

The Deuel County Zoning Board met on Monday January 22, 2017 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 and Zoning Officer Jodi Theisen.

Chairman Dennis Kanengieter called the meeting to order. The minutes from the December 18, 2017 meeting were discussed. Motion by Dahl, seconded by Rhody to approve the December 18, 2017 minutes. All voted in favor and motion carried.

Chairman Kanengieter asked for nominations for Chairman for 2018. Dahl made motion to elect Kanengieter as Chairman, that nominations cease, and a unanimous ballot be cast for Kanengieter, DeBoer seconded the motion. All present voting yes; motion carried.

Chairman Kanengieter asked for nominations for Vice Chairman for 2018. Dahl made motion to elect Brandt as Vice Chairman, that nominations cease, and a unanimous ballot be cast for Brandt, DeBoer seconded the motion. All present voting yes; motion carried.

Motion by DeBoer, seconded by Rhody, to approve the January 22, 2018 Agenda. All voted in favor and motion carried.

Motion by Rhody, seconded by Dahl, to approve the 2018 Zoning Board Fees Schedule. All voted in favor and motion carried

The chairman Kanengieter stated to the public that there have been some concerns about the current Zoning Board Members being biased. Keven DeBoer stated that he will receive no financial gain from the wind tower project good or bad. He does not have any wind agreements so he believes he can make a fair decision. Steve Rhody stated that he does not have a wind agreement and he will receive no financial gain from the wind tower project so he believes he can make a fair decision. Paul Brandt stated that he does not have a wind agreement and he will receive no financial gain from the wind tower project so he believes he can make a fair decision. Mike Dahl stated that he will receive no financial gain from the wind tower project. He does not have any wind agreements and wind towers are not in his area so he believes he can make a fair decision. Dennis Kanengieter stated that he does not have a wind agreement and he will receive no financial gain from the wind tower project so he believes he can make a fair decision.

Deuel Harvest Wind Energy LLC is applying for a Special Exception Permit. The request, if granted, would permit the applicant to construct and operate up to 300 MW Deuel Harvest North Wind Farm up to 150 wind turbines. The facilities will also include an operations and maintenance building, a project substation, an interconnection substation, collector lines, and up to three meteorological towers. The proposed Wind Energy System is located in the following sections and townships: Portland Township (T117N, R49W) in sections 3-10, 12-18, 21-28, 34-36, and in Lowe Township (T117N, R48W) in sections 19-22, 25-36, and in Altamont Township

(T116N, R49W) in sections 1-2, 11-12, 13, 24, and in Glenwood Township (T116N, R48W) & (T116N, R47W) in sections 1-3, 10-29, 32, 25-36; 21, 22, 27-31, and in Herrick Township (T115N, R48W) & (T115N, R47W) in sections 1, 2; 6 all in Deuel County. And Deuel Harvest Wind Energy South LLC is applying for a Special Exception Permit. The request, if granted, would permit the applicant to construct and operate up to 200 MW Deuel Harvest South Wind Farm with up to 100 wind turbines. The facilities will also include an operations and maintenance building, a project substation, an interconnection substation, collector lines, and up to two meteorological towers. The proposed Wind Energy System is located in the following sections and townships: Brandt Township (T114N, R49W) in sections 2-5, 8-17, 20-28, 36, and in Norden Township (T114N, R48W) in sections 2-16, 20-36, and in Blom Township (T113N, R49W) in section 10, and in Scandinavia Township (T113N, R48W) in sections 2-4, 10-15 all in Deuel County.

Michael Svedeman the project manager of Deuel Harvest Wind Farm project gave a power point presentation about the 2 projects. The Deuel Harvest North will have up to 300 MW comprised of up to 150 turbines and associated permanent and temporary facilities. The Deuel Harvest South will have up to 200 MW comprised of up to 100 turbines and associated permanent and temporary facilities. Invenergy chose Deuel County for the the high quality wind resource, the 345kV transmission line access, the compatibility with existing land use and the strong landowner partnerships. Invenergy Company established an office in Clear Lake in 2015 and since then they have been developing the projects. From 2016 thru 2017 they have conducted environmental surveys (wetlands and waterbodies) avian surveys (raptor, breeding bird, large bird, and small bird) and bat mist netting and acoustic studies. From 2016 through present they have been working with agency consultation (USFWS, SDGFP, SHPO, and SDPUC). They have participated in the WES zoning amendment process. In 2017 the conducted sound and shadow flicker studies and designed the projects to comply with Deuel County WES section 1215. They have analyzed multiple layouts and multiple turbines to ensure compliance with the Zoning Ordinance, including revised WES requirements. They developed three representative layouts using seven turbine models and completed acoustic and shadow flicker studies. They identified siting constraints based on WES requirements.

Svedeman stated that the Deuel Harvest North Wind Farm will have 300 megawatts and up to 150 wind turbines. This project is located in Portland, Lowe, Antelope Valley, Altamont, Glenwood, and Herrick townships. The project includes access road, underground collection lines, O & M Building, Project Substation, Interconnection Substation, and permanent MET Towers. They are targeting the fourth quarter of 2019 for the commercial operations date. They observed all necessary setback including Lake Alice, City of Altamont, and the City of Gary.

Svedeman stated that the Deuel Harvest South Wind Farm will have 200 megawatts and up to 100 wind turbines. This project is located in Clear Lake, Brandt, Norden, Blom, and

Scandinavia townships. The project includes access roads, underground collection lines, O & M Building, Project Substation, Interconnection Substation, and permanent MET Towers. They are targeting the fourth quarter of 2020 for the commercial operations date. They observed, all necessary including the setbacks Cochrane and the City of Brandt.

Svedeman stated that they meet the zoning requirements for the Ag District 1101, the special exceptions, the Wind Energy Systems Section 1215, the Special Exception Permits Section 504, and the Aquifer Protection Overlay Zone 1105.12. They stated that they are in compliance with the minimum setback of 4 times the turbine height from non-participating residence, the noise level will not exceed 45 dB from non-participating residences, shadow flicker will be less than 30 hours per year at any residence, the minimum setback of 1500 feet from any participating residence, and the minimum setback of 110% times turbine height from any non-participating property line. They stated that the distance setbacks from the Lake Park and the Cities were met and the project will comply with all applicable local, state, and federal requirements. The building permit will confirm compliance prior to construction and the final layout demonstrating all setbacks are satisfied. Invenegy will update the noise and shadow flicker analyses as necessary to confirm compliance. They will supply a soil erosion and sediment control plan and a decommissioning plan to be filed within 120 days of completion.

Svedeman stated that they are in compliance with ordinance regarding access, off street parking and loading areas, utilities, screening and buffering, signage and proposed exterior lighting, required yards and open spaces, compatibility, and refuse and service areas.

They requested that the project have up to 3 years as provided in the WES section of the ordinance to satisfy the requirement substantial construction. They also would like to have the special exception to be transferrable to another entity provided that the PUC has approved the transfer to the Energy Facility Permit and the transferee agrees to comply with all the terms and conditions of the SEP for the WES granted to Deuel Harvest.

The board asked Svedeman about the layouts and the number of towers. Svedeman stated that on the layouts there are 11 alternative towers sites. They have these alternative towers sites in case a proposed site is not acceptable for instance the ground might not be suitable for a tower.

Dennis Kanengieter asked about the yellow areas on the easement map. Svedeman stated that those are the areas that have not signed a lease agreement or in the process of signing a easement and they have not updated the current map until the easements are finalized. And they will update any setbacks if necessary.

Paul Brandt asked about moving a turbine and why they would want the flexibility? Svedeman stated that they would need the flexibility because out in the field they might

have to adjust as long as they meet the setbacks and they are not in the gray areas (ordinance constraints area). The FAA will have to permit all the locations also.

Mike Dahl asked about the foundation and the footprint. Svedeman stated that when they build the tower they strip the topsoil with the land owner permission. They dig a hole and pour a concrete mat then they do a rebar cage this cage sticks about 6 inches out of the ground which is what they bolt the foundation to. Then they back fill the cage and restore the area and place gravel on the roads. So based on a 20 feet diameter tower 1 to 1 ½ acres are taken out of production.

Steve Rhody asked if the tower is larger if the footprint is larger. Svedeman state that the bigger the turbines the fewer number of turbines. Rhody also asked about the townships and the haul road agreements. Rhody stated that the townships should document their roads right now.

Mike Dahl asked if someone had a complaint where and who they contacted. Svedeman stated that they will have full teams in the area during construction and they will have a hotline for complaints. They will also have an office in Deuel County and there will be 15 jobs in the North Project and 10 jobs in the South Project.

Steve Rhody asked about the crane paths. Svedeman stated that the cranes have a less PSI feet than the average grain cart. It depends on the ground condition and they will use mats to dispense the weight.

Paul Brandt wondered how many acres will be used during construction. Svedeman stated they will have laydown yards and it depends on the location, delivery of the towers and supplies. Around the tower footprint 2 to 3 acres would be used.

Dennis Kanengieter talked about during the wind tower project south of Toronto they widened the intersections and approaches to fields. Some of those were left in for the township to use. Svedeman stated that they will work with the townships and are open to leaving some of the intersections or approaches.

Paul Brandt had questions about the wildlife surveys that they conducted. Svedeman stated that they have done environmental surveys (wetlands and waterbodies) avian surveys (raptor, breeding bird, large bird, and small bird) and bat mist netting and acoustic studies. From 2016 through present they have been working with SDGFP. They have to site the specific us of the land from cropland to grassland and etc. They have an employee go to the proposed sites to count the number of species and they report them back to the SDGFP to see the impacts.

Ron Tvedt a Deuel County resident that lives southeast of Clear Lake stated that he is favor of the wind towers and they are respectable company. These projects would bring economic development to the county.

Jon Henslin, a Deuel County resident by Lake Alice, showed concerns about the decommission plan and that the plan shall include the permittee post a bond or other adequate security sufficient to the entire cost of the decommissioning process.

Nancy Henslin, a Deuel County resident by Lake Alice, showed concerns about the zoning ordinance 504.5.b section about the economic, noise, glare, odor, or other effects of the special exception on the adjoining properties and properties in general in the district. She is mostly concerned with the economic effect. She also showed concerns about the lighting. And if they could use the Aircraft Detection Lighting System.

Christina Kilby, a Minnesota resident, stated that she is a lawyer and daughter of John Homan who owns land in section 32 in Glenwood Township. Kilby stated she is opposed to the Deuel Harvest Wind Project and that her main concern is that the Board of Adjustment will follow all the required, rules, statutes, ordinances and laws to ensure the right of the all members of the county are protected. The Board only has the power that has been specifically granted to it by the Ordinance. The Board also has the duty to ensure all requirements of the Ordinance are met before granting a permit for a Special Exception. She stated the Ordinance Section 104 purpose, states, "the regulations are intended to preserve and protect existing property uses and values against adverse or unharmonious adjacent uses..." She also stated that the application is incomplete and premature. That they should be applying for one layout instead of 3 layouts. She was also concerned about the decommissioning plan, aquifer zone, the spacing of the towers, and the sound studies.

Gina Engelking stated that she is the daughter of John Homan who owns land and she lives near the Twins Cities. She stated that she is concerned about the many aspects of the possible wind turbine project, its incomplete application, and how it will affect her family land a couple miles northwest of Gary for the decades to come. She stated that she comes out to the family land to enjoy the property. It is beautiful land and pristine nature. She has concerns about the wildlife. She also showed concerns about the decommission plan they should have a 3 mile set back also, and that the wind is not a crop.

John Homan, a resident of Codington County, and owns parcels in Deuel County, questioned the County Officials about the extent of their research. They have not lived among the wind towers. The local citizens shouldn't have to show the burden of proof, they shouldn't have to defend their property rights. He showed concerns about fire and ice throws and the setbacks should be greater. He stated concerns about the zone B aquifer and creeks, birds, and wildlife.

Garret Homan stated that he is the son of John Homan and lives By Duluth. Stated that the board approved an air strip for John Homan and they are are going to start construction in the spring of 2018. Public use will be allowed with prior approval from the the airport owner. The construction and operation of the Homan Field Airport provides a

benefit to South Dakota and the general aviation community in the form of charted navigational aid and a safe landing site in the event of an emergency. Notice of approval to establish a private use airport from the FAA was signed on June 12, 2017 for Homan Field. The zoning board must respect and preserve the landowner's property rights in the permitted runway, the safety of flight operations, and utility of the airport.

Dennis Kanengieter stated at the special exception meeting for the airstrip that John Homan had the acknowledged that if he needs unrestricted access to the air space over the neighbor's property, he is required to secure those rights from the adjacent property owners.

Garret Homan read a letter from Ashley Conner a Lake Cochrane resident. The letter stated that she moved to Lake Cochrane from Lincoln County, Minnesota to get away from the wind energy nuisance. Now she is has to fight to regain her property value and rights against the wind. Towers ruins the landscape, it ruins the people, friendships, and communities. Ivanhoe will soon be a ghost town. The wind towers don't bring in jobs and people it drives them away.

Ron Ruud stated he lives at Lake Cochrane. The county should not except any wind projects because he has concerns about shadow flicker and keeping it below 30 hours. Different proposals stated on average that the max hours of shadow flicker was 52 hours and another model showed 201 hours of shadow flicker. He stated if they have concerns or complaints where do they go to state their concerns. Do they go the zoning officer, the zoning board, or the wind company?

Joe Blastick stated he lives near Clear Lake in section 6 and he is opposed to the wind projects. He is concerned about the native prairie. The survey's that the wind companies do is not enough info for 2 years. The Prairie Grouse don't like the wind towers the reality is they don't move, they simple go away forever. He also showed concerns about health issues and property values. He was wondering if there is a compromise that the towers could be shut down after sunset. And he stated concerns about the flashing lights.

Jack Hoeke is a resident from Milbank and he stated wildlife is a great thing and he work at the Big Stone Power Plant. They used to say that coal was the only answer for power. Now there is wind and coal might not be the answer. He is in favor of renewable energy.

Brenda Taylor stated she lives by Gary. She had concerns about the permit expiration. The Deuel County Ordinance states that the Wind Energy System Special Exception Permit shall become void if no substantial construction has been completed within 3 years of issuance. The Deuel Harvest Wind has requested that they substantial construction be defined as pouring a single foundation with the project footprint. This definition is the definition used in SD Codified Law to define the development of potential to produce energy. She stated to leave the wording as it currently read in the zoning, this retains control in the county and requires the permittee to show substantial progress. The county

can always extend the permit if necessary. Inverenergy schedule provided they will complete for the North Project in less than 2 years and the South Project in less than 3 years.

Ruby Holborn stated she lives in Glenwood Township. She expressed concerns from David Janes from prior meetings for the Wind Ordinance changes in 2016 and concerns in 2009 for the Buffalo 2 Project. She stated after one of the commissioner meeting in 2017 there were some wind developers laughing about future lawsuits. Holborn stated this is not a laughing matter and some residents are being forced to live in a wind farm.

Will Stone a resident by Gary and a hunting business owner in Glenwood Township stated that he is concerned about the setbacks from his property line. He feels he should be considered a business with his hunting. They have to pay extra taxes and his clients have to pay extra taxes. He talked about the different safety zones for the different towers and his land and hunters would be in the the no safely zone.

George Holborn stated he lives in Glenwood Township and was wondering if the wind developers could eliminate all turbines in section 1 & 6 in Herrick Township. This would mitigate the negative effects on roughly 20 to 25 residents. The wind developers stated during the changing of the ordinance that they would offer cooperation. Holborn stated that it should not be any problem accommodating the Homan & Stone Airports. Holborn stated he had concerns about the distance setbacks. Holborn stated he would also like to eliminate all turbines in section 29 of Glenwood Township this would mitigate the negative effects on 20 non-participants.

Dennis Evenson a landowner in Deuel County within 2 miles of Lake Alice stated he is in favor of the wind development. They have met the setbacks. Let them harvest the wind.

Fay Stone stated that they own land in sections 34, 26, and 28 in Glenwood Township and that this land is involved in their business. Flicker would cause problems for their hunting business they get to hunt from 8 a.m. to dark. Fay was wondering if the final approval of the towers were set tonight. The board told her no the company would have to come in with a building permit for every tower with the permanent location.

Martin Wilson stated that he is a land owner in Portland Township and he lives in Ivanhoe, Minnesota. Ivanhoe has a lot of wind towers located around them and he believes that wind development and wind energy is a good thing. The commissioners were stricter and they set a more restrictive setbacks than the zoning board.

Mark Schmidt stated he lives northwest of Gary and he supports the wind towers. The county is lucky to have this opportunity come into this county. If the community would have to vote on building an airplane, interstate, or railroad tonight none of those proposals would get passed. If we want to chase away the opportunity then maybe the county

governments need to combine. For instance, Deuel and Codington should combine and then we wouldn't have a local courthouse.

Cody Kenyon stated he lives in the North Project and is in favor of it. They meet the new requirements. They are within the guidelines. Kenyon stated that he likes wildlife too, he helps feed them and sometimes hits them with his vehicle on the road they will learn to adapt to the development.

Cody Krause stated he lives south of Clear Lake 3 miles and is a main street business owner. Main Street is getting smaller and smaller. The business owners are always getting asked to donate and that is fine but it is nice when different groups like Invenenergy would like to help and donate to the local community. Don't let this opportunity slip by.

Steve Hansen stated he lives northwest of Clear Lake and is in favor of the wind project. It will generate more tax revenue. The 24 towers located in southern part of this county provide \$162,000 in taxes. The Deubrook School get \$80,000 and the 2 townships get \$15,000.

Kristianna Gehant Siddens stated she lives in Scandinavia Township and that she is concerned with the lights at night time. It has a negative impact, during the daylight you don't notice the towers but at night they are noticeable. She was wondering if they could install the Aircraft Detection Lighting System.

Jeff Collins stated he has lived in Glenwood Township for the last 15 years. He stated that he is concerned with the health of his family and the setback of the towers. He would like the developer to remove 1 or 2 towers from section 29 in Glenwood Township. Tower 141 or 142, tower 126, 96, and 97.

Jim Dailey stated he lives in Altamont Township in the North Project. At first he was not for the wind towers and decided not to have them on his land. But then Invenenergy stated that they would donate \$15,000 to the youth foundation. He encourages the public to express to Invenenergy to donate locally and to this foundation. Dailey questioned if the project transfers to another company if this donation still be honored. Svedeman stated yes it will be upheld.

Svedeman stated that in section 504 5. b glare, smell, noise, and parking are all addressed in the application and they meet the proper requirements.

Svedeman stated that the Wind Energy Systems are allowed in the Aquifer Zone B as identified on the map and in the permit application.

Svedeman stated that they will have a hotline for complaints and for resolution.

Paul Brandt brought up the decommission plan. The timeline of submittal is 120 days of completion of construction.

Steve Rhody had a question on the Aircraft Detection Lighting System. Svedeman stated that minimum requirement by FAA does not require them and it is new technology. When the Aircraft Detection Lighting System is required by FAA they will install them.

Paul Brandt asked Svedeman to explain Beacon Lighting. Svedeman stated they attended a FAA Conference and they do not know what is meant by Beacon Lighting and they will not use Beacon Lighting.

Steve Rhody asked about fire control. Dan Litchfield with Invenergy stated they will help the local emergency responders in training and how to respond to a high angle fire.

Joann Black stated that she did the shadow flicker and that in the worst scenario you could not get 50 hours or 201 hours of shadow flicker even if the sun was shining for everyday for every hour it is unattainable.

Paul Brandt asked Svedeman if they could address removal of the towers in section 29 and in sections 1 & 6 in Herrick. Svedeman stated the people who own the property have the right to have them on their property and they must meet the setback requirements.

Svedeman was discussed a compromise with William Stone about the setback requirements but then left it up to the board to define a business.

Jon Henslin stated his concerns about the economic effect on the adjoining land and the compatibility of wind towers. Svedeman stated that they meet those requirements and they are compatible with adjoining land use.


The board had discussion and determined that the applicant has fulfilled the Wind Energy System requirements and they will have to get the PUC and FAA approvals and meet all Federal, County, and State requirements.

Motion by Brandt, seconded by Dahl, to grant the Special Exception permit to construct and operate up to 300 MW Deuel Harvest North Wind Farm up to 150 wind turbines. The facilities will also include an operations and maintenance building, a project substation, an interconnection substation, collector lines, and up to three meteorological towers. The proposed Wind Energy System is located in the following sections and townships: Portland Township (T117N, R49W) in sections 3-10, 12-18, 21-28, 34-36, and in Lowe Township (T117N, R48W) in sections 19-22, 25-36, and in Altamont Township (T116N, R49W) in sections 1-2, 11-12, 13, 24, and in Glenwood Township (T116N, R48W) & (T116N, R47W) in sections 1-3, 10-29, 32, 25-36; 21, 22, 27-31, and in Herrick Township (T115N, R48W) & (T115N, R47W) in sections 1, 2; 6 all in Deuel County.

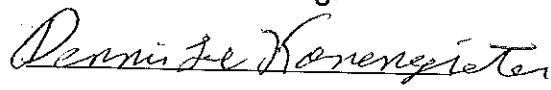
Upon issuance of applicant permit by the South Dakota Public Utilities Commission. Applicant is required to meet requirements of Section 1215 of the Deuel County Ordinance in reference to remaining obligations including but not limited to: submittal of Haul Road Agreements, sign the letter of Assurance, Submittal of Decommissioning Plan,

Final site location of towers, building permit application, meeting applicable federal and state requirements, and consideration of bond for abandonment/decommissioning. The permit shall expire if no substantial construction described within the application has occurred within three (3) years of issuance of a permit by South Dakota Public Utilities Commission. The project will need to be at least 25% complete to meet the substantial completion requirement. The applicant may apply for an extension the requirements above are not met. The Special Exception permit is transferable. Subsequent owners/operators shall agree to the same conditions described herein. Kanengieter called a roll call vote: Dahl-yes, Rhody-yes, DeBoer-yes, Brandt-yes Kanengieter-yes. Motion carried.

Motion by Rhody, seconded by DeBoer, to grant the Special Exception permit to construct and operate up to 200 MW Deuel Harvest South Wind Farm with up to 100 wind turbines. The facilities will also include an operations and maintenance building, a project substation, an interconnection substation, collector lines, and up to two meteorological towers. The proposed Wind Energy System is located in the following sections and townships: Brandt Township (T114N, R49W) in sections 2-5, 8-17, 20-28, 36, and in Norden Township (T114N, R48W) in sections 2-16, 20-36, and in Blom Township (T113N, R49W) in section 10, and in Scandinavia Township (T113N, R48W) in sections 2-4, 10-15 all in Deuel County. Upon issuance of applicant permit by the South Dakota Public Utilities Commission. Applicant agrees to meet requirements of Section 1215 of the Deuel County Ordinance in reference to remaining obligations including but not limited to: submittal of Haul Road Agreements, sign the letter of Assurance, Submittal of Decommissioning Plan, Final site location of towers, building permit application, meeting applicable federal and state requirements, and consideration of bond for abandonment/decommissioning. This permit shall expire if no substantial construction described within the application has occurred within three (3) years of issuance of a permit by South Dakota Public Utilities Commission. The project will need to be at least 25% complete to meet the substantial completion requirement. The applicant may apply for an extension if the requirements of above are not met. The Special Exception permit is transferable. Subsequent owners/operators shall agree to the same conditions described herein. Kanengieter called a roll call vote: Dahl-yes, Rhody-yes, DeBoer-yes, Brandt-yes-Kanengieter-yes. Motion carried. Kanengieter called the meeting.



Jodi Theisen
Zoning Officer


Dennis Kanengieter
Chairman, Zoning Board