

Recommended Changes to the Davison County Zoning Ordinance

Introduction:

1. Page 2- Added an Acknowledgement page.
2. Page 3-Added ordinance page showing dates/signatures.
3. Page 4-Added table of contents.
4. Page 5-Updated Ordinance History.

Article 1: Definitions

5. Page 7-Added Industrial Development to the Agriculture Use Covenant definition, and clarified who is the Grantor of the covenant.
6. Page 7-Merged the Animal Units and Conversion Table.
7. Page 18-Added a definition for Industrial Development.
8. Page 27-Changed the definition of a shelterbelt from 5 rows to 3.
9. Page 29-Sign, off-site. Added a max of 600 SF and added the requirement to comply with § 31-29 if located along a state or federal highway.
10. Page 29-Sign, On-site, Exterior. Added a max of 100 SF.
11. Page 30-Added a definition of a Solar Energy System.
12. Page 30-Clarified that a grain bin/silo is a structure and that concrete is not a structure.
13. Page 30-Added a definition of a survey.
14. Page 30-Removed the restriction on swine herd breeding.
15. Page 33-Clarified the definition of Zoning Administrator.

Article 2: Administration

16. Page 34-Merged several administrative Articles (Article 1, 2, 3, 4, 12, & 17) together into one “Administration” Article.
 - a. Removed Section 209-Classification of Unlisted Uses, as this is covered in each individual Article.
17. Page 34-Added a directory to the beginning of the Article (repeat).
18. Section 2:02-Clarified Loomis is unincorporated.
19. Section 2:02-Met with the City Planner on the boundaries of the ETJ. We did not make any changes, but did remove 6 sections from the original ordinance that were actually entirely inside city limits and not in the ETJ District.
20. Section 2:03-Added a comment regarding covenants, reservations, restrictions, or by-laws being the responsibility of the property owner and/or developer. (all Districts)
21. Section 2:07-Added two districts (City Limits-CL and Extra Territorial Jurisdiction-ETJ) that were identified on previous zoning maps, but not in the ordinance. (No Article, due to no jurisdiction)
22. Section 2:10-Added the step by step process of amending the regulations. Also verified the size of the notice signs; which meets the requirements of the recent Supreme Court

decision. Added any SDCL updated by the legislature shall apply. Removed “resolution” in item #7.

23. Added section 2:13 explaining any residential structure moved in a horizontal direction, must come into compliance with the most recent Uniform Building Code and this ordinance.
24. Changed the title and reworded Section 2:14 explaining Nuisance Property.
 - a. Vehicle restriction applies to AR District.
 - b. Remainder of nuisance section applies to all districts, but does not prohibit normal farming operations.
25. Section 2:16-Clarified 20,000 SF vs. 1 acre needed for lots. Also cited the Administrative Rule on septic systems.
26. Section 2:17-Changed Agriculture Use Covenant to Agricultural Use and Industrial Development Covenant. Re-worded the covenant to be required for the following three reasons: all residential or commercial building permits, plats intended for residential dwellings or commercial use, or requests for rezoning of agricultural land.
27. Section 2:18-Added tracts and roads, clarified process of naming. Added, at the request of the Register of Deeds: Naming of Plat shall not include an initial along with a name. (For Example: J.A. Johnson 1st Addition).
28. Section 2:19-Referenced compliance with the Flood Damage Prevention Ordinance.

Article 3: Agriculture District (Previous Article 5)

29. Page 43-Added a directory to the beginning of the Article (repeat).
30. Section 3:02 (15)-Added rental property of less than three (3) units as a permitted use. (repeat)
31. Section 3:02 (16)-Added Storage Building as a permitted use.
32. Section 3:03 (5 & 6)-Split Farm and Home Occupations.
33. Section 3:04 (27)-Added rental property of three (3) or more units required to have a Conditional Use Permit. (repeat)
34. Section 3:04 (37)-Added Solar Energy Systems, with a total panel nameplate rating of 1,000 watts or higher or a system with an operating DC voltage of 100 volts or higher over 100 square feet required to have a Conditional Use Permit. (repeat)
35. Section 3:04 (38)-Added Special Events, which may include alcohol sales. (repeat)
36. Section 3:07 (5)-Added comment giving the commission(s) the authority to grant a variance for less than 25 acres for reasons other than previously listed (new option). (repeat)
37. Section 3:08 (1) (d)-Added additional side-yard setback requirement of 75’ for site triangle from the side yard right of way (on the road side only). (repeat)
38. Section 3:08 (2-6)-Added additional setback requirement of buildings 5’ apart, structures (bales/trees/crops, etc.) in the right-of-way past November 1st of each year as in accordance with § 13-31-56. (repeat)
39. Section 3:09 (3) (g), Section 3:09 (11) (g), and Section 3:09 (12) (h)-added SFHA as prohibited for animal feeding operations and manure application.

40. Section 3:09 (11) (f) and Section 3:09 (11) (j)-changed from 10 feet to 0 feet for manure application incorporated or injected. (repeat)
41. Section 3:09 (11) (h) and Section 3:09 (12) (i)-added unincorporated communities. (repeat)
42. Section 3:10 (11) (f) and Section 3:10 (11) (j)-changed from 10 feet to 0 feet for manure application incorporated or injected. (repeat)
43. Section 3:10 (11) (h) and Section 3:10 (12) (i)-added unincorporated communities. (repeat)
44. Section 3:11-added recommendations for Wind Energy Systems. The recommendation from the Planning Commission was to strike Section 3:11.

Article 4: Agriculture Residential District (Previous Article 6)

45. Page 55-Added a directory to the beginning of the Article (repeat).
46. Section 4:02 (15)-Added rental property of less than three (3) units as a permitted use. (repeat)
47. Section 4:02 (18)-Added Storage Building as a permitted use.
48. Section 4:03-Added Accessory agriculture structures as a Permitted Accessory Use.
49. Section 4:03 (5 & 6)-Split Farm and Home Occupations.
50. Section 4:04 (30) - Added rental property of three (3) or more units required to have a Conditional Use Permit. (repeat)
51. Section 4:04 (38)- Added Solar Energy Systems, with a total panel nameplate rating of 1,000 watts or higher or a system with an operating DC voltage of 100 volts or higher over 100 square feet required to have a Conditional Use Permit. (repeat)
52. Section 4:04 (39)-Added Special Events, which may include alcohol sales. (repeat)
53. Section 4:07 (5) - Added comment giving the commission(s) the authority to grant a variance for less than 25 acres for reasons other than previously listed (new option). (repeat)
54. Section 4:08 (1) (d)-Added additional side-yard setback requirement of 25' for site triangle from the side yard right of way (on the road side only). (repeat)
55. Section 4:08 (2-6)- Added additional setback requirement of buildings 5' apart, structures (bales/trees/crops, etc.) in the right-of-way past November 1st of each year as in accordance with § 13-31-56. (repeat)
56. Section 4:09 (8) - Highway authority clarified.
57. Section 4:10 (3) (g), Section 4:10 (11) (g), and Section 4:10 (12) (h)-added SFHA as prohibited for animal feeding operations and manure application. (repeat)
58. Section 4:10 (11) (f) and Section 4:10 (11) (j)-changed from 10 feet to 0 feet for manure application incorporated or injected. (repeat)

Article 5: Rural Estate District (only one is a small area north of the MV track-see zoning map) (Previous Article 7)

59. Page 66-Added a directory to the beginning of the Article (repeat).
60. Section 5:01-Re-worded the intent.

61. Section 5:02 (6)-Added rental property of less than three (3) units as a permitted use. (repeat)
62. Section 5:03 (3 & 4)-Split Farm and Home Occupations.
63. Section 5:04 (14)-Added rental property of three (3) or more units required to have a Conditional Use Permit. (repeat)
64. Section 5:04 (19)- Added Solar Energy Systems, with a total panel nameplate rating of 1,000 watts or higher or a system with an operating DC voltage of 100 volts or higher over 100 square feet required to have a Conditional Use Permit. (repeat)
65. Section 5:07-Added a section for Minimum Lot Requirements. Moved the Minimum Lot Width and area information to Lot Requirement Section to be consistent with other Sections. (Format change only)
66. Section 5:08 (1) (d)-Added additional side-yard setback requirement of 25' for site triangle from the side yard right of way (on the road side only). (repeat)
67. Section 5:08 (2-6)-Added additional setback requirement of buildings 5' apart, structures (bales/trees/crops, etc.) in the right-of-way past November 1st of each year as in accordance with § 13-31-56. (repeat)

Article 6: Rural Residential District (None in the county, and not even identified on the current Zoning Map.) **(Previous Article 8)**

68. Page 71-Added a directory to the beginning of the Article (repeat).
69. Section 6:02 (6)-Added rental property of less than three (3) units as a permitted use. (repeat)
70. Section 6:04 (10) - Added rental property of three (3) or more units required to have a Conditional Use Permit. (repeat)
71. Section 6:04 (14)- Added Solar Energy Systems, with a total panel nameplate rating of 1,000 watts or higher or a system with an operating DC voltage of 100 volts or higher over 100 square feet required to have a Conditional Use Permit. (repeat)
72. Section 6:07-Added a section for Minimum Lot Requirements. Moved the Minimum Lot Width and area information to Lot Requirement Section to be consistent with other Sections. (Format change only)
73. Section 6:08 (1) (d)-Added additional side-yard setback requirement of 25' for site triangle from the side yard right of way (on the road side only). (repeat)
74. Section 6:08 (2-6)-Added additional setback requirement of buildings 5' apart, structures (bales/trees/crops, etc.) in the right-of-way past November 1st of each year as in accordance with § 13-31-56. (repeat)

Article 7: Platted Town Site Residential District (Loomis) **(Previous Article 9)**

75. Page 76-Added a directory to the beginning of the Article (repeat).
76. Section 7:02 (6)-Added rental property of less than three (3) units as a permitted use. (repeat)
77. Section 7:03 (3 & 4)-Split Farm and Home Occupations.
78. Section 7:04 (3)-Added rental property of three (3) or more units required to have a Conditional Use Permit. (repeat)

79. Section 7:04 (7)- Added Solar Energy Systems, with a total panel nameplate rating of 1,000 watts or higher or a system with an operating DC voltage of 100 volts or higher over 100 square feet required to have a Conditional Use Permit. (repeat)
80. Section 7:07 (3)-Changed the minimum area to 3,550 square feet, due to minimum width and depth.
81. Section 7:08 (1) (d)-Added additional side-yard setback requirement of 25' for site triangle from the side yard right of way (on the road side only). (repeat)
82. Section 7:08 (2-6)-Added additional setback requirement of buildings 5' apart, structures (bales/trees/crops, etc.) in the right-of-way past November 1st of each year as in accordance with § 13-31-56. (repeat)

Article 8: Planned Unit Development (None in Davison County) (**Previous Article 10**)

83. Page 79-Added a directory to the beginning of the Article (repeat).
84. Section 8:01-To have consistent format with other Articles, re-worded the Intent of the Article.
85. Section 8:03 (2)-Corrected an error in referencing another part of the ordinance.
86. To be consistent in format with other Articles, deleted Subsequent Performance and Performance Standards; and added Section 8:04 Minimum Lot Requirements and Section 8:05 Minimum Setback Requirements. The additional setback requirement of buildings 5' apart, structures (bales/trees/crops, etc.) in the right-of-way past November 1st of each year as in accordance with § 13-31-56 was also added. (repeat)

Article 9: Rural Commercial District (Betts/I-90-Lemke, Buchholz, Schorzmann, Constant, Millan, Betts/HWY 16-Boyds Gunstock area) (**Previous Article 11**)

87. Page 81-Added a directory to the beginning of the Article (repeat).
88. Section 9:04 (7)-Added rental property of three (3) or more units required to have a Conditional Use Permit. (repeat)
89. Section 9:04 (12)- Added Solar Energy Systems, with a total panel nameplate rating of 1,000 watts or higher or a system with an operating DC voltage of 100 volts or higher over 100 square feet required to have a Conditional Use Permit. (repeat)
90. Section 9:04 (13)-Added Special Events, which may include alcohol sales. (repeat)
91. Section 9:04 (15 & 16)-Added Wind Energy Systems, Commercial and Non-Commercial.
92. Section 9:08 (1) (d)-Added additional side-yard setback requirement of 75' for site triangle from the side yard right of way (on the road side only). (repeat)
93. Section 9:08 (2-6)-Added additional setback requirement of buildings 5' apart, structures (bales/trees/crops, etc.) in the right-of-way past November 1st of each year as in accordance with § 13-31-56. (repeat)
94. Section 9:09-added recommendations for Wind Energy Systems. The recommendation from the Planning Commission was to strike Section 9:09.
95. Deleted Section 1117-Performance Standards, as this is covered in Article 2:17.

Article 10: Procedures and Enforcement (**Previous Article 13**)

96. Page 86-Added a directory to the beginning of the Article (repeat).
97. Moved the Planning Commission and Board of Adjustment information to their respective Articles.
98. Section 10:02-Changed to require a building permit prior to pouring concrete. This is to protect the property owner and contractor, to ensure a structure meets setbacks.
99. Section 10:02-Penalty for failure to purchase a building permit will be double the permit, plus any lost property tax, and interest.
100. Section 10:03-Applicant is responsible for knowing where property lines are.
101. Section 10:05-Removed the Grandfather clause for building permits to be issued on land described by measurements for deeds filed prior to May 1, 1996 (Previously Section 1212). All land described by measurements will need to be platted prior to issuance of a building permit.

Article 11: Planning Commission (Previous Article 14)

102. Page 90-Added a directory to the beginning of the Article (repeat).
103. Section 11:01-11:04-Included/Organized information about members, terms, meetings, rules.
104. Section 11:01-Clarified % needed, and present at the meeting vs. on the board.
105. Section 11:02-Referenced SDCL on filling a vacancy.
106. Section 11:05-Added TIFs to the list. Changed notification from 7 days to 10 days to be consistent with other notifications.
107. Section 11:06-Clarified the power of the Planning Commission.
108. Section 11:06-Clarified the statement for a recommendation of denial (CUP).
109. Section 11:06-Added a statement about the conservation of agriculture and trees.
110. Section 11:06-Clarified the statement for a recommendation of denial (Variance).
111. Section 11:06-Clarified the statement for a recommendation of denial (Re-Zone).
112. Section 11:06-Referenced the SDCL and past Commission decision to have property taxed as agriculture.
113. Section 11:06-New section explaining recommendation of approval of a plat (these are separate actions and go directly to the County Commission, not BOA) as well as clarified the statement for a recommendation of denial (Plats).
114. Section 11:06-New section explaining recommendation of approval of a Comp Plan.
115. Section 11:06-New section explaining recommendation of approval of a TIF.

Article 12: Board of Adjustment (BOA) (Previous Article 15)

116. Page 99-Added a directory to the beginning of the Article (repeat).
117. Section 12:01-12:04-Included/Organized information about members, terms, meetings, rules
118. Section 12:01-Clarified % needed, and present at the meeting vs. FULL membership of the board.
119. Section 12:06-Explained what a quasi-judicial board is.

120. Section 12:06 (B) and (C)-Listed requirements of each, rather than reference other Articles.
121. Section 12:06 (C) (1)-Added the BOA has the authority to hear a request for a second time if the case meets certain criteria, so long as the request is made prior to the minutes being published.

Article 13: County Commissioners (Previous Article 16)

122. Page 105-Added a directory to the beginning of the Article (repeat).
123. Section 13:01-13:04-Included information about members, terms, meetings, rules.
124. Section 13:01-Clarified members needed, and present at the meeting to define a quorum.
125. Section 13:05-Explained what a quasi-judicial board is.
126. Section 13:05-New section explaining approval of a plat, to include allowing a Deputy to sign, and filing within one year of approval (plats previous to the effective date of the ordinance may be recorded, regardless of the Commission approval date). Also explained Plats executed solely by the City of Mitchell, Ethan, or Mt. Vernon are not required to be approved by Davison County.
127. Section 13:05-New section explaining approval of a Comp Plan.
128. Section 13:05-New section explaining approval of a TIF.

Article 14: Non Conformance (Previous Article 18)

129. Page 112-Added a directory to the beginning of the Article (repeat).
130. Article 14:06-Re-worded (format only).
131. Article 14:07-New section explaining existing mobile homes and park locations, and future mobile homes and parks not authorized.

Article 15: Violations & Penalties (Previous Article 19)

132. Page 116-Added a directory to the beginning of the Article (repeat).

Article 16: Legal Status Provisions (Previous Article 20)

133. Page 118-Added a directory to the beginning of the Article (repeat).

Planning Commission Public Hearing Publication #1: 1-28-2017

Planning Commission Public Hearing #1: 2-7-2017

Notes from the 2-7-17 Meeting:

1. Doug Greenway would like to thank Planning & Zoning, the Planning Commission, and the County Commission for updating the ordinance. He would like to see more commissioners at the meeting.
2. Mr. Greenway would like to encourage the County Commission, who primarily live inside the city limits, to value the recommendations of the Planning Commission, who primarily live in the rural areas.

3. Mr. Greenway also feels 45 db is restrictive, while other industry does not have noise restrictions. Due to the constant noise, vs. other industry that may have intermittent noise, the decibel restriction is advised.
4. Several Articles include a new regulation to restrict farming in the right of way. Mr. Greenway would like to see this enforced.
5. Peg Greenway asked if the Agriculture Use Covenant would be required for just new residences. This is addressed in Section 2:17, which explains an Ag Use Covenant will be required for three reasons; all residential or commercial building permits, plats intended for residential dwellings or commercial use, or requests for rezoning of agricultural land.
6. Tommy Greenway and John Jones stated they did not feel Section 3:11 and Section 9:09 were needed, as this is restrictive, while other industry does not have restrictions; with the exception of Concentrated Animal Feeding Operations (CAFO). These are the minimum regulations found to be industry standard in the area. The recommendation is to leave these restrictions in the ordinance.

Planning Commission Public Hearing Publication #2: 2-24-2017

Planning Commission Public Hearing #2: 3-8-2017

Notes from the 3-8-17 Meeting:

1. Deputy Director Jenniges acknowledged emails from Gene & Denise Stehly, Lance Koth, Jade Stehly, Glen Lowrie, Doug Hansen, Mike & Mavis Anderson, Harvey Kelley, Jerry Scott, Adrian Laurendeau, and Dan Koupal all in regards to Section 3:11. Emails were sent to Planning Commission and County Commission as well as available at the meeting for all to see and become part of public record.
2. Jerry Wadleigh spoke that there should be a 2 mile setback for the more populated area of Davison County.
3. Harvey Kelley stated the proposed ordinance online is hard to follow and confusing to find. He is not for wind towers and believes the setback should be 1 mile. There are 430 WES ordinances out there and Davison County's section is a "textbook ordinance" and needs to be more complicated and we need a better ordinance.
4. Darlene Wadleigh is against windmills. Wonders why we pass more laws and feels harassed about proposing an ordinance, the county is trying to inch them in. Reminded the board that the government works for the people.
5. Jerry Scott believes property values decrease and agrees with Walworth County, South Dakota's WES ordinance that has a 2 mile setback.
6. Doug Greenway believes being too restrictive can be dangerous and urges the commission to be cautious when doing so. Appreciated the Planning Commission and County Commission for being in attendance. Would like extend an offer for the commissions to take a tour of a wind tower. Had dBA reader at the stand with him and was speaking between 65 to 70 dBA for the most part, so felt the requirement of 45 dBA is sufficient.
7. Gene Stehly gave the Planning Commission a copy of Walworth County, South Dakota's Wind Energy System Requirements, Letcher Township, Sanborn County, South Dakota's WES Ordinance, and a paper on the impact of real estate value. He has been researching wind energy for a year and half and believes a 1000' setback is too close, should be 1 to 2

miles. Davison County is too populated for WES. Would like to see a property value guarantee. Closed with 3 things; it is the duty of the commission to take care of the people, electricity is not an Ag commodity, and a majority of the people don't want WES.

8. Rex Balcom wondered who really sees the money from WES? Farmers are important and put food on the table for everyone, what will WES do for everyone? Believes 1000' setback is to close, should be a 1 mile setback.
9. The floor was opened up for any final questions or comments. Ken Stach from Letcher, SD stated he has "no dog in the fight". Mr. Stach stated he has researched WES for two months and believes a 1 mile setback should be put in place. Letcher Township has adopted a WES ordinance with a 1 mile setback, Walworth County, SD WES ordinance setback is 2 miles, and Davison County should have a 1 mile setback.
10. Additional Comments from the Group-Chairman Haines thanked everyone for attending and giving their thoughts, comments, opinions and input.
11. Set date and time for next meeting – Regularly scheduled meeting of April 4, 2017 @ 7:00 P.M. at the Davison County North Office located in the Commissioners' Room of the Davison County North Offices, located at 1420 N. Main St., Mitchell, SD 57301.

Planning Commission Public Hearing Publication #3: 3-24-2017

Planning Commission Public Hearing #3: 4-4-2017

Notes from the 4-4-17 Meeting:

1. Proposed changes to the Davison County Zoning Ordinance.
 - Administrator Bathke gave an explanation of the process so far and explained any changes to the original draft of the revised ordinance.
 - Deputy Administrator Jenniges read the names from whom emails were received since the last meeting, all pertaining to WES, the names are as follows: Harvey Kelley, Denise Stehly, John O'Connell, Lance Koth, Harvey Kelley, Peter Licht, Jerry Scott, Gene Stehly, Glen Lowrie, Holly Hanson, Ken Stach, Doug Hanson, David Shelton, Travis Krumvieda, Terry & Mary Nutter, Jack & Jennifer Nutter, Jared & Alex Sorenson, Darwin Everson, Brad & Peg Greenway, and Lisa Leuning.
 - The board discussed changing the Ag Use Covenant Section to include Industrial Development.
 - The board discussed proposed section 3:11 and 9:09 Wind Energy Systems, specifically the following suggestions concerning the WES Sections:
 - i. #5-amend to include the FAA regulations.
 - ii. #6-amend to include "at a time when other ambient noise is not present".
 - iii. #9-amend setback to a multiple of the tower height. Also, add "Structures built post-WES construction may be constructed inside the WES setbacks."
 - iv. #10-amend to include "from the base of the tower".
 - v. #13-add "Provide yearly proof of a surety bond in an amount approved by the County Commission for removal of the tower.
 - vi. #14-add "Provide yearly proof of liability insurance on the WES.

- Chairman Haines opened up the floor for public input. The following comments were heard:
 - i. Ted Christianson believes wind towers are a monstrosity that will lower land values and a 1000' setback shouldn't even be considered. He recommended removal of #9.
 - ii. Jerry Wadleigh thinks we need to look at past projects of how they were supposed to help that area but didn't. His examples were the Missouri River damn and the gambling tax, neither continued to benefit South Dakotans like they said it would. He believes WES should not be allowed in Davison County, should be in none populated areas. Jerry stated he did not want the proposed WES near him. He was informed there is no WES application currently pending near him, or anywhere in Davison County.
 - iii. Ken Stach from Letcher is not opposed to WES. He believes it should be a 1 mile setback. The cost to decommission a tower is \$227,000 and there needs to be a decommissioning bond for each tower. Davison County's Ordinance is reverse logic.
 - iv. John Claggett stated Lincoln County is meeting the same night and they are discussing a 1 mile setback. Believes a reclamation bond of \$20,000, \$40,000 or the \$227,000 Ken Stach mentioned is needed.
 - v. Rex Balcom feels sorry for the board for taking so much heat. Believes WES are a scam and it is former President Obama's fault. Solar power is the answer but too expensive. He is in favor of a 1 mile setback and said land values diminish 10-30% if they are built closer. He believes a bond set at ½ the price of building cost for all neighbors to a WES.
 - vi. Doug Hanson thanked the board but he has a lot of concerns and feels WES are a train wreck. Liability will get lost in 30 years. He wondered if the county thought they were missing out on revenues and that's why the board wants WES. Believes the setback should be 1 mile and that it is too complicated to figure out tonight.
 - vii. Jerry Scott is not for or against WES. He believes the setback should be 1 mile from the property line and the developer should have to get waivers to be closer. Neighbors should give consent and get compensation. He believes the industry standards are not acceptable.
 - viii. Gene Stehly is an opponent of WES in Davison County. Overall, he believes there are too many cons compared to the pros. Davison County is too populated at 45.4 people per square mile and there are lots of acreages in the county and WES would devalue the properties. The new PUC formula does not give as much tax to the county or school, so taxes should not be a deciding factor. WES should not be considered an Ag entity. WES will affect aerial spraying and there are many health affects we don't all know. Residents of Davison County don't want WES and the setback should be 1 mile. There should be a decommissioning bond set in place. Mr. Stehly stated he spoke with the White Lake Superintendent and he wishes they did not have any towers, as they currently receive \$0 from the towers in their district.

- ix. Peter Licht is from Aurora County and invited all board members to come visit his residence, which has a tower 2,200' away. He has lost sleep, the roads still aren't fixed, and has no nesting pairs of ducks like he used to before the towers were installed. He believes WES are loud and not all parts are made in the USA. WES will devalue property.
- x. Glen Lowrie is not against WES but feels WES is an Industry, not Ag. Agrees with waivers for neighboring property owners.
- xi. Harvey Kelley used to think 5,000' was enough from the towers but not believes it should be 5,000' from the property line, and let neighbors sign waivers if they are okay with it being closer.
- xii. David Shelton, representing Rolland Johnson, a land owner in Davison County. Johnson's property was an original site for proposed WES but declined them. Mr. Shelton believes every landowner is a participating landowner. He referred the board to the AJ Swanson Email. He feels the rights of landowners are stripped away so the developers can make money. Mr. Shelton feels the Planning and Zoning Office was going to push this through.
- xiii. Ray Hanson stated he had an open mind about WES before coming to the meeting. Arizona has lots of WES and solar. He is for WES, just not in Davison County due to the population density in the rural areas.
- xiv. Wanda Kobes stated she owns property in Davison County. She feels bad for Administrator Bathke, thinks he is getting a bad reputation around town because of WES. She stated word at the coffee shop was "the Zoning guy was going to pass this". She does not feel WES will benefit anyone in the long term. She stated several people in other areas with WES have poor TV, cell, etc. due to the waves being messed up.
- xv. Dan Young thinks landscape has not been taken into account and that Davison County just doesn't want WES.
- Chairman Haines closed the floor for public input and the board gave thoughts.
 - i. Commissioner Bode would like to compile all the notes from everyone tonight and come back to the main topic of WES at the next meeting. She would like advice from the Davison County States Attorney on bonds. She is contemplating setbacks for WES of structures compared to property lines. She feels the verbiage could be changed in the WES section and also believes the Ag Covenant could be revised (this section has been revised to include Industrial Development).
 - ii. Commissioner Wietala agreed with Bode. She thought there was a lot of information given tonight, both fact and non-fact. She is open for comments, but would like them to be fact based.
 - iii. Vice Chairman Stadlman stated he could tell the audience does not want WES in Davison County. He feels the commission needs more time.
 - iv. Commissioner Storm feels there needs to be some more research but is hesitant about a 1 mile setback. He stated to the crowd that there is no application and the WES part of the ordinance isn't a done deal and there is still a process. He cautioned the board of setting a precedent on future development in Davison County.

- v. Commissioner Thiesse is worried about making too stringent of conditions, which will affect any business wanting to operate in Davison County in the future.
- vi. Chairman Haines thanked everyone for their input and knows Davison County is not the only county working on this, as Lincoln County is going through the same thing right now.
- After the public input and board discussion it was decided to table a recommendation to the Davison County Commission and to continue research and discussion on the proposed ordinance changes. The Planning & Zoning Office recommended the Board move forward with the Ordinance Revision, with the exception of Section 3:11 and 9:09 on WES; which can be discussed at a later time.

Planning Commission Public Hearing Publication #4: 4-21-2017

Planning Commission Public Hearing #4: 5-2-2017

Notes from the 5-2-17 Meeting:

1. Considered changes to the Davison County Zoning Ordinance.
 - Administrator Bathke gave an explanation of the process so far and explained any changes to the original draft of the revised ordinance.
 - Motion by Lewis Bainbridge, seconded by Steve Thiesse, to recommend approval of the proposed Davison County Zoning Ordinance changes with the exception of Section 3:11 and Section 9:09 to the County Commissioners. Roll call vote: Haines – aye, Stadlman – aye, Thiesse – aye, Storm – aye, Bainbridge – aye, Bode – aye, Weitala – aye, motion carried.
 - Chairman Haines opened the floor up for discussion, starting with the board.
 - i. Bainbridge said the decision on WES needs to be on facts, not opinions. He does not want to rush into a decision and there is still a process in place if someone does apply for a CUP on WES.
 - ii. Bode sees a lot more information coming to light within the next 6 months from the state, and other states such as Iowa.
 - iii. Weitala agreed it needs to be facts and not feelings or emotions. Believes the board has received valuable input and would like to err on the side of caution at this time.
 - iv. Stadlman is still educating himself on WES and doesn't want to push a WES ordinance without having all the facts. He thinks whenever an application does come to the table it needs to be for a WES with the most advance technology there is at the time of the application.
 - v. Haines believes these have been good meetings, everyone has been respectful of each other, good sharing of ideas and can tell people have

done a lot of research. He thanked the community and encourages more emails and that the process of the WES research will continue.

- Chairman Haines opened the floor up for discussion from the public.
 - i. Jerry Wadleigh believes the proposed WES is too close to his farm. There is no reason for WES to be in Davison County, they should be in Wyoming where it is more open. He feels the board is just trying to delay the WES part of the ordinance so the residents loose interest and will not be there to oppose them anymore. The money needs to be shared.
 - ii. Ken Stach agreed facts are hard to find. He spent 60 hours a week looking for third party objective facts. Having a ½ mile or 1 mile setback would not exclude WES in Davison County, waivers could be signed that would offer compensation to neighbors.
 - iii. Doug Hansen thanked the board for their efforts and believes it is a complex subject and taking more time to get it right is a good decision. Encourages board members to visit with more people like Peter Licht and Travis Krumveity that have towers close to their properties. Davison County is a unique county that is small but densely populated. Short setbacks disrupt neighbor rights and their way of life. WES is not about revenues and he is glad the Commission has not seen this as a revenue stream.
 - iv. Rex Balcom has no fault with hog farms because no one else pays for them where as WES will not survive on its own. Prevailing Winds project said there would be lots of money, but the government took half off the top. WES are all about the money for someone.
 - v. Jack Anderson wondered how long the tower that was erected by Juhl Energy was going to be up or if he needed to go out there with a bomb to take it down.
 - vi. Gene Stehly commended the board for talking to first hand people that have experience with WES. Believes if the board is in need of more research just ask anyone of the people in the crowd that have spent a lot of hours researching the WES, any of them would be happy to help or give web sites to where they obtained the information. White Lake School got a net tax gain of zero from WES. A tower would generate \$1,000 for the county each year and that won't make a dent in the schools or county budget. There are other ways to obtain taxes in our county. The PUC is currently deliberating a complaint on Juhl Energy in which they are using Davison County Wind Project which was a denied project. They are trying to force Northwestern Energy to buy at a rate of \$60/MW whereas Northwestern Energy as a coop has a rate of \$24/MW. According to Mr. Stehly, Corey Juhl testified the Davison County project would be done by mid-2018.
 - vii. Jerry Scott has no fault with the Commission for wanting facts but he has a hard time believing the emails that he sends are being seen by the Commission (all emails received are uploaded to the County website). Germany has 7,000 turbines and there is a lot of information not being told

about them. Wind is still a variable, it's not always there. He believes there should be a real estate property agreement with neighbors.

viii. David Shelton representing Rolland Johnson thanked the Commission. Mr. Johnson was originally offered the WES for Davison County and his job was to look at it from an economical and environmental stand point and it did not pass the test. He believes it will cost neighbors more by having a WES. He will make his findings available to everyone. He was recently in Chaska, MN and there was a Facebook Live video from Sheer Wind that can harvest energy at 2 mph and they have test sites all over the world.

- Hearing no more input from the public, Chairman Haines closed the floor and thanked them for their input and thoughts.

County Commission Set Date for Public Hearing and First Reading: 6-6-2017

County Commission Public Hearing and First Reading Publication: 6-9-2017

County Commission Public Hearing and First Reading: 6-20-2017

County Commission Public Hearing and First Reading Minutes Published: TBD

County Commission Set Date for Second Reading: 6-6-2017

County Commission Publication Second Reading: TBD

County Commission Second Reading: 7-11-2017

County Commission Second Reading Minutes Published: TBD

County Commission Adoption: TBD

County Commission Adoption Publication: TBD

20 Day Referendum Period Complete/Amendments Effective: TBD

Ordinance Recorded at Register of Deeds: TBD