

Mr. Bathke

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<http://www.farmforum.net/2017/03/28/ganje-to-setback-or-not-to-setback-that-is-the-question/>

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Ganje: To setback, or not to setback? That is the question

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by David Ganje
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Walworth County is now considering the adoption of a new Walworth County Zoning Ordinance. It is a comprehensive planning and zoning ordinance which holds the ominous name of Ordinance #2017-1. What is the most controversial

provision of the proposed Walworth Ordinance? Its two-mile wind turbine setback provision. Is it reasonable? Yes. The term requires a greater setback than several other wind project ordinances in North and South Dakota. It is also contrary to the Public Utility Commission's ridiculously inadequate recommendation of a 1000 foot setback.

Let us please remember that all politics is local. Indeed, all planning and zoning politics should be local. One cannot compare the recommended wind tower setback of 'two miles' for Walworth County with ordinances written for Lincoln or other South and North Dakota counties. Why the difference? Population densities are different. Topography is different. Traffic patterns for road and highway use are different. The basic demographics of local economies and local communities are always unique: What percentage of the affected area is ag? What percentage is the so-called residential population in density? What percentage is industrial and commercial?

A nationally recognized expert in property valuations and land use evaluations, Michael S. McCann, has used a recommended two-mile minimum as a benchmark for turbine setbacks in his advocacy. He uses a 'use and enjoyment' argument regarding surrounding properties. His arguments regarding setback terms merits consideration.

Is the proposed Walworth Ordinance perfect? No. It contains certain errors and general provisions that do not necessarily fit the locale. It is part template and part editing from other ordinances. Is it better than the existing ordinance? Indeed. Is it workable? Yes. Could it use improvement? Please don't ask my ex-girlfriend about that.

Does wind power have a place in the region's economy? Yes. Consider the local economic aspects of a wind farm, leaving for another discussion important but relevant environmental and risk issues. What are the local economic benefits of a wind project? 1. Landowner rental payments. 2. Initial construction jobs. 3. Some long term and permanent employment. 4. Limited albeit local

redistribution of tax collections. 5. Wind projects put little strain on local government regarding issues of law enforcement, or on such matters as a need for increased costs to local school districts. Brookings County has 140 wind turbines. I know of no farmer or politician in Brookings County who complains of the many turbines in the county. 6. I have not experienced one incident of an actual reduction in agricultural or livestock production caused by a nearby wind farm in either state. I know of no evidence showing the value of agricultural and ranch land itself reduced by operating wind turbines which are properly maintained. Nevertheless it is my opinion (notwithstanding a 2009 US Department of Energy study to the contrary) that residential property values located near wind turbines are adversely affected by the presence of turbines.

Perfect legislation and rulemaking are not achievable on this earth. The proposed Walworth Ordinance has blemishes and imperfections. I would place other safeguards and standards in the ordinance. It is nevertheless a good step forward, and brings into today's world the 1983 Walworth County Zoning Ordinance. The proposed ordinance is a modern, more comprehensive effort towards the oversight of projects including contemporary wind farms.

David Ganje practices in the area of natural resources, environmental and commercial law in South Dakota and North Dakota.