

Thursday September 20, 2018

The Deuel County Zoning Board met on Thursday, September 20, 2018, at 6:30 P.M., at the Clear Lake Community Center in Clear Lake. Those present were members Dennis Kanengieter, Steve Rhody, Kevin DeBoer, Paul Brandt, and Mike Dahl. Also present were Attorney John Knight, Zoning Officer Jodi Theisen, and alternate board member Gary DeJong.

Chairman Dennis Kanengieter called the meeting to order. The minutes from the August 13, 2018, meeting were discussed. Motion by Dahl, seconded by DeBoer, to approve the August 13, 2018, minutes. All voted in favor and motion carried.

Motion by Rhody, seconded by Brandt, to approve the September 20, 2018, Agenda. All voted in favor and motion carried.

Convened as the Deuel County Planning Commission.

Dan Loge came and talked to the board about the Plat of Rhea Fifth Addition and how his house is 2.5' on this plat. That is why Rhea and Loge had a plat prepared so Rhea could transfer the property to Loge. Loge is stating that this plat is correcting the property lines.

Motion by Brandt, seconded by Dahl, to approve the Plat of Rhea Fifth Addition located in Gov't Lot 7 of Section 4, Township 114 North, Range 47, West of the 5th P.M., in Deuel County, South Dakota. All voted in favor and motion carried.

Motion by Dahl, seconded by Rhody, to approve the Plat of Wittnebel First Addition located in SE1/4 of Section 17, Township 116 North, Range 47, West of the 5th P.M., in Deuel County, South Dakota. All voted in favor and motion carried.

Motion by DeBoer, seconded by Brandt, to approve the Plat of MROE Pasture Addition in SW1/4 of Section 32, Township 117 North, Range 49, West of the 5th P.M., Deuel County, South Dakota. The approving of the plat is contingent upon States Attorney John Knight finding out from the South Dakota DOT if the 33' section line right-of-way should be included on the plat. All voted in favor and motion carried.

Motion by DeBoer, seconded by Brandt, to approve the Plat of Ries Addition in SE1/4 of Section 19, Township 117 North, Range 50, West of the 5th P.M., Deuel County, South Dakota. The approving of the plat is contingent upon Ries paying the taxes and having the Deuel County Treasurer signing the plat. All voted in favor and motion carried.

Deuel County Planning Commission recessed and convened as the Deuel County Board of Adjustment.

Todd Lacek applied for a Special Exception and Variance. The request, if granted, would permit the applicant to use the following property: Lots 2-2A Izaak Walton Addition in OL A in Gov Lot 10 in Section 4-114-47, Norden Township, Lake Cochrane, to move in a storage shed and to build a deck within 50 feet from the high water mark in a Lake Park Zoned District. Lacek stated

that he removed his deck a couple of years ago and added an addition on to his home that was outside the 50 feet from the high water mark. Lacek stated that he applied for a variance in 2015 and was granted a variance but didn't get his deck built. He would like to build a deck on the house addition that would be 16 feet wide. The new deck would be approximately 35 feet from the high water mark. Lacek stated that he would like to move in a 10' x 20' storage shed on to his property. The shed would be more than 50 feet from the high water mark and more than 10 feet from the side lot line. Motion by Rhody, seconded by Brandt, to grant a Variance to build a deck within 35 feet from the high water mark on Lots 2-2A Izaak Walton Addition in OL A in Gov Lot 10 in Section 4-114-47, Norden Township, Lake Cochrane. All voted in favor and motion carried.

The Board determined that it is empowered under the section of the ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest. The Board then made written findings as required by Section 504, subparagraph 5(a-h), of the ordinance. Motion by Dahl, seconded by DeBoer to grant a Special Exception to move in a 10' x 20' storage shed that is more than 50 feet from the high water mark and more than 10 feet from the side lot line on Lots 2-2A Izaak Walton Addition in OL A in Gov Lot 10 in Section 4-114-47, Norden Township, Lake Cochrane. All voted in favor and motion carried.

- a) Entrance to and exit from property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe: Applicant has adequate access.
- b) Off-street parking and loading areas where required, with particular attention to the items in (a) above and the economic, noise, glare, odor or other effects of the special exception on adjoining properties and properties generally in the district: Does not apply.
- c) Utilities, with reference to locations, availability, and compatibility: Does not apply.
- d) Screening and buffering with reference to type, dimensions, and character: Applicant has adequate screening with the location near the existing building.
- e) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district: Does not apply.
- f) Required yards and other open spaces: Applicant has adequate yard and other open spaces.
- g) General compatibility with adjacent properties and other property: Applicant's proposed use is generally compatible with the adjacent properties and other properties in the Lake Park District.
- h) Refuse and service areas, with particular reference to the items in (a) and (b) above: There are no concerns regarding refuse or service areas. Does not apply.

Ronald Golden from East River Electric Coop., Inc. and H-D Electric Cooperative, Inc. applied for a Variance and a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: E160' of the N272.5 of Outlot E of the NE1/4 of the NE1/4 of Section 27-115-49, Clear Lake Township, Deuel County, South Dakota, to add 20' to an existing 40' self-supporting lattice tower which is 30' from the east property line and 50' from the north property line in a Commercial Zoned District. Golden stated that the tower located south of Clear Lake in their substation located along South Dakota State Hwy 22 is currently 40' and the signal going to Bemis is getting interrupted by trees. Golden stated that they would like to add 20' to the existing tower to help stop the interruption. This tower is a data tower that communicates between the substations. If this tower went down it would be a safety issue to members. Golden stated that he visited with Duke Fritz, the neighbor, about the tower and the project. Golden stated that Fritz was ok about the tower project. The Board determined that it is empowered under the section of the ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest. The Board then made written findings as required by Section 504, subparagraph 5(a-h), of the ordinance. Motion by Brandt, seconded by Rhody, to grant the Variance and Special Exception to add 20' to an existing 40' self-supporting lattice tower which is 30' from the east property line and 50' from the north property line in a Commercial Zoned District. Kevin DeBoer abstained from the voting. All voted in favor and motion carried.

- a) Entrance to and exit from property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe: Does not apply.
- b) Off-street parking and loading areas where required, with particular attention to the items in (a) above and the economic, noise, glare, odor or other effects of the special exception on adjoining properties and properties generally in the district: Does not apply.
- c) Utilities, with reference to locations, availability, and compatibility: Applicant has adequate utilities.
- d) Screening and buffering with reference to type, dimensions, and character: Does not apply.
- e) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district: Does not apply.
- f) Required yards and other open spaces: Applicant has adequate yard and other open spaces.
- g) General compatibility with adjacent properties and other property: Applicant's proposed use is generally compatible with the adjacent properties and other properties in the Commercial Zoned District.
- h) Refuse and service areas, with particular reference to the items in (a) and (b) above: There are no concerns regarding refuse or service areas. Does not apply.

Elliot Lorenzen came and talked to the board about his extended home occupation that was granted in April 9, 2018, to sell skid steer attachments and other farm equipment, limiting the lot size for the equipment to approximately 1.20 acres that was granted in April 9, 2018.

Kanengieter stated that Lorenzen's property appears to be more commercialized with the building and office addition. Lorenzen stated that he talked to other offices in the courthouse and they stated that he was being treated unfair because there are other properties out there doing the same thing. Dahl asked Lorenzen if his taxes would be affected if he is zoned commercial, Lorenzen stated that it won't affect his taxes. Lorenzen stated that he will apply to rezone to commercial. Kanengieter stated that the Zoning Officer could grant the building permit for the shed and office.

Dennis Kanengieter stated that Paul Brandt is going to recused himself from the Deuel County Board of Adjustment and the alternate Gary DeJong will be on the the Deuel County Board of Adjustment for the Crowned Ridge Wind II, LLC application.

Crowned Ridge Wind II, LLC applied for a Special Exception Permit. The request, if granted, would permit the applicant to construct and operate up to 153.6 MW Crowned Ridge Wind II, LLC Wind Farm with up to 68 wind turbines. The proposed Wind Energy System is located in the following sections and townships: Goodwin Township (T116, R50W) in sections 3-9, 13, 15-36; Havana Township (T115N, R50W) in sections 3-8, 17 and Rome Township (T117N, R50W) in sections 6-9, 17-21, 27-35, all in Deuel County in an Agricultural Zoned District.

Tyler Wilhelm the project manager for Crowned Ridge II gave a power point presentation about the 3 projects in Deuel, Codington and Grant Counties. Crowned Ridge II will have up to 266 MW comprised of up to 164 turbines in Codington, 61 turbines in Grant County, and 68 in Deuel County.

Wilhelm stated that the Crowned Ridge Wind II will have 153.6 MW with up to 68 wind turbines. The approximate acres in Deuel County are 19,100 acres. They observed all necessary setbacks including Bull Head Lake and the City of Goodwin.

Dennis Kanengieter asked about the lighting on the towers and if the towers will have radar detection. Wilhelm stated that the turbines will be fitted with the requirements that the FAA requires. They will consider the ADLS (Aircraft Detection Lighting) on a site by site basis. The FAA still would have to approve the lighting for the wind project.

Dennis Kanengieter opened the meeting up to the public to speak. They were limited to 3 minutes per person. Also, it is to include in the minutes that there were some letters that the Zoning Office received via email or in person that were forwarded on to the board by email or by mail. Those wishing to speak on this application are as follows:

- Kristi Mogen who resides at Twin Brooks - presented the board with exhibit 50515; has concerns about whether the \$98 million in the land owner payments is true, stated that Deuel County is already involved in litigation about its decisions based off of bias and that

they shall not be meeting, nor should the board have a hearing until the legal resolution has been reached. She asked that this meeting be terminated immediately, and she had concerns about some easements.

- Garry Ehlebracht, a Deuel County resident by Goodwin- presented the board with exhibit 50510; expressed concerns about the noise limit.
- Laretta Kranz, a Deuel County resident by Goodwin - presented the board with exhibit 50514; expresses concerns about the wind towers being located in the wetlands, about culverts and drain tile and who would fix these drain tiles if they are damaged.
- Mike Thiewes, spoke on behalf of Jon Henslin - presented the board with exhibit 5053; stated that Henslin has concerns about Aircraft Detection Lighting Systems.
- Carrie Thiewes, a Deuel County resident by Goodwin - presented the board with exhibit 5053; has concerns about community and public safety.
- Amber Christenson, a resident of Strandburg, and her family is from Deuel County, - presented the board with exhibit 50516; has concerns about the public health, safety, welfare, moral, township roads, culverts, noise and the maintenance of the towers.
- Wayne Borgheiinck from Waverly, spoke on behalf of Nancy Henslin, presented the board with exhibit 5087; stated that Henslin has concerns about economic, noise, odor, other effects to adjoining properties value.
- Richard Rall stated he was from Goodwin - presented the board with exhibit 5056; has concerns about the noise spooking his two Arabian horses, and about the Wind Turbine Syndrome.
- Amy Rall stated she lives near Goodwin - presented the board with exhibit 5055; has concerns about the property value and growth of the communities.
- Roger Rust is a resident from around Goodwin and he stated that his grandpa, mother and he have farmed in Rome Township all their life - has concerns if this project is passed will Rome Township stay safe, and he is an opponent.
- Jacob Beutler stated he is a resident of Goodwin Township - presented the board with exhibit 5052; has concerns about the noise and shadow flicker.
- Laura Oppelt stated she lives on 12 acres near Goodwin - presented the board with exhibit 5054; expressed concerns about being a stay at home mother and home schooling her children and the noise, safety hazards, communication services, negative health effects on her family and the animals they raise.
- Tim Lindgren is a resident of the South Shore/Waverly area - presented the board with exhibit 5051; is speaking on behalf of his wife Linda. He stated that she was concerned

about the green power, that it takes petroleum, natural gas, and coal to produce these towers, wind power negatively affects the health of animals and people due to the sound, requests a 2 mile set back from non-participation land owner's property lines with a waiver and 3 mile set back from wild life nests.

- Dennis Garvey, speaking on behalf of his son Brent Garvey who is resident of rural Goodwin - concerns about shadow flicker, noise, visible red lights, and all the negative impacts that living in an industrial zone brings, concerns about the welfare, health of the public, property value, the wildlife impacts and about the different setbacks.
- Steve Greber a resident of Rome Township – presented the board with exhibit 50511; has concerns about shadow flicker and the view. His wife Mary Greber wrote a note about how she is opposed to the project also.
- Allen Robish stated that he lives near Strandburg - presented the board with exhibit 5058; has concerns about safety, and ice throw, the manufacturer recommendations for a safety zone, and who is responsible for any damage.
- Teresa Kaaz stated she lives in Codington County, but has lived in Deuel County in the past and has relatives that live in Deuel County - presented the board with exhibit 50513; has concerns about the decommissioning plan.
- Ruby Holborn stated she lives in the Sioux Falls - presented the board with exhibit 5059; has concerns about existing property uses, values, adverse unharmonious adjacent uses, population, and economic growth.
- George Holborn stated he lives in Sioux Falls - presented the board with exhibit 50512; has concerns about the public's health that will live near these turbines.
- Ed & Anita Raml who live in Codington County, but they have land in Deuel County- stated that they are for the project and NextEra has experts and they have projects all over the country.
- Patrick Lynch stated he lives near Waverly and works in Clear Lake - has concerns about the setbacks from property lines of the nonparticipants, ice throw and safety.
- Dave Orthaus stated that he lives in Goodwin- has concerns about the landscape.
- Dave Adam stated he is from Clark and is with the South Dakotans for Safe and Responsible Renewable Energy - talked about Aircraft Detection Lighting System (ADLS) on towers in Clark County and North Dakota.
- Amy Tuttle stated she lives in Watertown, her kids go to school in Waverly and her interests are in Troy - presented the board with exhibit 50519; has concerns about livestock protection.

- Vince Meyer stated that he is from Milbank and has land in Grant County - presented the board with exhibit 50518; which is a letter that Patty Rauen wrote which she has concerns about the property value.

Public hearing closed. A ten-minute recess was taken, then the board asked questions to the Crown ridge representatives.

- Board member Dahl asked about the drain tile concerns and if they damage the tile who will fix the tile. They stated that when they propose the roads to the turbines they will work with the land owner to locate the tile and they will try to avoid the tile and if they damage the tile they will work with the property owner to fix the tile. Or, if the property owner would like the local tile guys to fix the tile they will work to compensate to fix the damage.
- Board member Dahl asked if they do studies about the property values on the participating and non-participating land owners. They stated there have been multiple studies over multiple years and there are no long term impacts on the property. The land owner's leases are with the property, in addition in the economic development that adds value to the property. They don't have any studies specific to South Dakota, but they believe that overall they see no impact. These are all independent studies.
- Board member DeBoer asked if these studies were for participating and non-participating land owners. They didn't think there was a distinction between the two; it was all property within some vicinity of the turbines.
- Board member Deboer stated that the non-participating land owners would not have the lease agreements.
- Board member Dahl asked if there is a place in their company or a division where a person can place a complaint or if they have more than 30 hours of shadow flicker or more sound than what is allowed. They will have an onsite operation maintenance building for people to go and contact the company. They will work with the county to conduct a study to determine the problem.
- Board member Dahl asked if there is an independent company that comes in to conduct the study of the flicker and noise other than NextEra. They stated that if the public has a complaint about noise or shadow they contact the company; then the next step would be to contact the planning and zoning commission for the county and if they believe the noise is too loud. Then they will bring in a third party acoustic company to take real measurements from the ground and the report would be available to the land owner, to the company and to the county, and if something is too loud then they will rectify the problem.

- Board member Dahl asked if they are prompt on handling the malfunctions or complaints. Yes, since they have an onsite operation building during the life of the project.
- Board member Dahl wondered who is held liable for the ice throw if it would hit a vehicle. They are held liable if it came from the turbine.
- Board member Dahl asked about the safety zone around the turbines and do they have signs. They stated there is typical signage and the GE setback to homes is less than the local setback. If the turbine is in an ice condition, the turbines are shut down until the ice is gone.
- Board member Dahl asked about the manufacture's setbacks and are they different than the county's setbacks in the states. They stated that the Deuel County setback of 4 times the tip height is greater than the GE recommended setbacks; the property line setback is similar to the GE setback. Deuel County's setback of 4 times the tip height from a residence is one of the largest in the state. The 45 DBA in Deuel County is lower than other counties. The last 2 projects that the PUC approved had the DBA at 45.
- Board member Rhody had a question about animal and human health. They stated to make the DBA low enough to allow residents to sleep there have been numerous studies and that 45 DBA and less won't cause sleep problems. There have been studies on animals and geese but there not a lot of studies on livestock.
- Board member Rhody asked about the decommission bond or insurance policy. They stated they post a bond for the full decommission cost. A letter of credit or some type of guarantee for the decommission plan is negotiated with the county.
- Board member Rhody had a question on the Aircraft Detection Lighting System. The turbines will have a light flashing; however, the ADLS would have to be approved by the FAA. They are happy to work with the county on evaluating the ADLS for the turbines.
- Board member Rhody asked about the aesthetics or the change in the land. They stated these turbines are 485 feet tall and it will be a change; however, they meet the setbacks from the non-participating residences to protect them.
- Board member Rhody stated that the non-participating residences are giving up something and that is value to them.
- Board member DeJong asked about 98 million dollars over a period 30 years and if that is just to the farmers. They stated that 98 million is for the lease payment to participating land owners. They also stated that the 90 million to the community in tax revenue is for the 3 counties. Board member DeJong stated that the farmers get 3.2 million dollars a year over 30 year period.

- Board member Kanengieter asked the status on the permitting process in Codington County and Grant County. They stated they have filed an application in all three counties; Grant County has not had the hearing. Codington County approved the application and a person from the public stated that the Codington County permit is under an appeal.

Kanengieter asked the board if they met all the requirements for the Wind Energy System.

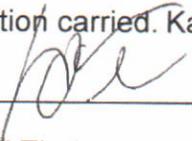
Dahl and DeBoer stated that they prefer to postpone the motion for the application because they don't have enough time to make the decision with all the information that was provided to the board during the meeting.

Kanengieter stated that the next public hearing will be closed to public input.

John Homan stated that this time until the next meeting will not give the board enough time to go through the information. Homan stated that this project is going to affect numerous people and the board should take their time to find out the answers to the questions that were asked. Homan stated that he had an airstrip that took six months and five meetings to approve, and nine months ago the board approved a WES project in one night.

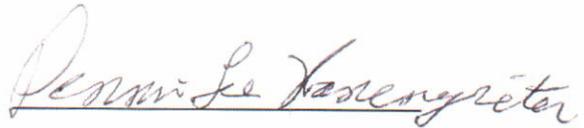
Motion by Rhody, seconded by Dahl, to postpone the Special Exception for the Crowned Ridge Wind II, LLC Wind Farm until October 11, 2018. Kanengieter called a roll call vote: Dahl-yes, Rhody-yes, DeBoer-yes, DeJong-yes Kanengieter-yes. Motion carried.

Motion carried. Kanengieter called the meeting.



Jodi Theisen

Zoning Officer



Dennis Kanengieter

Chairman, Zoning Board