Tuesday February 3, 2026

The Deuel County Zoning Board met on Tuesday February 3, 2026 at 9:30 a.m., in the Deuel County Court Room of the Courthouse in Clear Lake. Those present were board members Jay Grabow, Kevin DeBoer, Mike Dahl, Mike Lammers, Dennis Kanengieter, States Attorney Craig Evenson Zoning Officer Jodi Theisen and other members of the public.

Chairman Mike Dahl called the meeting to order.

Dahl asked if the board, or any staff member, had anything to add to the agenda with none being offered.

Dahl informed the public if they would like to talk, they could do that during the public comment session.

Dahl asked for any seated board member if they think they need to recuse themselves from any discussion topics on the agenda, or from voting on an agenda item with no board member responding.

Motion by Grabow, seconded by Lammers to approve the agenda. Motion passed unanimously.

Motion by Kanengieter, seconded by DeBoer, to convene as the Planning Commission. All voted in favor. Motion carried.

Joint Public Hearing – Ordinance #B2022-01-11

The first agenda item was a joint public hearing on Ordinance #B2022-01-11, an ordinance amending Ordinance B2022-01, an ordinance establishing zoning regulations for Deuel County, South Dakota, and providing for the administration, enforcement, and amendment thereof.

The proposed ordinance amends Article XII, "General Requirements," Section 1248 Essential Services, as follows:

- Section 1248.01 Applicability: The requirements of these regulations shall apply to overhead electrical transmission lines with a voltage greater than 345 kV.
- Section 1248.02 Federal and State Requirements: Essential Services shall meet or exceed standards and regulations of South Dakota State Statutes and any other agency of federal or state government with authority to regulate Essential Services.
- Section 1248.03 General Provisions: Transmission lines with voltage greater than 345 kV must have a setback of 2,000 feet from any inhabited residence in all zoning districts. This includes, but is not limited to, support structures greater than 100 feet tall or with a base diameter of 25 feet or a wingspan of 30 feet.

The ordinance also amends Article XI, "Zoning Districts," Section 1101 "A" Agricultural District, Section 1101.04 Conditional Uses, to add:

- Essential Services, provided they meet the requirements of Section 1248.

Chairman Dahl and Chair Grabow opened the public hearing for their respective boards.

Kirk Phinney (Otter Tail Power Company):

- Discussed proposed 765 kV transmission line and partnership with Xcel Energy.
- Addressed county concerns regarding safety, land use, economic opportunity, and long-term planning.
- Emphasized importance of transmission infrastructure for grid reliability, connectivity, and cost stabilization.
- Expressed willingness to collaborate with the County.

Tim Rogers (Xcel Energy):

- Confirmed partnership with Otter Tail Power Company.
- Expressed concern about 2,000-foot setback requirement (increased line length, additional structures, land impacts).
- Requested consideration of a waiver allowing landowners to choose reduced setbacks.

Steve January:

- Raised concerns about potential health risks, linking high-voltage lines to increased childhood leukemia.
- Shared personal experiences and concerns about property values.

Jesse Lyon (Northern States Power Company):

- Transmission engineer responsible for project design.
- Confirmed compliance with NESC and OSHA safety standards.
- Noted calculations of electric and magnetic fields to maintain safe conditions.

Dr. Jeff Ellenbogen, MMSc, MD:

- Reviewed potential health effects, including cancer and impacts on implanted devices.
- Concluded no known health risks; noise levels low (~50 dB); 250-foot right-of-way adequate

Public Questions and Discussion:

- Steve January expressed caution regarding newborn safety. Dr. Ellenbogen responded that decades of data show no evidence of harm.
- Jay Grabow questioned the relevance of studies at lower voltages; Dr. Ellenbogen clarified his expertise and experience.
- Kevin DeBoer asked if 765 kV lines exist in the U.S.; Jesse Lyon confirmed examples in Indiana and West Virginia.
- Jenny Falcone questioned potential bias in Dr. Ellenbogen's study; he stated it was utility-funded but no credible opposition exists.
- Falcone suggested rerouting the line to bypass the County.
- Mike Lammers inquired about substations and endpoints; Jesse Lyon explained the line improves regional reliability rather than directly serving local residents.
- Lisa Agrimonti (Invenergy attorney) provided additional context on project routing and MISO-directed planning.
- Michelle Oftedahl urged caution, invoking the precautionary principle and emphasizing long-term risks.
- Mary Nosbush raised concerns about stray voltage impacts on livestock. Jesse Lyon clarified that stray voltage occurs primarily at the distribution level, while induced voltage from transmission lines is managed according to industry standards.
- Scott Fieber asked about migratory birds and bees; Tim Rogers described avian protection programs and mitigation measures.
- Jay Grabow questioned why avoiding easements takes priority over maintaining setbacks from homes; Tim Rogers explained easement restrictions and federal review processes.
- Steve January described an alternative route avoiding easement impacts, expressing frustration that the utility did not adopt it.

Board Discussion:

- Jay Grabow stated no objection to placing lines closer to willing landowners, leaving the decision to the landowner.
- Kevin DeBoer asked about ownership transfer to MISO and noted uncertainty regarding the appropriateness of a 2,000-foot setback.
- Dennis Kaningater expressed concern about hosting transmission lines with no direct local benefit.
- Jay Grabow noted that unknowns exist but the Board can proceed, with the option to adjust the ordinance later. Additional time exists before permitting occurs.

Motion by Grabow, seconded by Kanengieter: Amend the ordinance to allow reduced setbacks with landowner permission. Dahl called for a roll call vote: Kanengieter – Yes, DeBoer – No, Grabow – Yes, Lammers – Yes, Dahl – No. Motion carried.

Motion by Kanengieter, seconded by Lammers, to recommend the amended ordinance to the County Commissioners. All members voted in favor. Motion carried.

Zoning Officer Theisen and County Auditor Parker stated that the County Commissioners will conduct the first reading of the amended ordinance on March 3, 2026, following the required publication of the amended ordinance. This timeline reflects the 10-day publication requirement and the newspaper's weekly publication schedule.

Jay Grabow explained that a public request was made for a moratorium on data centers, transmission lines, and power plants. Jay Grabow explained that no moratorium was pursued for transmission lines since the ordinance process is already underway. Grabow clarified that moratorium are temporary measures (up to 2 years) intended to allow time for ordinance development. Any potential moratorium would only apply to data centers and power infrastructure.

Public Comments – Data Center Moratorium Discussion

Martin Vega, Applied Digital:

- Emphasized the importance of community engagement to address local concerns and provide accurate information about the project.
- Stated that data center developers prefer clear zoning ordinances, as they provide predictable standards for development.
- Noted that a moratorium could hinder productive discussions with the Commissioners and the Zoning Board and delay ordinance development.
- Confirmed the current plan is for two buildings totaling ~430 MW, emphasizing that any expansion beyond the approved plan would require additional public review, detailed site plans, and Commission approval.
- Clarified that the project would require substations but not new power plants, and that all infrastructure costs would be paid by the developer, not local taxpayers.
- Highlighted that the company plans to hire a local community engagement coordinator and eventually establish a temporary local office.
- Responded to concerns about investment figures, clarifying that the higher $16 billion estimate includes customer-owned computer equipment, not infrastructure costs alone.

Val Trooien:

- Expressed concern about additional industrial development in Scandinavia Township, noting the area has reached its capacity.
- Emphasized that local input has been overlooked and residents want to ensure the township is not treated as a "dumping ground" for large projects.
- Stated the community does not oppose AI or data centers in principle but stressed the importance of prioritizing residents' needs and quality of life.
- Suggested a temporary moratorium to allow time for public input, environmental review, and ordinance development, comparing it to protective rules for children to safeguard the community.

Gary Hudiburgh, CEO, Dakota Cornerstone:

- Noted past community impacts from energy infrastructure and expressed concern about balancing economic growth with local quality of life.
- Suggested establishing a Citizens Advisory Board to gather input and evaluate whether projects align with the community's needs and values.
- Asked about South Dakota's competitiveness relative to other states (e.g., Texas) for attracting data centers and long-term economic sustainability.

Michelle Oftedahl:

- Asked whether the project would require new power plants or substations. Vega confirmed only substations would be needed, and power capacity already exists in the county.
- Emphasized caution in considering long-term infrastructure impacts, urging the Commission to apply the precautionary principle for residents' safety and well-being.

Mary Nosbush:

- Expressed concern that the public had not been adequately involved in the ordinance process.
- Advocated for holding a public meeting before ordinances are drafted, so residents can provide input before decisions are finalized.

Jenny Falco:

- Asked for clarification on sales tax exemptions, specifically whether they applied only to purchased technological equipment.
- Vega explained that only data hall components (racks, computers, electrical systems) are exempt, while construction materials remain taxable, which would still generate approximately $19 million in sales tax on the building and infrastructure.

Craig Evenson, private citizen (State's Attorney, speaking personally):

- Provided context on data centers and AI infrastructure as critical for national security and strategic defense, emphasizing the importance of geographically dispersing facilities to reduce vulnerability.
- Noted that AI-related infrastructure does not typically generate industrial issues like noise or pollution but does require careful oversight to balance economic development with community impact.
- Discussed concerns regarding electric rates and energy infrastructure, emphasizing the need for regulation while allowing economic opportunities.

Additional Points Raised by Residents:

- Concern over expansion: noted that projects often start small but expand over time, raising worries about long-term impacts on local communities.
- Community voice: Residents expressed that the county should actively include local input before approving large-scale developments.
- Environmental and infrastructure impacts: Concerns included potential traffic, noise, strain on local resources, and compatibility with existing rural character.

Board Discussion:

- Jay Grabow noting that no ordinances would be finalized until the state's decision on the sales tax exemption is known. He explained that if the state approves the exemption, a thorough public process would follow, involving stakeholders in surrounding areas. If the state does not approve, the project-specific ordinance process would not move forward.
- Mike Dahl and Kevin DeBoer stated that, although the project-specific ordinance tied to state approval would not move forward, the board could still consider drafting general baseline ordinances as a proactive framework for future projects, which could be revised if circumstances change.
- Mike Lammers stated he would remain neutral and refrain from commenting until the state's decision on tax incentives is known.
- Dennis Kanengieter supported Dahl and DeBoer's approach, agreeing that drafting general ordinances as a precautionary measure is a prudent step for the county.
- Mike Dahl clarified that the board does not direct where businesses locate. Companies, such as data centers or digital service providers, make site-selection decisions based on practical considerations like access to electrical infrastructure, gas lines, and other logistical factors. He emphasized that these decisions are made by the business, not the board, and that there are generally legitimate reasons for the chosen locations. The board discussed project viability contingent on state approval of tax incentives.

Motion by Grabow, seconded by DeBoer, to establish a six-month moratorium on data centers to allow time for the development of local ordinances. Dahl called for a roll call vote: Kanengieter – No, Lammers – Yes, DeBoer – No, Grabow – No, Dahl – No. Motion did not pass.

Public Comments – Power Plants

Brent Moeller, Project Manager, Surrey River Community Services:

- Project: Toronto Power Plant intended to meet public electricity needs.
- Timeline: Introduced June 11, 2024; notice of intent filed June 13, 2024 with SD Public Utilities Commission (PUC).
- Part of ongoing 20-month public review; facility permit filed August 2025 with no interventions.
- Public outreach resumed June 24, 2025.
- Expressed neutral position on potential moratorium but noted concerns about impacts to projects already in progress.
- Cited existing state and county review processes as addressing community concerns.
- Expressed interest in strengthening partnership with the County; offered to answer questions.

Board Inquiry – County Ordinance:

- Zoning Officer Theisen: County previously regulated only public/private utilities; no specific power plant setbacks.
- September 2024: County adopted noise standard of 45 dBA for such facilities.

Mike Dahl / Craig Evenson (States Attorney):

- Dahl asked if a proposed moratorium would affect a project already proposed; Evenson: no County application exists yet, so moratorium would impact the project.

Brent Moeller (PUC Status):

- Project filed with PUC August 2025; PUC has one year to issue a recommendation.
- Decision expected by end of July 2026.

Tony Quail:

- Opposed proposed power plant; stated region already has sufficient generation, with excess exported.
- Concerned local area does not need additional capacity; residents within two miles signed petition opposing project.
- Urged Board/Commissioners to consider additional regulations, including noise ordinances.
- Emphasized impacts should be viewed from perspective of affected homeowners.

Brent Moeller (Project Need Explanation):

- Additional generation needed to provide reliable backup when renewable sources (wind) are insufficient.
- Plant intended to serve member utilities in SD, MN, ND.
- Member utilities require capacity to meet peak demand plus reserve margin.
- Site selected due to proximity to existing infrastructure: gas pipeline and Astoria substation.

Steve January:

- Asked about availability of interruptible gas during recent cold spell; Moeller: gas limited, other facilities supplied at higher cost.
- Asked if plant would rely on fuel oil or backup fuels; Moeller: facility includes ~60 hours fuel storage, key criterion for site selection; winter peak demand requires ~11 tank loads/hour.
- Watertown lacks substation of sufficient capacity to support alternative locations.

Jay Grabow:

- Asked why facility could not be located farther along pipeline; Moeller: interconnection request and transmission modeling site-specific; relocation could delay ~3 years.

Dennis Kanengieter:

- Asked whether plant operates only during peak demand; Moeller: yes, dispatched by MISO; operating costs and fuel type affect timing.

Val Trooien:

- Concerned about cumulative industrial development in area; multiple facilities (wind, power plants, data center, dairy) within ~3 miles.
- Advocated moratorium to evaluate environmental impacts and industrial proximity.
- Stated prior approval of infrastructure should not imply acceptance of additional development.

Michelle Oftedahl:

- Discussed challenges of developing ordinances for multiple projects simultaneously.

- Emphasized need for time to research/develop noise ordinances, including low-frequency noise standards.

Mary Nosbush:

- Provided historical context; existing nearby plant not operating during recent peak due to high gas costs.
- Questioned rationale for building another nearby; expressed concern about cumulative industrial development.

Daniel Drown:

- Concerned about industrial development in Southern Deuel County; residents feel excluded from decision-making.
- Emphasized cumulative impact of multiple power plants on air/noise, health, property values, and quality of life.
- Stated, "Scandinavian township is done," indicating area reached capacity for industrial development.
- Requested moratorium to allow evaluation of environmental, social, and community impacts

Board Discussion and Action

- Chair Dahl closed public comments and opened discussion to the Board.
- Kanengieter expressed support for a moratorium.
- Kevin DeBoer also supported a moratorium and offered to make a motion.
- Jay Grabow suggested including an environmental and community impact study.
- Board members discussed costs for an Environmental Impact Study ($12,000–$20,000) and emphasized the importance of independence from applicants.
- The Board agreed that a one-year moratorium would allow time to assess impacts and ensure informed decision-making.

Motion: DeBoer moved, Grabow seconded to establish a one-year moratorium on any public power plants, with an environmental and community impact study to be completed.
Dahl called for a roll call vote: Kanengieter – yes, Lammers – yes, DeBoer – yes, Grabow – yes, Dahl – yes. Motion passed.

Motion to adjourn by DeBoer, second by Kanengieter. Motion passed unanimously.

Jodi Theisen
Deuel County Zoning Officer

Mike Dahl
Chairman, Zoning Board