address noise & shadow flicker generated from the wind towers. Kanengieter called a roll call vote: Dahl-no, Brandt-no, Rhody-yes, Jaeger-no, Kanengieter-no. Motion did not carry.

Motion by Brandt, seconded by Jaeger to grant the Special Exception to construct up to 14 wind turbines that are 3.45 megawatts in size for a wind farm in Norden Township (T114N, R47W) in Sections 21 & 22, and in Herrick Township (T115N, R47W) in Sections 16,15, 21, 22 ,27, 28 & 29, Deuel County with the following conditions: to remove the tower T67 from the application; that the towers will have implementation of a radar-activated FAA lighting system, they will have a shadow flicker limitation of only 30 hours per-year for non-participating homeowners, a setback of 1,500 feet from residences occupied at the time of permit application, and a requirement to provide a noise and shadow flicker assessment from an independent engineer verifying compliance with the above limitations and those included in the county ordinance (eg. 50 decibel limit). Kanengieter called a roll call vote Brandt-yes, Rhody-no, Jaeger-no, Kanengieter-yes. Motion did not carry.

8. Motion by Brandt, seconded by Jaeger to approve the September 15, 2016 minutes. All voted in favor and motion carried.
9. Kanengieter called the meeting.

Jodi Theisen
Zoning Officer

Dennis Kanengieter
Chairman, Zoning Board