

The Deuel County Zoning Board met on Tuesday, June 11, 2019, at 6:30 P.M., at the Clear Lake Community Center in Clear Lake. Board members present and participating were: Steve Rhody, Paul Brandt, Kevin DeBoer, Judith Homan, and Gary DeJong. Also present were Attorney John Knight, Zoning Officer Jodi Theisen, and numerous members of the public attended the hearing.

Vice Chairman Brandt stated there were sign in sheets in the back of the room for those who wished to speak for or against the application.

Vice Chairman Brandt called the meeting to order.

Two board members have conflicts and Gary DeJong and Judith Homan will be acting in their place on the board for this meeting.

Motion by DeJong, seconded by Rhody, to approve the agenda. All voted in favor and motion carried.

Vice Chairman Brandt asked the board members if they had any other potential conflicts of interest that they could think of that they would like to disclose. Brandt stated he has an easement for a Met Tower with NextEra but no easements relating to the project in question. Rhody stated his mother had a 2008 lease agreement and that has expired and his brother has a lease with Avangrid. Brandt & Rhody both stated that nothing about those agreements predisposed them and that they could make an unbiased decision. Pursuant to SDCL 6-1-17(2) the remainder of the board members voted unanimously that neither issue identified represented a "conflict of interest" which precluded Brandt or Rhody from hearing the matter.

Brandt stated the rules for the hearing.

Motion by DeBoer, seconded by Rhody to approve the WES application subject to conditions read by staff. Knight read the proposed conditions which are based on past approvals of Wind Energy Systems in Deuel County. Those conditions include:

1) Effective Date and Transferability:

- a. Upon issuance of applicant permit by South Dakota Public Utilities Commission.
- b. This permit shall expire if no substantial construction described within the application has occurred within three (3) years of issuance of this permit (on or before date findings are approved.)
- c. The Special Exception permit is transferable. Subsequent owners/operators shall agree to the same conditions described herein.

2) General Requirements:

- a. There shall be no discharge of industrial processed water on the site
- b. Storage of petroleum products in quantities exceeding one hundred (100) gallons at one (1) locality in one (1) tank or series of tanks must be in elevated tanks; such tanks larger than eleven

hundred (1,100) gallons must have a secondary containment system where it is deemed necessary by the Board of Adjustment.

- c. Grantor shall provide the zoning office with an updated local contact information of plant supervisor with authority to implement dust control and other necessary enforcement of the conditions of this permit.
- d. No permit shall be issued for a wind tower proposed less than one-half (1/2) mile from active eagles' nests at the time of permit issuance.
- e. Building permits for wind towers shall become effective upon publication of notice in the *Clear Lake Courier* in the form of a map which indicates the location of towers permitted.

3) Obligation to Meet Requirements:

- a. 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, 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.

4) Violation and Penalties:

- a. Violations of requirements of the ordinance relating to the operations of a specific tower will result in enforcement/penalties in reference to the specific tower found to be in violation, and will be enforced in the manner as described in Section 4.b below.
- b. Violation of the terms of this Special Exception permit will be determined by the Deuel County Zoning Officer.

(1) The first violation substantiated by the Zoning Officer of this Special Exception permit may result in a notification letter stating the violation and a prescribed period of time to remove the violation. A second violation occurring within one calendar year of the previous violation may result in a review of the validity of the Special Exception permit and potential revocation of said permit. A third violation within one calendar year of the initial violation may result in revocation of the Special Exception permit and cessation of all operations within forty-five days (45) of notice of revocation.

(2) The applicant may make appeal from the decision of the Zoning Officer or other agent of the Deuel County Board of Adjustment to the Deuel County Board of Adjustment. The applicant shall file with the Zoning Officer a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. Such appeal shall be taken within thirty (30) days. Appeals from the Board of Adjustment shall be taken to Circuit Court.

(3) Failure to comply with the decision of the Zoning Officer or other agent of the Deuel County Board of Adjustment may be deemed a separate violation.

Brandt asked questions about feeder lines and the different size towers. Bermel addressed those questions.

DeJong asked Avangrid questions about the aircraft detection lighting topics, process to transfer the project and if the new company can add to this project, publication of a map in the Clear Lake Paper illustrating the tower sites permitted at the time, the decommission and site restoration, setback for eagle nests, turbine setbacks, excess dirt from construction, the

definition of substantial construction Bermel or an Avangrid representative addressed those questions.

Rhody asked questions about the decommission plan, site restoration, and the noise and the decibels for Turbine O4 and the shadow flicker. Bermel or an Avangrid representative addressed those questions

Jesse Bermel with Avangrid, delivered a presentation describing the company, the project and outlining the project's benefits. He also stated that they brought their attorney, Mr. Brett Koenecke.

Brandt opened the public hearing. Knight restated the process and rules laid out by the chair.

First Proponent:

Dennis Everson on behalf of Deuel County Ag Development – Stated that this organization is supportive of the ag community and wind power projects. Stated that we don't have a lot of industrial development like other areas, this will help our ag community and it is complying with the ag district.

Ron Gorder – Stated farmers and school district are going to benefit from the wind farms.

Rick Even – Stated he lived in Elkton and has towers and everything is going to benefit from the wind farms, for instance the roads.

David Iverson – Stated he was on the Brookings County Zoning Board and lives within the Buffalo Ridge 2 wind farm; the company is nice to work with, benefits the schools.

Dave King – Stated he lives in Brookings County and they have turbines on his property. Everything is going to benefit from the wind farms for instance the roads, schools and the county.

Dennis Stroschein – Stated it is a great opportunity for economic development and it will help with jobs.

Norm Bindert – Stated he supports the project.

Rick Gorder – Stated he supports the project.

Jean Sonnenberg – Stated she supports the project.

Bryon Sonnenberg – Stated he supports the project.

Mark Hanson – Stated he supports the project.

Randy Thompson – Stated he supports the project and the company is nice to work with, benefits the schools and the townships.

Dennis Stroschein – Stated he supports the project.

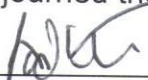
There were no Opponents.

The public hearing was closed.

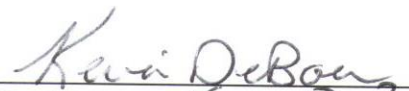
Knight read the questions related to the ordinance for the establishment of Findings of Fact. The Board agreed all requirements of the ordinance had been or could be met with conditions attached by the Board. The Board authorized legal counsel to prepare Findings consistent with the answers to these questions and the final decision of the Board. The Board will authorize the chair to sign those Findings.

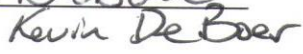
Brandt stated the public hearing is over and we're going to take a vote, roll call vote: DeBoer-yes, Rhody-yes, Homan-yes, DeJong-yes Brandt-yes. Motion carried. The special exception permit will not be valid until the Findings of Fact are approved by the board.

Brandt adjourned the meeting.



Jodi Theisen
Zoning Officer



Paul Brandt 
Acting Vice Chairman, Zoning Board