

November 28, 2022
Special Meeting

The Deuel County Commissioners and the Deuel County Planning Commission met in special session on Monday November 28 at 10:00 a.m. in the Commission Room of the Courthouse with Chairperson Homan presiding. Those present were Commissioners Gary Jaeger, Gary DeJong, Steve Rhody, Roger Kreutner and Judith Homan along with Planning Commission members Paul Brandt, Kevin DeBoer, Mike Dahl, Dennis Kanengieter and Judith Homan. Also present was Auditor Pam Lynde, State's Attorney Teree Nesvold, Todd Kays of First District of Local Governments and several members of the public. 1) Jaeger moved, seconded by Rhody to approve the agenda as presented. A roll call vote was had: Rhody-yes; Homan-yes; Kreutner-yes; DeJong-yes; Jaeger-yes. Motion carried. Chairs Homan and Kanengieter called the meeting to order.

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

The next agenda item was a joint public hearing on ORDINANCE #B2022-01-01, AN ORDINANCE AMENDING ORDINANCE B2004-01, AN ORDINANCE ESTABLISHING ZONING REGULATION FOR DEUEL COUNTY, SOUTH DAKOTA, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF CHAPTERS 11-2, 1967 SDCL, AND AMENDMENTS THEREOF, AND FOR THE REPEAL OF ALL RESOLUTIONS AND ORDINANCES IN CONFLICT HEREWITH

Kanengieter opened the joint public hearing on behalf of the Planning Commission and asked for a motion and a second to recommend approval of Ordinance #B2022-01-01 to the Board of County Commissioners. 2) Dahl moved, seconded by Brandt to recommend to the County Commission approval of Ordinance #B2022-01-01. All voted yes and motion carried.

Chairman Homan opened the public hearing on behalf of the Board of County Commissioners and asked for a motion to approve Ordinance #B2022-01-01. 3) Rhody moved, seconded by DeJong to approve Ordinance #B2022-01-01. All voted yes and motion carried.

Planning Commission Chair then asked Todd Kays from First District, to provide an overview of Ordinance #B2022-01-01.

Kays said it is a cleanup ordinance; after reviewing Ordinance #B2022-01 noticed the errors; oversight that inadvertently changed sections in the setback language; for purposes of this section only, the term "business" does not include agricultural uses; this language was left off; also 45 dBA would apply to nonparticipating residences ; the noise level is to be measured at the perimeter of existing non-participating residences.

After the conclusion of Kays report Kanengieter opened up the meeting for public testimony relating to Ordinance #B2022-01-01. Kays then explained that those who signed up will be given five minutes to comment.

The public was then given the opportunity to speak at the hearing.
The following persons spoke at the hearing:

Dan Litchfield of Invenergy – urged the boards to pass ordinance; said the county has a good wind ordinance; would like to build another project; changes need to be corrected; Monica Monterrosa with Invenergy- asked to allow them to continue to develop south wind project; Robert Young-Invenergy worked on north wind project; urged the boards to pass clean up ordinance.

Seeing no further testimony Chairs Kanengieter and Homan then closed the Planning Commission’s public hearing and the County Commissioner’s public hearing.

Discussion on the testimony was then held. Kayes asked if there were any suggested changes to the ordinance and none were found.

County Commissioner’s then had the first reading of Ordinance #B2022-01-01.
4) Jaeger moved, seconded by Kreutner to hold the second reading of Ordinance #B2022-01-01 at 10:00 a.m. on December 6, 2022. All voted yes and motion carried.

10:15 Joint Public Hearing on AN ORDINANCE AMENDING ORDINANCE B2004-01, AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR DEUEL COUNTY, SOUTH DAKOTA, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF CHAPTERS 11-2, 1967 SDCL, AND AMENDMENTS THEREOF, AND FOR THE REPEAL OF ALL RESOLUTIONS AND ORDINANCES IN CONFLICT HEREWITH.

Kanengieter opened the joint public hearing on behalf of the Planning Commission and asked for a motion and a second to recommend approval of Ordinance #B2022-01-02 to the Board of County Commissioners. 5) DeBoer moved, seconded by to Brandt to recommend to the County Commission approval of Ordinance #B2022-01-02. All voted yes and motion carried.

Chairman Homan opened the public hearing on behalf of the Board of County Commissioners and asked for a motion to approve Ordinance #B2022-01-02. 6) Jaeger moved, seconded by Rhody to approve Ordinance #B2022-01-02. All voted yes and motion carried.

Planning Commission Chair then asked Todd Kays of First District to provide an overview of Ordinance #B2022-01-02.

Kays said this is a new addition to original ordinance B2004-01; individuals had inquired about cannabis cultivation; section 1217 allows for one cannabis dispensary and would allow for one cultivation facility; only in a commercial or an industrial zone; Commissioners and Planning and Zoning had a work session and talked about those changes and are holding a public hearing on proposed change of adding cultivation.

After the conclusion of Kays report Kanengieter opened up the meeting for public testimony. The public then had the opportunity to speak concerning the addition of language adding cannabis cultivation facility. There were no persons present speaking in favor of: Those opposed: Sheriff Borg said there needs to be more studies done to see if this would be in the best interest for Deuel County.

Seeing no further testimony Chairs Kanengieter and Homan then closed the Planning Commission's public hearing and the County Commissioner's public hearing. The Commissioners and Planning and Zoning then discussed the addition of cultivation facility.

Mike Dahl said he is opposed to adding a cultivation facility because of how lax the rules and regulations are; Rhody would like to see what other counties do before Deuel and is in favor of waiting on cultivation; DeJong said the state of Colorado has had problems because of legalizing marijuana; Paul Brandt supports medical marijuana but can see problems down the road with cultivation; DeBoer is not in favor of adding cultivation. Kayes said if planning commission isn't in favor of any language adding cannabis cultivation they could make a substitute motion to approve and recommend to the Commissioners to only adopt with removal of scribes errors, no addition of cultivation. 7) Dahl moved, seconded by DeBoer to approve and recommend to the County Commissioners removal of the scribes errors, but not approve the addition of cultivation. Upon a roll call vote of the Planning Commission Brandt-yes; Dahl-yes; Homan-yes; DeBoer-yes; Kanengieter-no. Motion carried.

County Commissioner's then had the first reading of Ordinance #B2022-01-02 with amendment. 8) Rhody moved, seconded by DeJong to have the second reading of Ordinance #B2022-01-02 with amendment on Tuesday December 6 at 10:15 a.m.. All vote yes and motion carried.

The following is the ordinance recommended for approval by the Planning Commission after the 11/28/2022 public hearing

ORDINANCE NO. B2022-01-02

#B2022-01-02, AN ORDINANCE AMENDING ORDINANCE B2004-01, AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR DEUEL COUNTY, SOUTH DAKOTA, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF CHAPTERS 11-2, 1967 SDCL, AND AMENDMENTS THEREOF, AND FOR THE REPEAL OF ALL RESOLUTIONS AND ORDINANCES IN CONFLICT HEREWITH.

BE IT ORDAINED by the Board of County Commissioners of Deuel County, South Dakota: that ARTICLE XI "Zoning Districts" Section 1102.04 Commercial/Industrial "Conditional Uses" adopted by Ordinance B2004-01, as amended, of the Zoning Ordinance of the Deuel County be amended by adding language in bold and underline and removing strikeout language:

Section 1102.04 Conditional Uses

18. ~~Commercial stables;~~ **(Reserved)**

31. Temporary structures used for the sale of fireworks during times of the year specified in SDCL 34-37 where there have been ~~no~~ past violations regarding previous sales.

BE IT FURTHER ORDAINED by the Board of County Commissioners of Deuel County, South Dakota: that that 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.~~

BE IT FURTHER ORDAINED by the Board of County Commissioners of Deuel County, South Dakota: that that Article XII, "GENERAL REGULATIONS" Section 1217. Cannabis Dispensaries, adopted by Ordinance B2004-01, as amended, of the Zoning Ordinance of Deuel County be amended by adding be amended by adding language in bold and underline and removing strikeout language:

SECTION 1217. CANNABIS DISPENSARIES FACILITIES.

1. Maximum Number of Cannabis Dispensaries.
 - b. The County shall allow up to one **(1)** cannabis ~~dispensaries~~ **dispensary** provided the time, place, and manner of said dispensaries comply with this ordinance.

4. Other Locational Requirements
 - a. Permanent or temporary dispensaries are prohibited in all other zoning districts, **other than the "C1" – Commercial/Industrial District,** and not eligible for a home occupation use.

Passed and adopted this day of , 2022.

Chairperson
Deuel County, SD

Auditor
Deuel County, SD

This ordinance shall become effective upon the date of publication of this notice in the official newspaper, thereby repealing all ordinances or parts thereof in conflict herewith unless a referendum in timely involved prior thereto.

The joint hearing then concluded. The County Commissioners then met and 9) Kreutner moved, seconded by DeJong to pay warrants as submitted. All voted yes and motion carried.
Warrants: Astoria Legion 50.00 Rent for Gen Election, Donna Atyeo 220.00 General Election, Carol Barger 236.32 General Election, Nancy Barondeau 220.00 General Election Kim Berwald 245.50 General Election, Dianne Brandt 220.00 General Election, Linda Broksieck 234.28 General Election, Fay Buchholtz 220.00 General Election, Bonnie Budahl 220.00 General Election, Linda Dailey 232.75 General Election, Dakota Ridge Inc. 50.00 Rent for General Election, Janice Engelstad 240.40 General Election, Dennis Evenson 50.00 Resolution Board, Patricia Foster 220.00 General Election, Blaine Franken 220.00 General Election, Linda Goodroad 180.00 General Election, Sonja Hanson 261.82 General Election, Steve Harford 50.00 Resolution Board, Julie Hendrickson 220.00 General Election, Judy Heth 252.64 General Election, Debra Huber

220.00 General Election, Judy Hunt 248.05 General Election, Beverly Johnson 220.00 General Election, Lark Kelley 231.22 General Election, Diane Kjenstad 240.40 General Election, June Klemann 220.00 General Election, Tamara Krein 195.30 General Election, Nancy Kreutner 256.72 General Election, Shirley Larson 252.64 General Election, Rachel Pfaffendorf 220.00 General Election, Barbara Schiefelbein 220.00 General Election, Leona Tesch 220.00 General Election, Loretta Tvedt 230.20 General Election, Shirley Quail 60.00 General Election.

There being no other business Rhody moved, seconded by Kreutner to adjourn the meeting. Meeting adjourned.

Judith Homan, Chairperson
Deuel County Commission

ATTEST:

Pam L. Lynde, Auditor

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