

The Deuel County Zoning Board met at 10:00 p.m. on Monday November 28, 2022, at the Deuel County Commissioners' Meeting Room, Deuel County Courthouse. Planning Commission Board members present included Dennis Kanengieter, Mike Dahl, Kevin DeBoer, Judith Homan and Paul Brandt. Also present were Zoning Officer Jodi Theisen, States Attorney Teree Nesvold, First District Executive Director Todd Kays, Monica Monterrosa, Robert Young, Dan Litchfield, James Dailey, Sherriff Cory Borg, Craig Evenson and John Homan.

Kanengieter called the meeting to order.

First agenda item was a joint public hearing on Ordinance #B2022-01-01, An Ordinance Amending Ordinance #B2004-01 Article XII General Regulations, Section 1215.03 Wind Energy System requirements.

Kanengieter stated for the record that the Deuel County Planning Commission and Deuel County Board of Commissioners are meeting jointly and that Todd Kays from the First District would be providing parliamentary and staff support to both the Planning Commission and the Board of County Commissioners.

County Commission Chair Homan called the Deuel County Board of County Commissioners to order.

Kanengieter asked for a motion and a 2nd to recommend approval of Ordinance #B2022-01-01 to the Board of County Commissioners. Motion by Dahl, Seconded by Brandt

Homan asked for a motion and a 2nd to approve Ordinance #B2022-01-01. Motion by Rhody, Seconded by DeJong.

Kanengieter and Homan each opened the public hearing for their respective boards.

Kanengieter chaired the public hearing and began by asking Kays to provide an overview of the proposed ordinance. Kays stated that the Planning Commission had been working on the comprehensive review of the zoning ordinance for a couple of years, with public hearings on September 28 and November 15. There were some oversights and cleanup with some advertent mistakes that were found in the WES setback language.

Litchfield, Monterrosa, Young signed in and wished to testify and, they provided public comment. They all testified reiterated the common theme was a scrivener's error that left out:

2. Setbacks

Wind turbines shall meet the following minimum spacing requirements.

b. Distance from existing Non-participating residences and businesses shall not be less than four times the height of the wind turbine. Distance from existing Participating residences, businesses and public buildings shall not be less than fifteen hundred feet. Non-participating property owners shall have the right to waive the respective setback requirements. **For purposes of this section only, the term "business" does not include agricultural uses.**

13. Noise and Shadow Flicker.

a. Noise level for **non-participating residences** shall not exceed 45 dBA, average A-Weighted Sound Pressure. **The** noise level **is** to be measured at the perimeter of existing **non-participating** residences.

Kanengieter and Homan each closed the public hearing for their respective boards.

Discussion on the public testimony was held by both boards.

Kanengieter asked Kays to restate the motion as amended. Kays stated the motion is to recommend approval of Ordinance #B2022-01-01 with the amendment For purposes of this section only, the term "business" does not include agricultural uses and noise levels for non-participating residences shall not exceed 45 dBA, average A-Weighted Sound Pressure. The noise level is to be measured at the perimeter of existing non-participating residences in the General Regulations in Section 1215.03 Wind Energy System. Kanengieter, Dahl, DeBoer, Homan and Brandt vote Yea. Motion as amended is approved.

Kanengieter adjourned the Planning Commission.

County Commission holds first reading of ordinance #B2022-01-01 by title. Homan asks Kays to conduct reading as amended.

Homan asks for motion to set the date for public hearing on the proposed amendment and 2nd reading to be December 6, 2022 at 10 a.m. Motion by Jaeger, seconded by Kreutner. Motion approved unanimously.

Second agenda item was a joint public hearing on Ordinance #B2022-01-02, An Ordinance Amending Ordinance #B2004-01 Article XI Zoning Districts, Section 1102.04 Commercial/Industrial Conditional Uses by striking out: 18. Commercial stables and putting (Reserved), striking out no in the section 31 and adding: 32. Cannabis Cultivation facility. Also, Amending Ordinance #B2004-01 Article XII, "GENERAL REGULATIONS" Section 1217. Cannabis Dispensary, adopted by Ordinance #B2004-01, as amended, of the Zoning Ordinance of Deuel County and be amended by removing strikeout language regarding Cannabis cultivation facilities: Also, Amending Ordinance #B2004-01 Article XII, "GENERAL REGULATIONS" Section 1238. Accessory Buildings, adopted by Ordinance #B2004-01, as amended, of the Zoning Ordinance of Deuel County be amended by removing strikeout language:

Section 1238. ACCESSORY BUILDINGS.

8. ~~Agricultural District. In any Agricultural district, any accessory use customarily incident to the principal permitted use or conditional use shall be permitted, except those uses specifically prohibited in the district.~~

Kanengieter stated for the record that Deuel County Planning Commission and Deuel County Board of Commissioners are meeting jointly and that Todd Kays from the First District would be providing parliamentary and staff support to both the Planning Commission and the Board of County Commissioners.

County Commission Chair Homan called the Deuel County Board of County Commissioners to order.

Kanengieter asked for a motion and a 2nd to recommend approval of Ordinance #B2022-01-02 to the Board of County Commissioners. Motion by Deboer, Seconded by Kanengieter.

Homan asked for a motion and a 2nd to approve Ordinance #B2022-01-02. Motion by Jaeger, Seconded by Rhody.

Kanengieter and Homan each opened the public hearing for their respective boards.

Kanengieter chaired the public hearing and began by asking Kays to provide an overview of the proposed ordinance. Kays stated that the Planning Commission had been working on the comprehensive review of the zoning ordinance for a while and there was some interest in adding cannabis cultivation facilities in the ordinance. He also stated there were some scrivener's errors.

Cory Borg provided public comment about the current election and how Deuel County was opposed to recreational marijuana.

Kanengieter and Homan each closed the public hearing for their respective boards.

Discussion on the public testimony was held by both boards and the majority of them stated that they were not in favor of the cannabis cultivation facilities at this time maybe in the future.

The Planning Commission recognized the scrivener's error in the definition of Conditional Use and General Regulations.

Motion by Dahl Seconded by DeBoer to amend the original motion to remove Cannabis Cultivation Facilities and to leave the scrivener's errors Brandt, Dahl, Homan DeBoer voted yes; Kanengieter voted no. Motion approved 4-1.

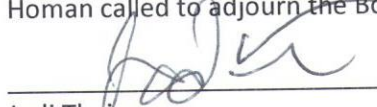
Kanengieter asked Kays to restate the motion as amended. Kays states the motion is to recommend approval of Ordinance #B2022-01-02 with the amendments with the scrivener's errors and to remove the Cannabis Cultivation Facilities.

Kanengieter called to adjourn the Planning Commission.

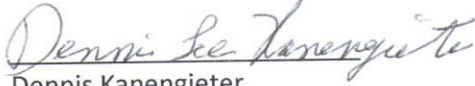
The County Commission will hold the first reading of ordinance #B2022-01-02, as amended by the Planning Commission, by title. Homan asked Kays to conduct reading as amended.

Homan asked for a motion to set the date for public hearing on the proposed amendment and 2nd reading to be December 6, 2022 at 10:15 a.m. Motion by Rhody, seconded by DeJong. Motion approved unanimously.

Homan called to adjourn the Board of County Commissioners.



Jodi Theisen
Deuel County Zoning Officer



Dennis Kanengieter
Chairman, Zoning Board