

March 28, 2017
Special Meeting

The Deuel County Commissioners met in special session on Tuesday March 28 at 1:30 p.m. at the Clear Lake Community Center with Chairman Jaeger presiding. Those present were Commissioners Dumke, Jaeger, DeJong, Rhody and Pederson. Also present was Auditor Pam Lynde and State's Attorney John Knight. 1) DeJong moved, seconded by Rhody to approve the agenda as presented. A roll call vote was had: Rhody-yes; Dumke-yes; Pederson-yes; DeJong-yes; Jaeger-yes. Motion carried.

The purpose of the meeting was to continue the public hearing on the proposed recommended changes by the Deuel County Planning & Zoning Board to Section 1215 Wind Energy System (WES) requirements of the Deuel County Zoning Ordinance #B2004-01. The Commissioners may return the proposed ordinance to the Planning & Zoning commission for further review; make amendments and schedule another public hearing on the proposed amendments or conduct the first reading of the proposed ordinance change and schedule a second reading date.

Chairman Jaeger asked for a motion to take off the table motion **5**) of the Feb. 28 meeting, Dumke moved to table discussion on motion 3) and amendment 4) to the motion until another meeting is scheduled, seconded by Pederson. A roll call vote was had: Rhody-yes; Dumke-yes; Pederson -yes; DeJong-yes; Jaeger-yes. Motion carried. 2) Dumke moved, seconded by DeJong to take off the table motion **5**) of the February 28 meeting. Roll call vote was had: Pederson-yes; Rhody-yes; Dumke-yes; DeJong-yes; Jaeger-yes. Motion carried.

3) Pederson moved, seconded by Rhody to withdraw amendment - motion **4**) Pederson moved, seconded by Rhody to amend original motion 3) as follows: increase the setbacks from participating and non-participating ~~property line~~ **residences** to 2640 ft. and if participating may be within 1000 ft. of ~~property line~~ **own residence**. Roll call vote was had: Pederson-yes; Rhody-yes; Dumke-yes; DeJong-yes; Jaeger-yes. Motion carried.

4) DeJong moved, seconded by Rhody to withdraw original motion **3**) DeJong moved, seconded by Rhody to amend recommendation as follows: increase the setbacks from participating and non-participating property line to 2640 ft. and if participating may be within 1000 ft. of property line. All voted yes and motion carried. Roll call vote was had: Pederson-yes; Rhody-yes; Dumke-yes; DeJong-yes; Jaeger-yes. Motion carried. The public was then given the opportunity to speak at the hearing:

1. Attorney Jared Gass- Gass talked about putting a property value guarantee in the ordinance revisions to protect non-participating residences; if property didn't sell developer would make up difference or buy out the owner; all standards could be waived and property value guarantee could be waived.
2. Martin Wilson-grew up on family farm in northern Deuel County; economic impact of wind towers would be seven million to landowners and seven million to the County; positive impact to landowners, schools, townships; tax relief for property owners; stay with current ordinance

3. Dan Litchfield- Invenergy; effect of ordinance modification proposals; current setback of 1000 ft. 72 acres; current ordinance is relative to neighboring counties of Kingsbury, Hamlin, Grant; changes could drive investors out of county
4. Dan Seurer-operates crop spraying business Buffalo Ridge Spraying; he stated they respect property rights with respect to wind turbines; they do aerial spraying and wind towers do make it dangerous; could increase rates because it takes more time, more fuel; aren't playing one side or other but want to lay out what could happen; looks forward to doing work in the county in future
5. Daryl Root-address moral obligation for children and grandchildren; we do need more green energy; every form of energy has pros and cons; moved from Pennsylvania to SD; many South Dakotans take clean skies for granted; asking Commissioners to maximize wind energy
6. Will Stone-41 years he has owned land and raised family here; impact of dollars, what about impact of health; asking for proper setbacks; wants the right to protect his family; the bigger the tower the bigger the setback should be; want right to protect family and property
7. Dennis Kanengieter-member of Planning & Zoning Board and emphasized what the Board went through and urged the Commissioner to take a look at what they came up with for all citizens in the County; decisions will affect all; urge you to bring up changes as they are at least vote on those changes and consider what the Zoning Board went through
8. Ruby Holborn-Wind Energy National Assoc. Regulatory Utility Commissioners Siting and Best Practices & Guidance for States; Human health, noise, infrasound and shadow flicker; safety concerns ice-throw, blade failure and tower failure; property values; sold price was average \$48000 lower inside windmill zones than outside; homes not sold 11% vs. 3%
9. Ron Tvedt-lifelong resident of county; asking Commissioners to approve Planning Board's recommendations; job creation and revenue too good to pass up; son has worked on turbines and is good career; local area needs more good paying jobs; revenue can benefit townships, landowners
10. Heath Stone-born in Deuel County moved back to Gary area; concerned with how turbines will affect pheasant business; would like to move to farm but has concerns about family health if turbines too close; will property sell with turbines on it; wildlife deserves to be protected
11. Susan Norgaard-building a house at Lake Cochrane; US Census Bureau says population has decreased from 1990 -2015 by 21% in Lincoln County MN versus 6% for Deuel County; Lake Cochrane road is 4.4 miles, Deuel County 637 miles and residents at lake are paying 9.2% of county taxes; who do we call if too much noise from turbines and can't sleep-County, Zoning, Wind Energy Co.?
12. Cody Kenyon-lifelong resident of county and lives north of Clear Lake; farmers care for the land they live on; farming legacy; farms are going to be here for a long time, acreages may not be; wind farms will help keep farms going; one source of income; all have differences; may affect my way of life

13. George Holborn-from Gary; if wind company has a problem say they have it covered; in Brown County WI three abandoned homes, 80 complaints, four noise concerns where Shirly Co. wind farm located; 2.5 mega-watt towers scheduled for Deuel County; visited wind farm and after terrible headache; be generous on setbacks; non-participants a waiver
14. Clayton Holt-likes coming to Lake Cochrane to get away; likes quiet and has been at lake over 40 years; protect value of property at Lake Cochrane and look at three mile setback for turbines
15. Curtis Mulder- moved to Lake Cochrane 44 years ago; would encourage three mile setback for Cochrane; roads no better where towers are located; turbines will impact visitors at state park; turbines haven't saved Lake Benton or Ivanhoe
16. John Henslin-proposed HB 2170 in Minnesota is response to noise from turbines; proposed setback from residents ten times the height of tower; distance from property line 1640 ft. for 2.5 megawatt; noise complaints in bill will be covered by Dept. of Health and will investigate, pass on to PUC
17. Dale Roth-asked for a show of hands of those who approve towers and show of hands not approves; talk to your neighbors
18. Dennis Evenson-Zoning Ordinance just approved by vote in Codington County; requirement there is Ag easement for acreage and are required to sign these; has been involved with development for a long time; comes with hard work; leave ordinance as it is; we want development in Deuel County
19. Mark Schmidt-look at all of Deuel County not individuals; county is Ag based; county is getting smaller and sooner or later will lose county government services; will help hospital stay open and schools; 40-45 jobs created if project happens
20. Russ Olson-representing Olson family; Deuel County will be giving up revenue source if wind energy doesn't come to county; from 2004-2015 property tax revenue in county has gone up 47%; county needs another revenue source and that is what wind energy would be; doesn't come out of tax payers pockets
21. Steve Hansen-from Clear Lake; reach a compromise; base decision on facts; have heard testimony on benefits; move wind development forward
22. Mike McCann-retired and has cabin on Lake Cochrane for years; windmills have not been left the same and life does not stay the same; look at what changes will be in the coming years; turbines will get bigger; look at future; not fair to look at setback of the past; encourage Commissioners to consider larger setbacks
23. Dr. Chris Ollson-speaking on behalf of Nextera Energy; PHD in environmental health; 45dBA consistent with world health; setbacks 1500 ft. from homes-noise levels will protect homes; 110% of tower height will protect; shadow flicker 30 is consistent with others

Commissioners then asked several questions of speakers: questions concerning property value guarantee; aerial spraying; setback of 2000 ft. from residences; noise levels inside and outside home; property taxes. A short break was then taken and the meeting reconvened at 3:25 p.m.

Commission Chair Jaeger then asked for a motion to adopt the Deuel County Planning Commission recommended changes to Section 1215 Wind Energy Systems Requirements portion of the Deuel County Zoning Ordinance B2004-01. 5) DeJong moved, seconded by Rhody to adopt the Deuel County Planning Commission recommended changes to Section 1215 (WES) Wind Energy System Requirements section of Ordinance B2004-1. Roll call vote was had: Pederson=yes; Rhody=no; Dumke=no; DeJong=no; Jaeger=yes. Motion failed.

Discussion then followed on the recommendations by the Planning & Zoning Board.

1. Increase the setbacks from participating and non-participating residences to not less than 1500 feet.
2. Reduce the allowed noise level from 50 DBA at the perimeter of existing residences to 45dBA for non-participating residences.
3. Include a limit for allowable shadow flicker at existing residences to no more than 30 hours annually
4. Include a setback from the municipalities of Goodwin, Toronto, Gary, Brandt, Astoria and Altamont of one mile from the nearest residence and one and one half miles from the nearest residence in the town of Clear Lake, except the area of Clear Lake located in Sections 11, 12 and 14.
5. Add a setback from the Lake Park District located at Lake Cochrane and Lake Alice of two miles from the boundary of the Lake Park district and one mile from the lake park district at Bullhead Lake.

Chairman Jaeger read a proposed amendment to recommended change #1:

1. Distance from existing Non-Participating residences and businesses shall be not less than six times the height of the wind turbine. Distance from existing participating residences, business and public buildings shall be not less than fifteen hundred feet. Chairman Jaeger asked for discussion on the amendment; Commissioner Rhody said he would like to add a waiver for non-participates to be able to waive that setback, to allow turbine to be placed closer to property if they choose, their right to refuse or accept the distance as stated above; only non-participant would have the waiver option. 6) Rhody moved, seconded by Jaeger to add waiver option for non-participants to change #1. Roll call vote followed: Pederson=yes; Rhody=yes; Dumke=yes; Jaeger=yes; DeJong=yes. Motion carried.

Chairman Jaeger then asked for a motion to approve change #1. with waiver. 7) DeJong moved, seconded by Dumke to approve change #1. with amendment of waiver option for non-participant. Roll call vote: Pederson=yes; Rhody=yes; Dumke=yes; DeJong=yes; Jaeger=no. Motion carried.

The next recommended change the Commissioners discussed was #4. Include a setback from the municipalities of Goodwin, ~~Toronto, Gary~~, Brandt, Astoria and Altamont of one mile from the nearest residence and one and one half miles from the **nearest residence city limits of the towns of Gary, Toronto and in the town of** Clear Lake, except the area of Clear Lake located in Sections 11, 12 and 14. The changes would be striking the towns of Toronto and Gary from the one mile from nearest residence and adding them to the one and one half mile setback and strike nearest residence and add city limits of the towns of Gary, Toronto and Clear Lake. 8) Pederson

moved, seconded by Rhody to approve change #4. Roll call vote: Pederson-yes; Rhody-yes; Dumke-yes; DeJong-yes; Jaeger-yes. Motion carried.

Chairman Jaeger said the Commissioners proposed an amendment to #9. (current WES) Decommissioning Plan. Amend 9(a) as follows: Decommissioning Plan. Within 120 days of completion of construction, the permittees shall submit to the County a decommissioning plan describing the manner in which the permittees anticipate decommissioning the project in accordance with the requirements of paragraph (b) below. The plan shall include a description of the manner in which the permittees will ensure that it has the financial capability to carry out these restoration requirements when they go into effect. The permittees shall ensure that it carries out its obligation to provide for the resources necessary to fulfill these requirements. **The County may at any time request the permittees to file a report with the County describing how the permittees are fulfilling this obligation. The decommissioning plan shall include the requirement that Permittee post a bond or other adequate security sufficient to pay the entire cost of the decommission process.** 9) Dumke moved, seconded by DeJong to approve the amended change as stated above to section #9 Decommissioning Plan. Discussion followed. Jaeger then asked for a roll call vote: Pederson-yes; Rhody-yes; Dumke-yes; DeJong-yes; Jaeger-yes. Motion carried.

Discussion was then held on Planning Commission recommended changes to #2 (noise level), #3 (shadow flicker), and #5 (lake park setbacks).

2. Reduce the allowed noise level from 50 dBA at the perimeter of existing residences to 45 dBA for non-participating residences.
3. Include a limit for allowable shadow flicker at existing residences to no more than 30 hours annually.
5. Add a setback from the Lake Park District located at Lake Cochrane and Lake Alice of two miles from the boundary of the Lake Park district and one mile from the lake park district at Bullhead Lake.

10) Rhody moved, seconded by Jaeger to accept recommended changes #2, #3 and #5. Discussion followed. DeJong said he would like to see a larger setback at Lake Cochrane. Chairman Jaeger said he needed to pull out or withdraw #5 and go with #2 and #3. Chairman Jaeger said he needed a motion to approve #2 and #3. 11) Dumke moved, seconded by Pederson to approve Planning Commission recommended changes #2 and #3 only. Roll call vote: Pederson-yes; Rhody-yes; Dumke-yes; DeJong-yes; Jaeger-yes. Motion carried.

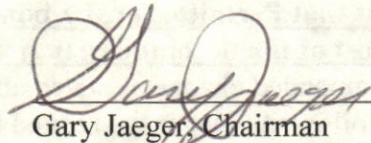
Chairman Jaeger then asked for a motion of consideration on an amendment to Planning Commission recommendation #5. 12) DeJong moved, seconded by Pederson to increase setback for Lake Cochrane to three miles. Discussion followed. DeJong stated Lake Cochrane is fully developed with cabins around entire lake, they pay a significant amount of tax. Rhody said he didn't have a problem with two mile setback from Cochrane. Jaeger stated the proposed amendment to #5 is to change setback at Lake Cochrane to three miles. Roll call vote: Pederson-yes; Rhody-no; Dumke-yes; DeJong-yes; Jaeger-no. Motion carried.

Commissioner DeJong then suggested adding a property value guarantee to the WES section of the Zoning Ordinance. He said wind energy companies have stated that property valuation will not decrease where wind turbines are located and said a guarantee will address that problem by having the wind developer's guarantee that won't happen

and that he is trying to protect the residents of the county. 13) DeJong moved, seconded by Pederson to add a section to 1215 (WES) Requirements a Real Estate Property Value Assurance Plan to all non-participating landowners. Discussion followed. Jaeger said he is opposed to that and won't support it. Commissioner Pederson then withdrew his second to the motion. Chairman Jaeger then asked for a second to the motion. Rhody then seconded the motion. Chairman Jaeger called for a roll call vote to add a Real Estate Property Value Assurance Plan to section 1215 (WES) Requirements of county zoning ordinance. Pederson-no; Rhody-yes; Dumke-yes; DeJong-yes; Jaeger-no. Motion carried.

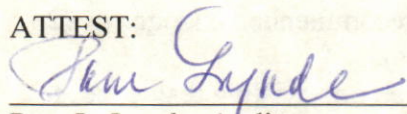
State's Attorney Knight said that the first reading of the proposed changes to Section 1215 Wind Energy System (WES) Requirements will tentatively be held April 18 with second reading April 25.

Pederson moved, seconded by Rhody to adjourn. Motion carried.



Gary Jaeger, Chairman
Deuel County Commission

ATTEST:



Pam L. Lynde, Auditor

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