

Mr. Kelley,

Thank you for the name correction information. However, “Kelly” is how your name was received via the Santel email network; so you can see how this could be mistaken by anyone receiving an email. We will be sure to correct this.

I felt the need to respond since your email was sent to the Planning Commission, yet included personal attacks directed towards how I operate the day to day operations of the Planning & Zoning Department.

To clarify the past Board vote on a Proposed Wind Energy System in Davison County, on December 1, 2015 the Planning Commission voted 6-0-1 to recommend approval of the project. On December 15, 2015 the Board of Adjustment voted 5-0 to table the application. On February 9, 2016 the Board of Adjustment denied the Application on a 4-1 vote. There were supporters and opponents at the meeting. The Board of Adjustment was not against Wind Energy Systems, but rather at the proposed location. The Boards requested the Planning & Zoning Department determine a set of criteria to be used for any future proposals be included in the Ordinance Revision we were currently working on. We reviewed 24 projects and/or ordinances and the Public Utility Commission statutes and Administrative Rules on Wind Energy Systems.

In regards to the Letcher Township Ordinance, it should be noted Sanborn County Commissioner Gary Blindauer stated at the Township meeting “For the county, we still don’t recognize your ordinance; but do what you want.” Also, Sanborn County Planning and Zoning Board Member Myron Sonne referenced the existing Sanborn County Zoning Ordinance allows a Wind Energy System with a Conditional Use Permit.

Davison County maintains Townships do not have the inherent power to zone. Please reference *Welsh v. Centerville Township, 1999 SD 73*. The First Judicial Circuit Court granted the landowner's motion for summary judgment finding the Township did not have, pursuant to its general authorization under SDCL 8-2-1(4), the power to zone. The trial court also found the ordinance passed by the Township was void and of no effect upon the landowner. The Township appealed the decision. The South Dakota Supreme Court affirmed the Circuit Court decision. The full case can be found @ [http://ujs.sd.gov/Supreme\\_Court/opiniondetail.aspx?ID=440](http://ujs.sd.gov/Supreme_Court/opiniondetail.aspx?ID=440).

The goal of the Davison County Zoning Ordinance is to *not* be so restrictive as to zone out a business. If that were the case, we would not have airports, campgrounds, ethanol plants, animal feeding operations, spreading of manure, grain bins, grain dryers, or any business/operation that one may feel is intrusive to the residents of the county. The goal is to provide a set of standards. The Planning Commission and Board of Adjustment can determine if the proposal requires additional criteria. At this time we have 40 items listed as needing a Conditional Use Permit in the Agriculture District. The only one that has additional criteria listed in the ordinance is an animal feeding operation. This leaves residents susceptible to the other 39 items listed possibly being intrusive. Currently, a Wind Energy System only requires a Conditional Use Permit, with no additional criteria, setbacks, etc.

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