BOARD OF ADJUSTMENT
December 15, 2015

CALL TO ORDER

Chairman Claggett called the meeting of the Davison County Board of Adjustment to order at 9:13 a.m. All members of the Board were present. Also present were Planning & Zoning Administrator Bathke, Deputy Jenniges, and Auditor Kiepke.

APPROVE MINUTES

Motion by Kiner, second by Reider, to approve the minutes of the November 10, 2015 meeting. All members voted aye. Motion carried.

CONDITIONAL USE

The Planning Commission recommended granting 6-0-1.

Motion by Bode, second by Weitala, after consideration of Section 1507 B Conditional Uses, to grant a conditional use permit to operate a repair shop in the Agricultural District, as requested by Steve Gerlach. This request is pursuant to Section 507 (28) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as Plat of Kroupa's First Addition in Lot 18-2 of Section 22, T 103 N, R 62 W of the 5th P.M., Davison County, South Dakota.

Application received November 4, 2015
Daily Republic November 28, 2015
Posted November 19, 2015
Notified Applicant November 18, 2015
Notified Abutting Property Owners November 18, 2015
Consideration of 1507 B. Conditional Uses

Roll call vote:
Reider – aye, Weitala - aye, Kiner – aye, Bode – aye, Claggett – aye. Motion carried.

DISCUSSION ON THE FOLLOWING CONDITIONAL USE APPLICATIONS

Corey Juhl of Juhl Energy stated that he has a proposal for up to eleven wind turbines each standing approximately 450′ (ft). He said Jewel Energy has done twenty-three (23) wind projects throughout Minnesota and Iowa. This will be their first project in South Dakota.

Mark Bernard asked how much of the project will be government funded.

Mr. Juhl stated there is no government funding up front. Down the road there most likely will be production tax incentives once the project is complete. These incentives may only be used by banks or utilities.

Jerry Wadleigh stated there is a proposed turbine 200 to 300 yards from his property. He says South Dakota has changed in that he can walk out his back door and find arrowheads and now there may also be a modern piece of equipment out his backdoor, which he is not in favor of.

Mr. Wadleigh further believes that the turbines will have a negative impact on the ag community.

Jerry Scott questioned who was footing the bill for developing the road the equipment will have to go down.

Mr. Juhl answered by saying the road will be in the same or better condition than before the project started. He said to check with other areas they have done projects in. He says you will find the entities are very pleased with the road conditions. They take full responsibility for any damage done to roads. He further stated Juhl Energy is working with Beulah Township and Davison County regarding the roads that will be utilized.

Commissioner Bode said that part of the conditional use permit will contain a portion regarding the roads.

Gene Stehly said that he is dead against the proposed wind turbines locations. He feels the area the towers are to be placed in is very inappropriate. He stated that you put them within city limits. He feels this is comparable on a smaller scale. He feels they will have a negative effect on a lot of people.

He believes the commissioners should check with other counties that have wind towers to see what the reaction has been.

David Shelton representing Roland Johnson stated that Mr. Johnson was approached by Juhl Energy and refused the proposal, in part, because he feels wind turbines are dangerous for aerial spraying. He said they support wind energy in appropriate areas. However, they do not feel this area is appropriate. He is also not comfortable with the setbacks.

Mr. Juhl stated that he has been working with Planning and Zoning on a weekly basis. He feels very comfortable with the setbacks and is making every effort to be a good neighbor. He said 1,000′ (ft) setbacks is very standard.

Commissioner Reider questioned why all of sudden there seemed to be such a hurry. He said he was under the understanding that the test tower would be in place for approximately twelve months before any more were built.

Mr. Juhl replied that the test tower and this proposal are two separate issues. He said they are on a parallel path. He said he is not trying to rush things, he is just trying to meet county timelines for meetings and such.

Commissioner Kiner said that what amazes him is the lack of knowledge and how it has been vetted. He said he has heard many concerns regarding these turbines.

Mr. Juhl said that Brad and Peg have reached out to neighbors to open dialogue regarding the turbines.

He further added that this is one of the least populated areas he has worked with in the eleven projects he has been involved with. He also stated that, until now, only one person had shown up at any of the meetings for those eleven projects that didn't support the wind turbine projects.

Commissioner Reider said that we don't have an ordinance in place regarding wind turbines. Reider just doesn't feel the County is ready for the turbines yet. He feels it is being too rushed.

Mr. Wadleigh stated that time is a concern for all of us. Time is needed to educate people. He questioned why these towers don't benefit everybody in the County if they are going to extend so high. He feels the income generated by the towers should benefit the whole County will have to look at them.

Jerry Scott said the he assumes this particular spot was chosen for the wind towers because NW Energy has accessible transmission lines.

Mr. Scott feels the timeline has been compressed and believes it may have something to do with the end of the year.

He said the Planning & Zoning Ordinance is from 1998 with amendments made in 2010. He cited various provisions of the ordinance.

Doug Greenway introduced himself as a relative to Greenway Farms. He believes Davison County has been very progressive. He feels implementation of wind energy is the future. He says things change. He once was in the country too, now he has Walmart and Cabela's near his home. It's called progress.

He further stated that he sits on the Wind Advisory Board at MTI. There are wind towers in Aurora and Brule County and they have been very much accepted.

Mr. Greenway said there are tax benefits that go along with the towers. If Davison County doesn't approve the project, it will move to another county. That county will in turn reap the benefits Davison County gave up.

Planning and Zoning Administrator Bathke reported that taxes get sent to Department of Revenue and are deposited into the Wind Energy Tax Fund. DOR distributes 50% to the schools, 35% to the county and 15% to the townships.

Brad Greenway said that when this whole thing started, he and his family tried to reach out to all of their neighbors. He said they went to every house within a mile, which is the same protocol they follow when they are going to spread hog manure. He said he received very positive response for the project from many of his neighbors. Unfortunately, the many people in favor of the project aren't here today.

Mr. Greenway sees this as an opportunity for Davison County. He said wind turbines are the future. In Texas they are powering a very large plant. He sees this as a responsible project.

Mr. Wadleigh thinks the setbacks should be 1,000 meters rather than 1,000 feet. He said he is favor of things that are good for the County. However, this is good for the Greenway's not the County.

Tom Greenway, who has served as a county commissioner, on the Planning & Zoning Board, on the Railroad Board, township board, fire board and other boards, took the commissioners back in time. He said in 1936 his father built the 2nd tree belt in the county. Nobody wanted to look at these tree belts. He said in 1947 his dad and some other folks petitioned to bring REA in to the county. Nobody wanted to look at those unsightly poles. Now you don't even notice them driving down the road. He questioned where we would be without either of those things.

He feels we need to look to the future. He believes wind turbines are the future. He said we have an opportunity in front of us. He said he could care less about the money. He cares about the future of Davison County. He further stated that the turbines will be placed on grassland. No farmland will be affected.

Mr. Greenway said he served on the Planning and Zoning Board long enough and it upsets him that people in the audience question the intelligence of the Board.

Commissioner Weitala stated that as a member of the Planning and Zoning Board she has tried to look at the pros and cons of the turbines. She said that, although she is pleased with the fact that Davison County would benefit monetarily, she doesn't want to be dictated to by money.

She remarked that jealousy over money need to be taken off the table. She feels wind farms are coming to Davison County. However, she doesn't know that it will happen today.

Weitala said that she is all for progress. However, she wants more information as to the effect of the towers on the people of Davison County and Davison County itself. Weitala is not comfortable with the swiftness in which the project is moving.

Commissioner Reider asked if there were other sites being considered.

Mr. Juhl said there are not. He said the spot is only certified for 20 megawatts. He said this is considered a very small scale project.

Commissioner Bode stated that she had the opportunity of sitting on the Planning and Zoning Board. She said that things were brought to that meeting that were not brought to today's meeting.

She said that she had learned that it takes approximately 1 ½ days to erect one tower once the platform is built. She said the explanation of the foot print was that tillable land would not be taken out of production, nor would it be offensive to cattle.

Bode reported that she had positive calls from the Mt. Vernon community regarding the project. She said as a whole, people believe wind turbines are coming, they are the future.

She said you need to step past the money. Somebody has to take the lead.

She said lighting would be part of the conditional use permit. She also reported there is no substantial documentation regarding wind noise affects. As far as visual impact, she said everything has changed in the country. She couldn't find anything negative regarding health impact.

She believes having one family owning the land is a positive attribute as there will not be multiple accesses.

She believes a lot of good, constructive questions have been brought to the table.

Commissioner Claggett said that he is wary of setting a precedent and would like to table the conditional uses. He further stated that he still had some unanswered questions.

Commissioner Kiner said that he was not comfortable voting yes or no on the issue at this time, either.

Commissioner Reider stated that we have been scrambling and scrambling to learn and learn and learn. We're comfortable with some items, but still have some questions remaining.

Reider would like to see a wind ordinance in place.

Deputy States Attorney Taylor cautioned that since this project has already been brought forward, any ordinance put in place after the fact could not be considered. He also firmly stated that the commissioners must decide in favor or against the proposed conditional uses based on the evidence gathered through public hearings, only. He reminded the commissioners this did could not include 3rd party phone calls, nor should they discuss the matter other than in public hearings.

CONDITIONAL USE

The Planning Commission recommended granting 6-0-1.

Motion by Kiner, second by Reider, after consideration of Section 1507 B Conditional Uses, to table until February 9, 2016, a conditional use permit for construction and installation of a commercial wind turbine (turbine 1) (total structure height of 446' (ft) in AGL) and associated facilities, as requested by Davison County Wind, LLC. This request is pursuant to Section 507 (39) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the NE ¼ of Section 7, T 103 N, R 61 W of the 5th P.M., Davison County, South Dakota.

Application received November 13, 2015
Daily Republic November 28, 2015
Posted December 2, 2015
Notified Applicant November 18, 2015

Notified Property Owner November 18, 2015
Notified Abutting Property Owners November 18, 2015
Consideration of 1507 B. Conditional Uses

Roll call vote:
Weitala - aye, Kiner – aye, Bode – aye, Reider – aye, Claggett – aye. Motion carried.

CONDITIONAL USE

The Planning Commission recommended granting 6-0-1.

Motion by Kiner, second by Reider, after consideration of Section 1507 B Conditional Uses, to table until February 9, 2016, a conditional use permit for construction and installation of a commercial wind turbine (turbine 2) (total structure height of 446' (ft) in AGL) and associated facilities, as requested by Davison County Wind, LLC. This request is pursuant to Section 507 (39) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the NE ¼ of Section 7, T 103 N, R 61 W of the 5th P.M., Davison County, South Dakota.

Application received November 13, 2015
Daily Republic November 28, 2015
Posted December 2, 2015
Notified Applicant November 18, 2015
Notified Property Owner November 18, 2015
Notified Abutting Property Owners November 18, 2015
Consideration of 1507 B. Conditional Uses

Roll call vote:
Kiner – aye, Bode – aye, Reider – aye, Weitala – aye, Claggett – aye. Motion carried.

CONDITIONAL USE

The Planning Commission recommended granting 6-0-1.

Motion by Kiner, second by Reider, after consideration of Section 1507 B Conditional Uses, to table until February 9, 2016, a conditional use permit for construction and installation of a commercial wind turbine (turbine 3) (total structure height of 446' (ft) in AGL) and associated facilities, as requested by Davison County Wind, LLC. This request is pursuant to Section 507 (39) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the NW ¼, except the N 813' (ft) of the W 806' (ft) of the NW ¼ of the NW ¼ of Section 8, T 103 N, R 61 W of the 5th P.M., Davison County, South Dakota.

Application received November 13, 2015
Daily Republic November 28, 2015
Posted December 2, 2015
Notified Applicant November 18, 2015
Notified Property Owner November 18, 2015
Notified Abutting Property Owners November 18, 2015
Consideration of 1507 B. Conditional Uses

Roll call vote:
Bode - aye, Reider – aye, Weitala – aye, Kiner – aye, Claggett – aye. Motion carried.

CONDITIONAL USE

The Planning Commission recommended granting 6-0-1.

Motion by Kiner, second by Reider, after consideration of Section 1507 B Conditional Uses, to table until February 9, 2016, a conditional use permit for construction and installation of a commercial wind turbine (turbine 4) (total structure height of 446' (ft) in AGL) and associated facilities, as requested by Davison County Wind, LLC. This request is pursuant to Section 507 (39) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the NW ¼, except the N 813' (ft) of the W 806' (ft) of the NW ¼ of the NW ¼ of Section 8, T 103 N, R 61 W of the 5th P.M., Davison County, South Dakota.

Application received November 13, 2015
Daily Republic November 28, 2015
Posted December 2, 2015
Notified Applicant November 18, 2015
Notified Property Owner November 18, 2015
Notified Abutting Property Owners November 18, 2015
Consideration of 1507 B. Conditional Uses

Roll call vote:
Reider – aye, Weitala - aye, Kiner – aye, Bode – aye, Claggett – aye. Motion carried.

CONDITIONAL USE

The Planning Commission recommended granting 6-0-1.

Motion by Kiner, second by Reider, after consideration of Section 1507 B Conditional Uses, to table until February 9, 2016, a conditional use permit for construction and installation of a commercial wind turbine (turbine 5) (total structure height of 446' (ft) in AGL) and associated facilities, as requested by Davison County Wind, LLC. This request is pursuant to Section 507 (39) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the N ½ of the NE ¼ of Section 8, T 103 N, R 61 W of the 5th P.M., Davison County, South Dakota.

Application received November 13, 2015
Daily Republic November 28, 2015
Posted December 2, 2015
Notified Applicant November 18, 2015
Notified Property Owner November 18, 2015
Notified Abutting Property Owners November 18, 2015
Consideration of 1507 B. Conditional Uses

Roll call vote:
Weitala - aye, Kiner – aye, Bode – aye, Reider – aye, Claggett – aye. Motion carried.

CONDITIONAL USE

The Planning Commission recommended granting 6-0-1.

Motion by Kiner, second by Reider, after consideration of Section 1507 B Conditional Uses, to table until February 9, 2016, a conditional use permit for construction and installation of a commercial wind turbine (turbine 6) (total structure height of 446' (ft) in AGL) and associated facilities, as requested by Davison County Wind, LLC. This request is pursuant to Section 507 (39) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the NW ¼ of Section 9, T 103 N, R 61 W of the 5th P.M., Davison County, South Dakota.

Application received November 13, 2015
Daily Republic November 28, 2015
Posted December 2, 2015
Notified Applicant November 18, 2015
Notified Property Owner November 18, 2015
Notified Abutting Property Owners November 18, 2015
Consideration of 1507 B. Conditional Uses

Roll call vote:
Kiner – aye, Bode – aye, Reider – aye, Weitala – aye, Claggett – aye. Motion carried.

CONDITIONAL USE

The Planning Commission recommended granting 6-0-1.

Motion by Kiner, second by Reider, after consideration of Section 1507 B Conditional Uses, to table until February 9, 2016, a conditional use permit for construction and installation of a commercial wind turbine (turbine 7) (total structure height of 446' (ft) in AGL) and associated facilities, as requested by Davison County Wind, LLC. This request is pursuant to Section 507 (39) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the NW ¼ of Section 9, T 103 N, R 61 W of the 5th P.M., Davison County, South Dakota.

Application received November 13, 2015
Daily Republic November 28, 2015
Posted December 2, 2015
Notified Applicant November 18, 2015
Notified Property Owner November 18, 2015
Notified Abutting Property Owners November 18, 2015
Consideration of 1507 B. Conditional Uses

Roll call vote:
Bode - aye, Reider – aye, Weitala – aye, Kiner – aye, Claggett – aye. Motion carried.

CONDITIONAL USE

The Planning Commission recommended granting 6-0-1.

Motion by Kiner, second by Reider, after consideration of Section 1507 B Conditional Uses, to table until February 9, 2016, a conditional use permit for construction and installation of a commercial wind turbine (turbine 8) (total structure height of 446′ (ft) in AGL) and associated facilities, as requested by Davison County Wind, LLC. This request is pursuant to Section 507 (39) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the SE ¼ except Lots A and B of Charlene's First Addition in the S 714′ (ft) thereof of Section 9, T 103 N, R 61 W of the 5th P.M., Davison County, South Dakota.

Application received November 13, 2015
Daily Republic November 28, 2015
Posted December 2, 2015
Notified Applicant November 18, 2015
Notified Property Owner November 18, 2015
Notified Abutting Property Owners November 18, 2015
Consideration of 1507 B. Conditional Uses

Roll call vote:
Reider – aye, Weitala - aye, Kiner – aye, Bode – aye, Claggett – aye. Motion carried.

CONDITIONAL USE

The Planning Commission recommended granting 6-0-1.

Motion by Kiner, second by Reider, after consideration of Section 1507 B Conditional Uses, to table until February 9, 2016, a conditional use permit for construction and installation of a commercial wind turbine (turbine 9) (total structure height of 446′ (ft) in AGL) and associated facilities, as requested by Davison County Wind, LLC. This request is pursuant to Section 507 (39) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the SE ¼ except Lots A and B of Charlene's First Addition in the S 714′ (ft) thereof of Section 9, T 103 N, R 61 W of the 5th P.M., Davison County, South Dakota.

Application received November 13, 2015
Daily Republic November 28, 2015
Posted December 2, 2015
Notified Applicant November 18, 2015
Notified Property Owner November 18, 2015
Notified Abutting Property Owners November 18, 2015
Consideration of 1507 B. Conditional Uses

Roll call vote:
Weitala - aye, Kiner – aye, Bode – aye, Reider – aye, Claggett – aye. Motion carried.

CONDITIONAL USE

The Planning Commission recommended granting 6-0-1.

Motion by Kiner, second by Reider, after consideration of Section 1507 B Conditional Uses, to table until February 9, 2016, a conditional use permit for construction and installation of a

commercial wind turbine (turbine Alt-1) (total structure height of 446' (ft) in AGL) and associated facilities, as requested by Davison County Wind, LLC. This request is pursuant to Section 507 (39) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the NW ¼ except Lot A of Section 7, T 103 N, R 61 W of the 5th P.M., Davison County, South Dakota.

Application received November 13, 2015
Daily Republic November 28, 2015
Posted December 2, 2015
Notified Applicant November 18, 2015
Notified Property Owner November 18, 2015
Notified Abutting Property Owners November 18, 2015
Consideration of 1507 B. Conditional Uses

Roll call vote:
Kiner – aye, Bode – aye, Weitala – aye, Reider – aye, Claggett – aye. Motion carried.

CONDITIONAL USE

The Planning Commission recommended granting 6-0-1.

Motion by Kiner, second by Reider, after consideration of Section 1507 B Conditional Uses, to table until February 9, 2016, a conditional use permit for construction and installation of a commercial wind turbine (turbine Alt-2) (total structure height of 446' (ft) in AGL) and associated facilities, as requested by Davison County Wind, LLC. This request is pursuant to Section 507 (39) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the SE ¼ of Section 7, T 103 N, R 61 W of the 5th P.M., Davison County, South Dakota.

Application received November 13, 2015
Daily Republic November 28, 2015
Posted December 2, 2015
Notified Applicant November 18, 2015
Notified Property Owner November 18, 2015
Notified Abutting Property Owners November 18, 2015
Consideration of 1507 B. Conditional Uses

Roll call vote:
Kiner - aye, Reider – aye, Weitala – aye, Bode – aye, Claggett – aye. Motion carried.

ADJOURN

At 11:25 a.m., motion by Weitala, second by Bode to adjourn Board of Adjustment. All members present voted aye. Motion carried.

ATTEST:

Susan Kiepke, Auditor

John Claggett, Chairman