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SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

**COMPLAINT (AND REPLY) FILED WITH SOUTH DAKOTA  
ATTORNEY GENERAL'S OFFICE OF CORRUPTION IN THE  
BON HOMME COUNTY AUDITOR'S OFFICE**

April 4, 2016

Marty Jackley  
Attorney General of South Dakota  
Pierre, SD

Dear Mr. Jackley

As a lifelong citizen of Bon Homme County, I feel it is my duty to expose what I think is fraud in the office of the Bon Homme County Auditor's office. I will try to keep this letter brief, but you need to know some history of the events that led up to this corruption.

I have documentation to support what I write, and will put those documents behind this letter, but mark them with numbers 1,2, ..... so you can put the document with the statement I make.

In March of 2015 I was called by [REDACTED], who lives south of Avon who wanted to bring a wind farm project manager named Roland Jurgens into my house to discuss selling wind rights or easements for a proposed 100 plus wind farm called Prevailing Winds LLC. I had been to a real estate continuing education school some 8 years ago and knew I didn't want anything to do with wind farms, especially since I had just built a new home in 2012 in this area a few miles north of Avon. So as soon as the people in the area found out about this, opposition grew, and for the whole summer into the fall, there were letters in the paper for and against this giant wind farm. My group of opposition mainly consisted of neighbors that would have to live near this project. The proponents where the investors and developers. We felt because of noise, health problems, decreased property values, if we could not stop the project at least we could approach the County Zoning Board and try to get some setbacks that we all could agree to.

During last summer and into the fall, Roland Jurgens and his crew wined and dined the county commissioners and other officers in the court house. My first indication of how they had taken over was I went to a commissioners meeting and when I sat down in the room the Chairman told me that Roland Jurgens wanted to talk to me. At that point, the first person that knew I would be at the meeting was Tammy Brunken, the County Auditor. Apparently she had told Roland I would be there for some reason. They also took the commissioners and any other County official that wanted to go on a bus trip to Wessington Springs to look at wind towers.

Our opposition group went to 3 or 4 County Zoning meetings and tried to persuade them to propose some setbacks for wind towers from houses and property lines. Our proposed setbacks (attached) were 2 miles from a house and ¼ mile from a property line for towers over 400 ft. tall, which they were. We were hoping for a compromise. They ignored us for the most part, but in the fall, they initiated Article 17, which dictated 1000 ft. from a residence and 1.1 times tower height away from a property line or right of way. Those setbacks came from a link on the SDPUC website.

<https://puc.sd.gov/commission/twg/WindEnergyOrdinance.pdf>

# 1  
# 2

This document was written in 2008 by a former PUC person with help from wind developers. The towers were much shorter in 2008.

In the lead up to the Article 17 issue, there was a public meeting at the Bon Homme Zoning Office on August 31, 2015. The Avon Clarion reported there were over 50 concerned citizens at this meeting, mostly against the setbacks. About a dozen spoke against the setbacks, and only 2 spoke for the setbacks. And one of them was Roland Jurgens, the developer project manager.

#3

Regardless of public input, the board voted 3 to 1 for Article 17.

After this meeting, a public hearing before the commissioners was held on October 20 at 7:00 p.m. at the Bon Homme County Court House for Article 17. Most of the county residents, including myself were about a half hour late because the first publication in the Avon Clarion called for a 7:30 p.m. meeting. When I asked the commissioners at that meeting why only the Avon paper had the time wrong, as the Avon area is where the opposition is, they informed me it was the Auditor's mistake and she corrected it for the next week's publication, which she did. I wondered about that.

#4

At that meeting, it was a barrage of testimony for/against Article 17, but after I got the audio tape, I discovered that the vast majority of people that got up and spoke were investors. Here is the list I put together after I listened again to the meeting:

Speaker	Address	Involvment	For/Against
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

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Out of approximately 31 people that spoke, 11 of them (marked in red or green) were residents that would live under the wind farm. Nine of them (82%) were against Article 17.

Out of the 19 that spoke for Article 17, at least 16 of them were investors, or the project manager, or 84% had a potential monetary gain if Article 17 passed. Ten of these people that spoke for Article 17 did not even live in Bon Homme County.

That night again, the residents were ignored and the County Commission passed Article 17.

#5

In the lead up to this meeting, there was a public notice of the time and place for the meeting, as well as an invitation for written comment, with a deadline for the written comment to be 4:30 p.m. October 16, 2015.

After the meeting, the County Minutes reported that there were 17 letters in favor and 7 against Article 17. It also said these letters were available for public viewing. This is where the problem starts. In December of 2015, ██████████ from Avon, long time Avon resident, wind farm opponent, former County Commissioner and former State Legislator, went over to the Auditor's office to look at those letters. He saw 24 letters. There were 7 letters against Article 17. There were 17 remaining letters. Of these 17, there were 11 letters for Article 17, and 9 of these 11 were form letters. They were copied from a master letter, with whoever wrote the letter, typing in the introduction, the letter, and the person's name at the bottom, and all the person had to do was sign them. The envelopes that they came in were also exactly one like the other, so it was obvious that either the developer or the Board got these letters all ready to sign, and it was just like the October 20 meeting, a matter of numbers to get their side with more letters. After ██████ saw the letters, Tammy Brunken, County Auditor told him that the unopened letters came in after the deadline, but since the envelopes had the same markings as the "for" letters, she counted them in the "for" pile, although she never opened them. ██████ called me that same day, told me what happened, and asked me if I would go over and confirm what he saw and heard. So on Friday of that week, which was later in December, I took ██████████ from Avon with me to the Auditor's office and we confirmed exactly what ██████ said. We did take the letters into an empty room with the Auditor's permission and I took cell phone photos of some of the letters.

#6

#3

At this meeting, she again told [REDACTED] and I that the 7 unopened letters came in after the deadline so that is why they were not opened. But she still counted them in the pile for the developer.

All of this just sat there until on February 9, 2016, the Davison County, SD Zoning Board rejected a wind farm project for their county. I immediately wrote a letter to the Mitchell Daily Republic and the Avon Clarion commending the Zoning Board for listening to their residents rather than being influenced by wind farm developers. In that letter, I included: "The letters that were written to the commissioners for their meeting were miscounted in favor of the developers by the County Auditor". This was a true statement, evidenced by [REDACTED] myself, [REDACTED], and Tammy Brunken, County Auditor herself. In addition, the Assistant Auditor, Connie Hawks, was present for those times I was in the office.

After my letter was published, [REDACTED] came back with a letter which really irritated me. In that letter he said: "Reality: There were 17 letters in support of Article 17 and seven opposed. These should still be on file, as should be the audio tape. I can accept false accusations directed toward myself, but I think slandering a county official orders on being criminal."

This irritated me because the County Auditor lied when she counted the letters. She counted 7 unopened letters "for" the developers. I did not lie, but was being accused of lying and "bordering on criminal".

So on February 26, 2016, I took [REDACTED] with me again for a witness, we went over to the Auditor's Office, and I had a letter typed up that I wanted her to read and I wanted her to use this as a template for her own letter, as long as it cleared up the count on the letters and she admitted to counting unopened letters for the developers, and to basically tell the county residents that she did this and that I did not lie. At this meeting she was very huffy. I said I wanted to see the letters again, and asked permission to make copies of them, which [REDACTED] and I did. At this meeting there were actually 25 letters. 11 for, 7 against, and 7 unopened. She said the letter from [REDACTED] was never counted in the total because it came in much after the deadline. Then she went into this cover up that she can't remember why she didn't open the other 7 letters. I told her it wasn't that hard, cause she had already told [REDACTED], myself with her assistant listening that she didn't count them because they came in after the deadline. She continued with being bent out of joint on my visit. I handed her the letter. At the bottom of the letter, there was an additional statement that said: "Gregg Hubner was right and [REDACTED] was wrong". I wanted to clear my name. She said she would not write that in her letter. I said that was fine, I told her she did not even have to apologize, as long as she clarified the count and clarified the fact that she counted unopened envelopes for the developer. As the conversation got a little hotter, I told her that unless she wrote such a letter, I would have to ask the Attorney General's Office for their opinion, and if I did not get any results from them I would call KELO land TV. They seem to be very interested in corruption lately. She backed off and said she would write the letter.

#7

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#10

She would contact the Bon Homme States Attorney first. I said that's all fine. I said I was concerned about an auditor that would do such a thing. After all, the Auditor controls all of the money in the county, oversees the elections and the absentee ballots, and if there wasn't honesty in this office, our constitutional rights to free elections and honest government was going to be lost. I also told her that as a taxpayer I had every right to demand honesty from her office. We took our copies and left.

The next week no letter showed up in the paper. Instead the county minutes showed that she went to the County Commissioners meeting on March 1, 2016 and told them about my visit. Then she lied again and said she could not recall why all of these letters were not opened. So after the States Attorney told her she was under no obligation to write the letter, (which was true) then they opened the letters. They were all for Article 17, which everybody expected, because it was just 7 more form letters.

# 11

Where she really incriminates herself, is in the next paragraph of the county minutes, she states that "in order for this to not happen again, anytime there is date sensitive mail, she will use a date stamp to indicate when it was received".

Now why would she even bring this up? About date sensitive? Because she didn't open the letters because they came in too late, although at the February 26 meeting with [REDACTED] and myself, and at the Commissioners meeting on March 1, she stated "she could not recall why these were not opened".

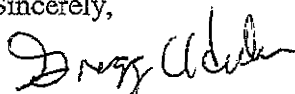
Connie Hawks was present for the time [REDACTED] was there in December, she was also there for both times [REDACTED] and I were there. Connie will at some point need to decide if she is going to lie or tell the truth also. But I see in the paper last week, she either resigned, retired, or got canned. They are looking for a new Assistant Auditor.

# 12

As a concerned citizen, lifelong Bon Homme County resident, I want to know what the South Dakota Attorney General's Office thinks about this corruption in our county. I understand just because I'm against wind farms, just because the developers use slick and deceitful tactics, none of that is illegal. But I am certainly not comfortable with the County Auditor counting these unopened letters for the developers when in fact she never saw them. I don't like being called a liar by [REDACTED] or anybody else.

The evidence is all here. She admitted to it already. The County Commissioners covered it up. I will be waiting for your reply. Thanks

Sincerely,

  
Gregg C. Hubner  
29976 406<sup>th</sup> Ave  
Avon, SD 57315

Cellphone 605 660 1867

# 1

## ARTICLE 17

# WIND ENERGY SYSTEMS (WES)

### Definitions:

**Board** – The County Commission, City Commission, or other governmental body governing the district this ordinance refers to.

**Construction** – Any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route but does not include changes needed for temporary use of sites or routes for non-utility purposes, or uses in securing survey or geological data, including necessary borings to ascertain foundation conditions.

**High Voltage Transmission Line** – A conductor of electric energy and associated facilities.

**Large Wind Energy System or LWES** – All WES facilities excluding Small Wind Energy Systems.

**Person** – An individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, consumers power district, or any other entity, public or private, however organized.

**Route** – The location of a High Voltage Transmission Line between two end points. The route may have a variable width of up to 1.25 miles.

**Small Wind Energy System or SWES** – A WES facility with a single Tower Height of less than seventy-five (75) feet used primarily for on-site consumption of power.

**Tower Height** – The height above grade of the fixed portion of the tower, excluding the wind turbine itself

**System Height** – The height above grade of the tallest point of the WES, including the rotor radius.

**Turbine** – The parts of the WES including the blades, generator and tail.

**Utility** – Any person engaged in the generation, transmission or distribution of electric energy in this state including, but not limited to, a private investor owned utility, a cooperatively owned utility, a consumers power district and a public or municipal utility.

**Wind Energy System or WES** – A commonly owned and/or managed integrated system that converts wind movement into electricity. All of the following are encompassed in this definition of system:

- a) Tower or multiple towers, including foundations;
- b) Generator(s);
- c) Blades;
- d) Power collection systems, including pad mount transformers;
- e) Access roads, meteorological towers, on-site electric substation, control building, and other ancillary equipment and facilities; and
- f) Electric interconnection systems or portion thereof dedicated to the WES.

**Section 1701 Intent**

The intent of this ordinance is to ensure that the placement, construction and modification of a Wind Energy System (WES) facility is consistent with the Bon Homme County's land use policies, to minimize the impact of WES facilities, to establish a fair and efficient process for review and approval of applications, to assure a comprehensive review of environmental impacts of such facilities, and to protect the health, safety and welfare of the County's citizens.

**Section 1703 Authority and Jurisdiction**

South Dakota Codified Law 11-2-2 delegates the responsibility to the Board of County Commissioners of each county to adopt and enforce regulations designed for the purpose of promoting health, safety, and general welfare of the county.

**Section 1705 Federal and State Requirements**

All WES facilities shall meet or exceed standards and regulations of the Federal Aviation Administration and South Dakota State Statutes and any other agency of federal or state government with the authority to regulate WES facilities.

**Section 1707 Requirements for Siting Small Wind Energy Systems**

A Small Wind Energy System shall be a permitted use in all zoning districts subject to the following requirements:

- a) **Setbacks.** The minimum setback distance between each wind turbine tower and all surrounding property lines, overhead utility or transmission lines, other wind turbine towers, electrical substations, public roads and dwellings shall be equal to no less than one point one (1.1) times the system height, unless written permission is granted by each affected person.
- b) **Access.** All ground mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access, and the tower shall be designed and installed so as to not provide



9. Proof of notification to the utility in the service territory in which the SWES is to be erected, consistent with the provisions of 5(3)(h) herein; and
  10. The status of all necessary interconnection agreements or studies.
- c) Expiration. A permit issued pursuant to this ordinance shall expire if:
1. The SWES is not installed and functioning within twenty-four (24) months from the date the permit is issued; or
  2. The SWES is out of service or otherwise unused for a continuous 12-month period.

#### Section 1711 Abandonment

A SWES that is out-of-service for a continuous 12-month period will be deemed to have been abandoned. The Board may issue a Notice of Abandonment to the owner of a SWES that is deemed to have been abandoned. The owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from Notice receipt date. The Board shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the SWES has not been abandoned.

If the SWES is determined to be abandoned, the owner of the SWES shall remove the wind generator from the tower at the owner's sole expense within three (3) months of receipt of Notice of Abandonment. If the owner fails to remove the wind generator from the tower, the Board may pursue legal action to have the wind generator removed at the owner's expense.

#### Section 1713 Building Permit Procedure

- a) An owner shall submit an application to the Board for a building permit for a SWES. The application must be on a form approved by the Board and must be accompanied by two (2) copies of the plot plan identified.
- b) The Board shall issue a permit or deny the application within one month of the date on which the application is received.
- c) The Board shall issue a building permit for a SWES if the application materials show that the proposed SWES meets the requirements of this ordinance.
- d) If the application is approved, the Board will return one signed copy of the application with the permit and retain the other copy.
- e) If the application is rejected, the Board will notify the applicant in writing and provide a written statement of the reason why the application was rejected. The applicant may reapply if the deficiencies specified by the Board are resolved.

step bolts or a ladder readily accessible to the public for a minimum height of eight (8) feet above the ground.

- c) Lighting. A SWES shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.
- d) Noise. SWES facilities shall not exceed ~~forty five (45)~~ dBA, as measured at the closest neighboring inhabited dwelling. The level, however, may be exceeded during short-term events such as utility outages or wind storms.
- e) Shadow Flicker. ~~When determined appropriate by the county a Shadow Flicker Sensor shall be installed upon all turbines which will cause such an effect upon a residential dwelling. Such sensor shall dim blade rotation at those times when shadow flicker are probable~~
- f) Appearance, Color, Finish. The SWES shall remain painted or finished the color or finish that was originally applied by the manufacturer, unless approved in the building permit.
- g) Signs. All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a SWES visible from any public road shall be prohibited.
- h) Code Compliance. A SWES shall comply with all applicable state construction and electrical codes, and the National Electrical Code.
- i) Utility Notification. No SWES shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement:

Section 1709 Permit Requirements

- a) A building permit shall be required for the installation of a SWES.
- b) The building permit shall be accompanied by a plot plan which includes the following:
  1. Property lines and physical dimensions of the property;
  2. Location, dimensions, and types of existing major structures on the property;
  3. Location of the proposed SWES;
  4. The right-of-way of any public road that is contiguous with the property;
  5. Any overhead utility lines;
  6. Wind system specifications, including manufacturer and model, rotor diameter, tower height, and tower type (monopole, lattice, guyed);
  7. Tower foundation blueprints or drawings;
  8. Tower blueprint or drawing;

f) Roads

1. Public Roads. Prior to commencement of construction, the permittees shall identify all state, county or township "haul roads" that will be used for the WES project and shall notify the state, county or township governing body having jurisdiction over the roads to determine if the haul roads identified are acceptable. The governmental body shall be given adequate time to inspect the haul roads prior to use of these haul roads. Where practicable, existing roadways shall be used for all activities associated with the WES. Where practicable, all-weather roads shall be used to deliver concrete, turbines, towers, assemble nacelles and all other heavy components to and from the turbine sites.
  2. The permittees shall, prior to the use of approved haul roads, make satisfactory arrangements with the appropriate state, county or township governmental body having jurisdiction over approved haul roads for construction of the WES for the maintenance and repair of the haul roads that will be subject to extra wear and tear due to transportation of equipment and WES components. The permittees shall notify the County Zoning Office of such arrangements.
  3. Turbine Access Roads. Construction of turbine access roads shall be minimized. Access roads shall be low profile roads so that farming equipment can cross them and shall be covered with Class 5 gravel or similar material. Access roads shall avoid crossing streams and drainage ways wherever possible. If access roads must be constructed across streams and drainage ways, the access roads shall be designed in a manner so runoff from the upper portions of the watershed can readily flow to the lower portion of the watershed.
  4. Private Roads. The permittees shall promptly repair private roads or lanes damaged when moving equipment or when obtaining access to the site, unless otherwise negotiated with the affected landowner.
  5. Control of Dust. The permittees shall utilize all reasonable measures and practices of construction to control dust during construction.
- (g) Soil Erosion and Sediment Control Plan. The permittees shall develop a Soil Erosion and Sediment Control Plan prior to construction and submit the plan to the County Zoning Office. The Soil Erosion and Sediment Control Plan shall address the erosion control measures for each project phase, and shall at a minimum identify plans for grading, construction and drainage of roads and turbine pads; necessary soil information; detailed design features to maintain downstream water quality; a comprehensive re-vegetation plan that uses native plant species to maintain and ensure adequate erosion control and slope stability and to restore the site after temporary project activities; and measures to minimize the area of surface disturbance. Other practices shall include containing excavated material, protecting exposed soil, stabilizing restored material and removal of silt fences or barriers when the area is stabilized. The plan shall identify methods for disposal or storage of excavated material.

- f) The owner shall conspicuously post the building permit on the premises so as to be visible to the public at all times until construction or installation of the SWES is complete.

**Section 1715   Violations**

It is unlawful for any person to construct, install, or operate a SWES that is not in compliance with this ordinance or with any condition contained in a building permit issued pursuant to this ordinance. SWES facilities installed prior to the adoption of this ordinance are exempt.

**Section 1717   Severability**

The provisions of this ordinance are severable, and the invalidity of any section, subdivision, paragraph, or other part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

**Section 1719   Requirements for Siting Large Wind Energy Systems**

A Large Wind Energy System as defined herein shall be a permitted use in all zoning districts subject to the standards identified within the following sections:

**Section 1721   Mitigation Measures**

- a) Site Clearance. The permittees shall disturb or clear the site only to the extent necessary to assure suitable access for construction, safe operation and maintenance of the LWES.
- b) Topsoil Protection. The permittees shall implement measures to protect and segregate topsoil from subsoil in cultivated lands unless otherwise negotiated with the affected landowner.
- c) Compaction. The permittees shall implement measures to minimize compaction of all lands during all phases of the project's life and shall confine compaction to as small an area as practicable.
- d) Livestock Protection. The permittees shall take precautions to protect livestock on the LWES site from project operations during all phases of the project's life.
- e) Fences. The permittees shall promptly replace or repair all fences and gates removed or damaged by project operations during all phases of the project's life unless otherwise negotiated with the fence owner.

**Section 1733 Electrical Cables**

The permittees shall place electrical lines, known as collectors, and communication cables underground when located on private property except when total distance of collectors from the substation require an overhead installation due to line loss of current from an underground installation. This paragraph does not apply to feeder lines.

**Section 1735 Feeder Lines**

The permittees shall place overhead electric lines, known as feeders, on public rights-of-way if a public right-of-way exists or immediately adjacent to the public right-of-way on private property. Changes in routes may be made as long as feeders remain on public rights-of-way or immediately adjacent to the public right-of-way on private property and approval has been obtained from the governmental unit responsible for the affected right-of-way. If no public right-of-way exists, the permittees may place feeders on private property. When placing feeders on private property, the permittees shall place the feeder in accordance with the easement(s) negotiated. The permittees shall submit the site plan and engineering drawings for the feeder lines to the Board before commencing construction.

**Section 1737 Height from Ground Surface**

The minimum height of blade tips at their lowest possible point shall be twenty-five (25) feet above grade.

**Section 1739 Towers**

- a) ~~Color and Finish~~ The finish of the exterior surface shall be non-reflective or matte.
- b) All towers shall be singular tubular design, unless approved by the Board.

**Section 1741 Noise and Shadow Flicker**

Noise level produced by the WWS shall not exceed ~~forty five (45)~~ 45 dBA, average A-weighted sound pressure at the perimeter of occupied residences existing at the time the permit application is filed, unless a signed waiver or easement is obtained from the owner of the residence.

~~When determined appropriate by the county a Shadow Flicker sensor shall be installed upon all turbines which will cause such an effect upon a residential dwelling. Such sensor shall limit blade rotation at those times when shadow flicker is probable.~~

**Section 1743 Permit Expiration**

The permit shall become void if no substantial construction has been completed within three (3) years of issuance.

**Section 1723   Setbacks**

- a) Distance from currently occupied off-site residences, business and public buildings shall be not less than one thousand (1,000) feet. Distance from the residence of the landowner on whose property the tower(s) are erected shall be not less than five hundred (500) feet or one point one (1.1) times the system height, whichever is greater. For the purposes of this section only, the term "business" does not include agricultural uses.
- b) Distance from right-of-way (ROW) of public roads shall be not less than five hundred (500) feet or one point one (1.1) times the system height, whichever is greater.
- c) Distance from any property line shall be not less than five hundred (500) feet or one point one (1.1) times the system height, whichever is greater, unless appropriate easement has been obtained from adjoining property owner.

**Section 1725   Electromagnetic Interference**

The permittees shall not operate the LWES so as to cause microwave, television, radio, or navigation interference contrary to Federal Communications Commission (FCC) regulations or other law. In the event such interference is caused by the LWES or its operation, the permittees shall take the measures necessary to correct the problem.

**Section 1727   Lighting**

Towers shall be marked as required by the Federal Aviation Administration (FAA). There shall be no lights on the towers other than what is required by the FAA.

This restriction shall not apply to infrared heating devices used to protect the monitoring equipment.

**Section 1729   Turbine Spacing**

The turbines shall be spaced no closer than is allowed by the turbine manufacturer in its approval of the turbine array for warranty purposes.

**Section 1731   Footprint Minimization**

The permittees shall design and construct the WES so as to minimize the amount of land that is impacted by the WES. Associated facilities in the vicinity of turbines such as electrical/electronic boxes, transformers and monitoring systems shall to the extent practicable be mounted on the foundations used for turbine towers or inside the towers unless otherwise allowed by the landowner on whose property the LWES is constructed.

- d) Decommissioning Requirements. Decommissioning and site restoration includes dismantling and removal of all towers, turbine generators, transformers, overhead and underground cables, foundations, buildings and ancillary equipment to a depth of forty-two (42) inches; and removal of surface road material and restoration of the roads and turbine sites to substantially the same physical condition that existed immediately before construction of the LWES. To the extent possible, the site must be restored and reclaimed to the topography and topsoil quality that existed just prior to the beginning of the construction of the commercial wind energy conversion facility or wind turbine. Disturbed earth must be graded and reseeded, unless the landowner requests in writing that the access roads or other landsurface areas be retained.
- e) Decommissioning Plan. Prior to commencement of operation of a LWES facility, the facility owner or operator shall file with the Board the estimated decommissioning cost per turbine, in current dollars at the time of the application, for the proposed facility and a decommissioning plan that describes how the facility owner will ensure that resources are available to pay for decommissioning the facility at the appropriate time. The Board shall review a plan filed under this section and shall approve or disapprove the plan within six (6) months after the decommissioning plan was filed. The Board may at any time require the owner or operator of a LWES to file a report describing how the LWES owner or operator is fulfilling this obligation.
- f) Financial Assurance. After the tenth (10<sup>th</sup>) year of operation of a LWES facility, the Board may require a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance that is acceptable to the Board to cover the anticipated costs of decommissioning the LWES facility.
- g) Failure to Decommission. If the LWES facility owner or operator does not complete decommissioning, the Board may take such action as may be necessary to complete decommissioning, including requiring forfeiture of the bond. The entry into a participating landowner agreement shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors, and assigns, that the Board may take such action as may be necessary to decommission a LWES facility and seek additional expenditures necessary to do so from the facility owner.

**Section 1749 Pre-construction Filing**

At least forty-five (45) days prior to commencement of construction, the applicant/permittee shall submit final maps depicting the approximate location of the proposed wind turbines, access roads and collector and feeder lines. Upon completion, the applicant shall also supply an "as-built" ALTA survey indicating that the proposed facilities are in compliance with the setbacks in the permit.

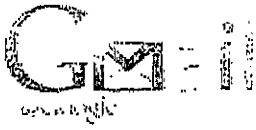
**Section 1745 Required Information for Permit Application**

- a) Boundaries of the site proposed for LWES and associated facilities on United States Geological Survey Map or other map as appropriate.
- b) Map of easements for LWES.
- c) Map of occupied residential structures, business and public buildings within one half mile of the proposed LWES site boundaries.
- d) Preliminary map of sites for LWES, access roads and utility lines. Location of other LWES within five (5) miles of the proposed LWES site.
- e) Project-specific environmental and cultural concerns (e.g. native habitat, rare species, and migratory routes). This information shall be obtained by consulting with the following agencies with evidence of such consultation included within the application:
  - 1. South Dakota Department of Game, Fish and Parks
  - 2. U.S. Fish and Wildlife Service, and
  - 3. South Dakota State Historical Society
- f) Project schedule
- g) Mitigation measures
- h) Status of interconnection studies/agreements.

**Section 1747 Decommissioning**

- a) Cost Responsibility. The owner or operator of a LWES is responsible for decommissioning that facility and for all costs associated with decommissioning that facility and associated facilities. The decommissioning plan shall clearly identify the responsible party.
- b) Useful Life. A LWES is presumed to be at the end of its useful life if the facility generates no electricity for a continuous period of twelve (12) months. The presumption may be rebutted by submitting to the Board for approval of a plan outlining the steps and schedule for returning the LWES to service within twelve (12) months of the submission.
- c) Decommissioning Period. The facility owner or operator shall begin decommissioning a LWES facility within eight (8) months after the time the facility or turbine reaches the end of its useful life, as determined in 14(b). Decommissioning must be completed with eighteen (18) months after the facility or turbine reaches the end of its useful life.





# 2

Gregg Hubner &lt;gregghubner@gmail.com&gt;

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**.request****Rounds, Brian** <Brian.Rounds@state.sd.us>  
To: Gregg Hubner <gregghubner@gmail.com>

Fri, Aug 28, 2015 at 10:47 AM

Hi Gregg:

We had a former Commissioner, Steve Kolbeck, organize a "Tower Working Group" back in 2008. One of the results of that group was a "model" ordinance – a suggestion for counties of what the group thought would be a good starting point. The group released the model ordinance in October of 2008. You can find more information on that here: <https://puc.sd.gov/twg/default.aspx>

Let me know if you have any other questions.

Brian

**From:** Gregg Hubner [mailto:gregghubner@gmail.com]  
**Sent:** Thursday, August 27, 2015 10:28 AM  
**To:** Rounds, Brian  
**Subject:** request

Brian, at one time I thought I had a copy of the PUC suggested setbacks for wind turbines, and I was all over your website this morning and just couldn't find it, could you send it to me, or the link? I'm interested in the PUC zoning setbacks and also about what year were they implemented? thanks Gregg

---

Gregg C. Hubner

# Avon Clarion

Official Newspaper for City, School District 4-1 and Bon Homme County

75¢ per copy  
Brodeen, Inc. Publishers

NUMBER 2 VOLUME XCVIII

Pub. I.E. #546840  
P.O. Box 345, Avon, SD 57315

# 3

PAGE 8

## Wind Towers

From Page 1

Health issues were also a concern for those opposing the ordinance, as some those already living near the current (33 wind tower north of Avon) are experiencing.

The opposers were asking for the Zoning Board to move the set-back from 1,000 ft to a 2-mile setback from a residence and a 1/4 mile setback from a property line for any tower over 400 feet.

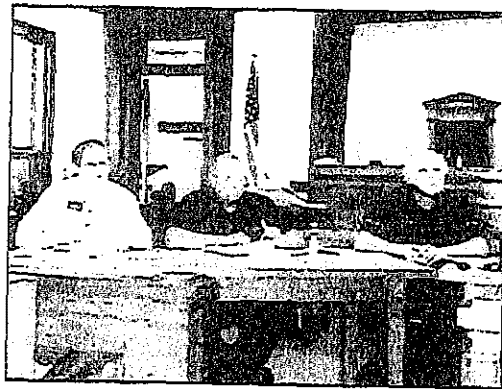
After hearing testimony, the Zoning Board asked Jurgens for his take on the issue. He, obviously is for passing the ordinance the way it is

and feels that Bon Homme County is being treated fairly on noise and flicker (passing shadow of rotating blades) according to law and other state requirements.

After everyone was heard, the Board voted to approve the ordinance as written. Voting nay was Brandt. Those voting aye were Robert Rothschild, Soukup and Mary Jo Bauder. Absent was Tim Talsma.

The ordinance will now be submitted to the County Commissioner for discussion.

The ordinance was set forth after a 100 wind turbine farm is in the works for Bon Homme County, earmarked for the Avon Area.



Zoning Administrator Eric Elsberry, Board Member Doug Brandt and Board President Mike Soukup take in meeting on Monday morning

## B.H. Zoning Board Listens to Concerns About Wind Farms Vote for New Ordinance

Over 50 concerned citizens packed the Bon Homme County Courtroom for a zoning meeting held this past Monday morning. Most in attendance were against the proposed ordinance that the Bon Homme County Zoning Committee will be submitting to the Bon Homme County Commissioners for passage.

The Zoning Board is a group of appointed citizens to make decisions on zoning issues in the county. They then submit to the County Commissioners for final approval.

About a dozen attending cited problems with the new ordinance, that would allow a 1000 ft. setback from a residence and 500 feet or 1.1 times the height of the wind



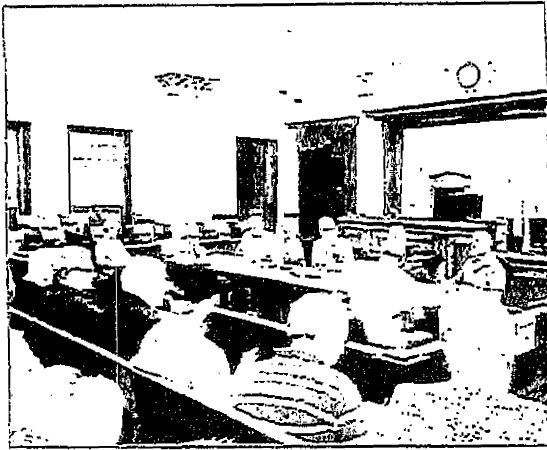
Dave Walkes asks for questions from the Zoning Board

turbine, depending on which is greater, from the property line, only two, spoke for it. Roland Jurgens, Prevailing Winds, LLC project manager and Arlo DeWald of Tripp were the only to speak in favor of the ordinance.

WIND FARMS/Page 8

5 ONLY 2 spoke for it and I was the project manager

# 4



Jay Mudder gives his opinion against the proposed ordinance to the County Commissioners Tuesday

## Bon Homme County Commission side with Zoning Board on Wind Turbine Setbacks

The Bon Homme County Commissioners met in special session this past Tuesday night with nearly 100 people in attendance. The Meeting was held on the Setbacks (distance from a wind turbine from a home or property line). On August 31, the Bon Homme County Zoning Board heard many concerns about the 500' to 1,000' setback from a residence, with many against the setback.

While many spoke on behalf of the windtowers and were fine with the setbacks, many also spoke against.

Commissioner John Hauck asked if a 1,500 setback would effect progress or damage the pursuit of the windfarm all together. He was told no.

But after it was all over, Commissioner Duane Bachmann made the motion and Glen Soukup seconded to keep the setbacks at 500' and 1,000'. Other Commissioners voting aye were John Fathke, Russell Jelsma and Hauck. The resolution approved to leave the same as adopted.

It will have its second reading in November, and changed if needed.

## COLUMN RITE.....

by Jackson S. Brodeen, Editor



As Harvest is at full peak, I came across some of these famous quotes:

"Farming looks mighty easy when your plow is a pencil and you're a thousand miles from the corn field."

Dwight D. Eisenhower

"Remember that creating a successful marriage is like farming: you have to start over again every morning."

H. Jackson Brown, Jr.

"A day without sunshine is like, you know, night."

Steve Martin

"My fake plants died because I did not pretend to water them."

Mitch Hedberg

"Each of us has about 40 chances to accomplish our goals in life. I learned this first through agriculture, because all farmers can expect to have about 40 growing seasons, giving them just 40 chances to improve on every harvest."

Howard Graham Buffett

"Our deep respect for the land and its harvest is the legacy of generations of farmers who put food on our tables, preserved our landscape, and inspired us with a powerful work ethic."

James H. Douglas, Jr.

○ ○ ○ ○ ○

As said by County Commissioner Russell Jelsma, you hate to see neighbor vs. neighbor which this windfarm thing has come down to. I agree.

I haven't taken sides on the issue and don't plan on. But I do think that the County Commissioners could have given a little on the setbacks. Commissioner Hauck suggested 1,500' rather than 1,000'. Even Prevailing Winds Manager Roland Jurgans said that would not effect their plans.

Like the old saying goes, sometimes you have to give a little

45

**ICE OF PUBLIC HEARING**

Notice is hereby given that a public hearing will be held before the Bon Homme County Commission, Tyndall, South Dakota at 7:30 PM on the 20TH day of October 2015 in the Bon Homme County Courthouse Courtroom, 300 West 18th Avenue, Tyndall, SD. Said hearing is to consider amendment of the Zoning Ordinance to include language regulating Wind Energy Systems.

The complete amendment referred to above is on file with the Bon

Homme County Zoning Administrator & Auditor and may be inspected, reviewed, or examined by any interested party by contacting the office at (605) 589-4214 or (605) 589-4212.

Written comments may be submitted to the Bon Homme County Auditor's Office by 4:30 P.M. October 16, 2015.

Tamara Brunken  
Bon Homme County Auditor  
Published twice at an approximate cost of \$14.08

(September 30 & October 7, 2015)

deadline for  
written  
comments

**Bon Homme County Commissioners Meeting September 22, 2015**

The Bon Homme County Commissioners met in regular session at 9:00 a.m. on Tuesday, September 22, 2015. Jelsma, Hauck, Bachmann, Soukup were present and Folke absent. Present was Shella Kramer, reporter, & Tamara Brunken, Auditor, also present was

Ed VanGerpen, Ron Wagner, Bruce Vogt, Ron Hornstra, & Roland Jurgens, Rich Beringer.

Motion by Soukup and seconded by Hauck to approve the agenda as presented.

VSO director, Eric Elsberry met with the board and gave his monthly report. He had 28 contacts this month. Some items this month were: NPRC for a Veteran, and met with VA field supervisor. Elsberry informed the board that Mike Maske, VA Field Rep. will be working with him since he is new to the job. Elsberry also informed the board that he passed his test in Pierre.

Elsberry asked for proper expenses to attend the Stakeholders meeting in Sioux Falls on October 26, 2015 in Sioux Falls. Motion by Hauck and seconded by Bachmann to allow expenses. All voting aye, motion carried.

Building permits are 99 so far in 2015 compared to 109 in 2014. Building permits for August were: Kevin Cuka, grain bin, Reimer Wynia, grain bin, Susan Hemmiller, garage addition, Ray Johnson, hoop Quonset bldg, Bill VanGerpen, grain bin, Richard Fryda, feeding pad, Deunk Fischer, grain bin, Tim Hovorka, grain bin, Rick Kreber, grain bin, Mark Duchholz, new home, James Torney, shed addition, Steve Johnson, grain bin, Gary Sestak, grain bin, Michelle Eddy, lean-to/shelter, Elmer Mizer, home addition, Wayne Winecker, grain bin, Roger Hovorka, cattle shed, Rich Reiff, grain bin, Frank Burke, cabin, Chester Housinkveld, grain bin, Bryan Nagel, machine shed w/lean-to, Edmund & Mary Jo Bauder, grain bin.

Ed VanGerpen met with the board to request that when the Commissioners hold the public hearing for Zoning Ordinance Article 17 that they consider an evening meeting so more of the public may attend.

John Hauck updated the board on the recent updates on the NAPA rail board. Lyle Krosing has resigned, creating an opening on the board. Motion by Hauck and seconded by Bachmann to appoint Jason Kober to the board. All voting aye, motion carried.

Motion by Hauck and seconded by Bachmann to approve the minutes of the September 1, 2015 meeting. All voting aye, motion carried.

Motion by Bachmann and seconded by Hauck to approve the Clerk & Deeds fees for August. All voting aye, motion carried.

Motion by Hauck and seconded by Soukup to approve the Auditor's to Treasurer's report for August 2015. All voting aye, motion carried.

Deposits, \$6521.66; Cash, \$500.00; Checks in Treasurer's possession, \$26177.87; NSF checks, \$739.87; Petty cash, \$800.00; Change funds, \$150.00; CD #679, \$8744.31; CD #451, \$20,439.88; CD #397, \$3042.98; CD #559, \$102,996.84; CD #509, \$6185.16; Savings-Security State Bank, \$734,039.27; Savings-Farmers & Merchants Bank, \$51,450.26; Money market-First Savings, \$2,100,937.88; Grand Total, \$3063458.23 Auditor's Total, \$3063458.23.

Auditor Brunken informed the board that once she received the centralized utilities

from the state and did the calculations, the amount that can be levied for taxes is an anticipated lower amount. She asked the board to approve the following changes to revenue for the 2016 budget. General Fund from \$2,560,781 to \$2,560,557 with a \$224 change and Road & Bridge from \$562,655 to \$562,628 with a \$27 change. Motion by Soukup and seconded by Hauck to approve the change. All voting aye, motion carried.

Sheriff Lenny Gramow entered the meeting to inform the board of recent grants received for his department. They have been awarded grants for radar & cameras for the vehicles. He also has two (2) M14's that have never been used. He asked the board to declare them surplus so he can trade them in towards one (1) AR15 which they will carry in their vehicles. Motion by Soukup and seconded by Bachmann to declare the two M14's surplus and authorized Gramkow to trade them in towards an AR15. All voting aye, motion carried.

Sister Attorney Lisa Rothschadl entered the meeting.

District III representative, Brian McInelis reported to the board on the next steps concerning the changes to Zoning Ordinance Article 17. After much discussion, motion by Bachmann and seconded by Hauck to set the public hearing for October 20, 2015 at 7:00 p.m. in the Bon Homme County Courtroom with the 1st reading to be held after. All

AVON CLARION

Bon Homme Commissioners Meeting October 20, 2015

The Bon Homme County Commissioners met in regular session at 9:00 a.m. on Tuesday, October 20, 2015. Hauck, Fathke, Soukup, Bachmann & Jelma present, also present were Sheila Kramer, reporter, Tamara Brunken, Auditor.

Motion by Hauck and seconded by Fathke to approve the agenda as presented with the addition of NAPA. Roll discussion & a dust issue. All voting aye, motion carried.

VSO Director Eric Elberry met with the board for his monthly report. He had 52 contacts, some of them were: visit from VA Field Supervisor Mike Maske, participated in Wagner stand down, took care of 11 sps for Patriot Day, attended stakeholders teleconference, filled out paperwork for Ambassador Medal for (2) veterans.

Building permits are 114 so far in 2015 compared to 151 in 2014. Building permits for September were: Bon Homme Colony, green/bee house & veg. garden; Kenneth & Kathryn Saylor, cement pad; Paul Pudwill, hoop shed; Leroy Roth, garage addition; George Bauder, grain bin; Ruth & Victor Janak, garage; Jack Herrbold, hog barn; Edmund & Mary Jo Bauder, grain bins; Dan Sparks, cement pad for chicken coop; Joe Kostal, new home & shed; Don DenOuden, altering corn crib to machine shed; Richard Pechous, grain bin; Dean Schneider, mud room/deck; Mike Soukup, machine shed.

Milroy Riser, 4-H Youth Program Advisor presented her quarterly report.

Motion by Bachmann and seconded by Fathke to approve the minutes from the October 6, 2015 meeting. All voting aye, motion carried.

Motion by Hauck and seconded by Bachmann to approve the Clerk and Deeds fees. All voted aye, Motion carried.

Brunken requested the Liquor License hearing for the Dock, Springfield Golf Club, Scotland Golf Club and Bon Homme Golf Club be held on Tuesday, November 3, 2015 at 9:00 a.m. Motion by Fathke and seconded by Hauck to hold the hearing at that time. All voting aye, motion carried.

Brunken presented the Surplus Cash analysis for September of 2015. Surplus cash for the county is 39%. Consensus of the board was to approve the report.

Auditor Brunken requested an operating transfer to Road & Bridge for \$200,000.00. Motion Bachmann & seconded by Fathke to approve. All voting aye, motion carried.

The following plat was presented for approval.

RESOLUTION WHEREAS, it appears that the owner thereof has caused a plat to be made of the following real property: Plat of Tract A and Tract B of Schortzmann's addition in the East Half of the Northeast Fractional 1/4 and in the East Half of the West Half of the Northeast Fractional 1/4 of Section 6, T95N, R58W of the 5th RM., Bon Homme County, South Dakota, and have submitted such plat to the County Commission of Bon Homme County, South Dakota for approval.

NOW THEREFORE BE IT RESOLVED, that such plat has been executed according to the law and same is hereby approved. The County Auditor is hereby authorized and directed to endorse on such plat a copy of this resolution and certify the same.

Roll call vote: Aye: Hauck, Soukup, Jelma, Bachmann & Fathke. Approved by five.

Resolution adopted this 20th day of October 2015.

Emergency Manager/E911 director, Scott Burgl met with the board to request proper expenses to attend a Tri-State meeting in Sioux Falls on October 23, 2015. He also had to attend a Homeland Security meeting in Mitchell on October 14, 2015. Motion by Bachmann and seconded by Hauck to approve the expenses. All voting aye, motion carried.

Discussion was held on the recent train derailment. Burgl informed the board that he was going to submit an expense for a repair to the EM truck for an inverter that needed to be replaced. After some discussion the board asked him to submit for his wages and also the wages of the highway personnel that were needed that day also.

Discussion was held on a claim to Burgl for expenses for meals during travel time while attending Dispatch training in Pierre. After much discussion, consensus of the board was to not approve these meals. In the past anyone who attended the training didn't have outside meals paid, as meals were provided with the training.

Highway Superintendent, Dennis Horvorka shared with the board an update on the railroad cuts and rail road ties by Highway 25. He stated the crusher will be here approximately Mid to late November.

Crew is mowing township and county roads, blading and performing culvert repair.

Director of Equalization, Donna Zimmerman met with the board to request proper expenses for a Sales Analysis/Statistics Workshop in Sioux Falls on October 29th. She is requesting that (2) people from her office attend. Motion by Hauck and seconded by Fathke to approve proper expenses.

Sheriff, Lemmy Gramkow met with the board to update the board on some of the items presented to him during the recent Loss & Prevention survey conducted by Safety Knecht. They recommended that he update and adopt their Law Enforcement Policy & Procedures. If they are adopted there will be a credit applied to our insurance premium. Auditor Brunken also informed the board that

she is waiting for the results from the survey and will update them at that time. Consensus of the Board was to have Gramkow update and adopt the policy & procedures now.

Gramkow also requested that the board surplus their current Taxes with a \$0 value as they are receiving now Taxes to be purchased through a grant. He also stated that the city of Springfield has requested the old Taxes. Motion by Fathke and seconded by Soukup to declare the Taxes as surplus and to authorize Gramkow to give them to the City. All voting aye, motion carried. Discussion was also held on the 2012 Tahoe that is used by Deputy Maggs. Gramkow budgeted for a new vehicle to be purchased in 2016. The city of Springfield may be interested in purchasing this. Auditor Brunken will check to see what the proper process would be for this.

Brunken requested proper expenses to attend County Welfare regional training to be held in Sioux Falls on Thursday, October 29th, and expenses to attend the Election workshop in Pierre from Nov. 3-6, 2015. Motion by Soukup and seconded by Hauck to approve the proper expenses. All voting aye, motion carried.

Auditor Brunken presented a poor relief claim, 2015-4 to St. Michael's Hospital for \$7,083.90. She asked to board to deny due to the application not being returned. Motion by Hauck and seconded by Fathke to deny. All voting aye, motion carried.

Proper expenses were requested for Weed Supervisor Charley Bode and assistant Russ Hamilton and possibly two others to attend the District meeting on November 6, 2015 in Mitchell. They need to attend this meeting in order to qualify for the weed grant offered yearly. Motion by Bachmann and seconded by Fathke to approve proper expenses. All voting aye, motion carried.

Motion by Soukup and seconded by Fathke to recess at 11:05 a.m. and reconvene at 6:00 p.m. that evening. They will meet to review Article 17 with Brian McGinnis prior to the public hearing to be held at 7:00 p.m. All voting aye, motion carried.

Board recessed at 11:06 a.m.

The Bon Homme Board of Commissioners reconvened their meeting at 6:30 p.m. in the Commissioners room with Hauck, Soukup, Bachmann, Fathke, & Jelma present. Also present was Brian McGinnis and Auditor Brunken. The board reviewed Article 17 of the Zoning Ordinance.

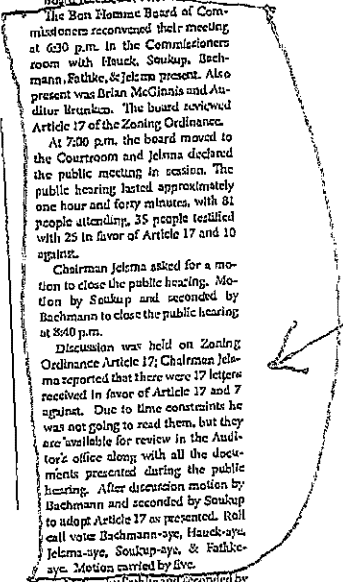
At 7:00 p.m. the board moved to the Courtroom and Jelma declared the public meeting in session. The public hearing lasted approximately one hour and forty minutes, with 81 people attending, 35 people testified with 25 in favor of Article 17 and 10 against.

Chairman Jelma asked for a motion to close the public hearing. Motion by Soukup and seconded by Bachmann to close the public hearing at 8:40 p.m.

Discussion was held on Zoning Ordinance Article 17; Chairman Jelma reported that there were 17 letters received in favor of Article 17 and 7 against. Due to time constraints he was not going to read them, but they are available for review in the Auditor's office along with all the documents presented during the public hearing. After discussion motion by Bachmann and seconded by Soukup to adopt Article 17 as presented. Roll call vote: Bachmann-aye, Hauck-aye, Jelma-aye, Soukup-aye, & Fathke-aye. Motion carried by five.

Motion by Fathke and seconded by Hauck to set the 2nd reading of Zoning Ordinance Article 17 during the Commissioners meeting on Nov. 3, 2015. Roll call vote: Bachmann-aye, Hauck-aye, Jelma-aye, Soukup-aye, & Fathke-aye. Motion carried by five.

#6



17 in favor 7 Against

2-17-2016

AVON CLARION

#7

## Letters to the Editor...

Dear Editor,

Last Tuesday the Davison County Zoning Committees denied a permit for 11 wind towers. The commissioners voted 4-1 against the permit and decided to "side with the majority in attendance". I commend the Davison County Zoning Committee for their integrity and professionalism. Last October in Bon Homme County our zoning board had a hearing on setbacks for wind towers. There were over 40 people there against the setbacks proposed by the wind developers, and just a handful for the short setbacks. The Avon Clarion reported that about a dozen spoke against and only 2 county citizens for. But the Zoning Committee voted against the citizens and for the developer. In addition to that, the letters that were written to the commissioners for their meeting were miscounted in favor of the developers by the County Auditor. A subsequent meeting by the Commissioners produced the same result. The investors and developers got their way and the citizens were ignored. Wind farm developers got their foot in the door by persuading County officials to get on their side by promising all this tax money. The Davison Zoning Board opted for quality of life and preservation of property values rather than promised or projected tax revenue. The people pushing wind farms never have to live by them, but they expect you to. A witness at the Mitchell hearing who lived 1000 ft. from a wind turbine was quoted that "his

life had changed since several turbines were built in the vicinity of his home, due to the constant noise emitted from the towers." The disappointed developer was quoted. "It seemed like they still don't have a full grasp of the project, unfortunately, and that's sad because you're going to miss an opportunity here." I wonder how many times the wind developers have to tell the landowners and citizens how stupid we are. Also in the news recently was Senate Bill 76, which was going to alter the setbacks of wind towers because Dakota Plains Energy built towers too close to property lines in Campbell County. Rather than give the ranchers any compensation for their illegal activity, the developers tried to persuade our Legislature to change the law in their favor. Wind developers are very slick; I don't trust them at all. But people are waking up. The Senate woke up and stopped SB76. Davison County woke up and sent the developer back home to Minnesota. I only wish our Bon Homme County Zoning Board and Commissioners wouldn't have been taken in hook, line and sinker and would have stood up for their citizens. If Congress actually keeps their word and phases out the production tax credit for wind energy (taxpayer money going to wealthy and foreign owners of wind farms) then these developers might have to find a new occupation.

Gregg Hubner  
29976 406th Ave  
Avon, SD 57315  
605 660-1867

## Letters to the Editor...

Dear Editor

After the November 2015 Bon Homme County commission meeting I felt compelled to write a letter to the editor using the theme Facts and Reality. After reading Gregg Hubner's recent editorial and the headline news "Wind Farm Request Denied" in the Avon Clarion it is time for another Facts and Reality check. First of all comparing the vote taken by the Davison County Zoning Board to the Bon Homme board's action is not reality. The Davison Board was voting on the construction of a Wind Project. The Bon Homme board was putting in place construction guidelines to regulate the construction of a wind farm. There certainly is a vast difference between a permit to build and siting regulations. Plus there is nothing to say that Bon Homme may not deny a building permit for a project in the future.

Presented as fact: The Majority at a meeting should rule.

Reality: Any elected board is serving the entire electorate that empowered them to make decisions on their behalf. If someone does not feel that the determination represented the true voice of the people a petition can be filed and the matter brought to a popular vote.

Presented as a fact: That letters to the Commissioners were miscounted by the County Auditor in favor of the developer.

Reality: There were Seventeen letters in support of Article 17 and Seven opposed. These should be still on file, as should be the audio tape. I can accept false accusations directed toward myself, but think slandering a County Official boarders on being criminal.

Presented as fact: That someone could actually have a Wind Tower built within 1000 feet of their home. This I will need to disclaimer

somewhat in that the actual statement was: A witness at the Mitchell hearing who lived 1000 ft. from a wind turbine was quoted."

Reality: It is imposible under both State and Bon Homme County ordinances to ever site a Turbine anywhere approaching 1000 feet from a dwelling.

The Turbines that are pictured on the front of February 17th Clarion with the caption "nearly in their back yard" are about 2330, 3050 and 3940 feet away.

Presented as fact: That all Developers are slick and try underhanded dealings such as SB76.

Reality: There is more to this story than someone intentionally building to close to a property line and in this case it appears to have been an honest mistake. The system worked as intended and SB76 never got past its initial committee hearing. I did have an editorial in the February 3rd Clarion explaining Prevailing Winds opposition to this bill. Of course there are always a certain number of dishonest persons in every profession, and people on the other side of the issue trying to extort money from an honest mistake. We are hoping to have an equitable answer to this problem yet this legislative session.

Presented as fact: The Production Tax Credit goes to wealthy and foreign owners of wind farms.

Reality: The PTC benefits are what the name states, a credit on taxes owed to United States, there is no payment made, only a credit. In the case of the Beethoven project all the credits are given back to the rate payers as a rate reduction. The Rural Electrics in South Dakota have also benefitted by Basin Cooperative adding Wind Power to their generating capacity and now supply about 17% from the wind.

Ronnie Hornstra  
Avon, SD

#8

# 9

**11 LETTERS IN SUPPORT OF ARTICLE 17**

**FOLLOWED BY 7 LETTERS IN NEVER OPENED JUST  
SHOWING RETURN ADDRESSES**

**FOLLOWED BY REPRESENTATIVE LETTERS OPENED TO  
SHOW SIMILAR POSTAGE PROCEDEURES AND ADDRESS  
LABELING.**



Dear Tammy,

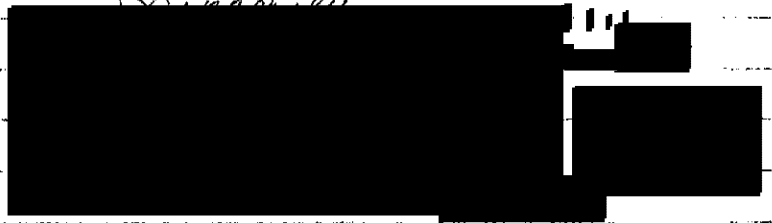
As a lifetime citizen of Bonhomme Co. and taxpayer in Avon Twp. we are concerned of the two mile setback that is being proposed. It will stop all ~~some~~ economic development.

The county and schools need money so why would we go along with a 2 mile setback. It would definitely not support the Prevailing wind project. That project has a great economic benefit.

I am not in favor of a 2 mile setback. The benefits of wind energy coming to B.H. Co. are great.

Please pass this on to the Co. Commissioners

Sincerely,

A large black rectangular redaction box covers the signature area, obscuring the name and any handwritten notes or dates.

October 14, 2015

Dear Tammy,

Can you please pass this letter on to the County Commissioners. I am writing in regards to the proposed wind energy ordinance that will be addressed at the Public Hearing on October 20th.

Encase I am unable to attend the meeting in person on the 20th I want to make sure the Commissioners know that I support the Planning Commission's recommendation to adopt the proposed draft ordinance as it was proposed. There is no reason to further restrict or regulate setbacks for wind turbines beyond what was proposed. I am definitely not in favor of a two mile setback as was proposed by some individuals at the last Public Hearing. There is no evidence to support a setback of that distance.

I've done my homework and If I thought for a moment wind turbines would negatively impact my property values, my health, my safety or my neighbors I would not support the draft ordinance or the proposed wind projects.

For me, an opportunity to support safe and clean energy along with the economic benefits wind energy brings is an easy choice. I encourage the Board to make a logical, forward-thinking decision and stick with the draft ordinance the Planning Commission has recommended.

Please, do not prevent the benefits of wind energy from coming to Bon Homme County.

[REDACTED]

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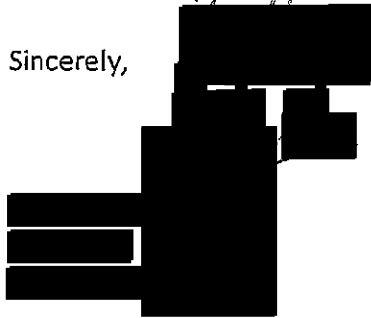
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Sincerely,

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October 14, 2015

Dear Tammy,

Can you please pass this letter on to the County Commissioners. I am writing in regards to the proposed wind energy ordinance that will be addressed at the Public Hearing on October 20th.

As an Air Force and FedEx Pilot for over 42 years I have flown to nearly all of the world, including most of the OPEC Countries: Saudi Arabia, Oman, UAE, Kuwait, and Indonesia to name a few. The discrimination I has witnessed against women in these countries is unbelievable and unacceptable for us as Americans. Being covered from head to toe in a Burka is just the start, they do not have the right to vote, to have a bank account, to pursue a professional career, drive, it goes on and on. In some cases, infant girls are even castrated, and every barrel of f oil America buys from the Countries supports this oppression.

I have been a strong supporter of "Green Energy" since I first witnessed this type of treatment of women, and have urged our elected Representatives to enact legislation to make the United States energy independent.

We live at "Ground Zero" of the Bay Wa Wind project just completed this May, and it has been six months since all the turbines have been operational. We have NOT witnessed a single negative impact of any of these wind towers. We take our daily four mile walk on our County and Township roads and have seen cattle enjoying the shade from the towers, we even espied wild Turkeys in our Section for the first time last week, within 100 meters of number 14.

It seems the loud voices are all for "Green Energy", as long as "It is not in My Back Yard". Well we believe in "What's Good for America", not just "what's good for me", and I want the Commissioners to know that I support the Planning Commission's recommendation to adopt the proposed draft ordinance. I am definitely not in favor of a two mile setback back as was proposed by some individuals at the last Public Hearing. As we live in the middle of these turbine, I can testify that there is no reason for additions restrictions.

For me, an opportunity to support safe and clean energy along with the economic benefits wind energy brings is an easy choice. I encourage the Board to make a logical, forward-thinking decision and adopt the draft ordinance the Planning Commission has recommended.

Please, do not prevent the benefits for Wind Energy from coming to Bon Homme County.

[REDACTED]

October 14, 2015

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Please, do not prevent the benefits of wind energy from coming to Bon Homme County.

Sincerely,

[REDACTED]

P.S. I commend the Commissioners on their proposed draft ordinance and urge you NOT to change the setback <sup>to 2 miles</sup>, which will kill the project.

I don't want to "tell you how to run your meeting", but I would urge you to tell people to limit their remarks to wind turbine and not allow comments about people's motives; personal remarks have no place at meetings like this. Perhaps

Over →

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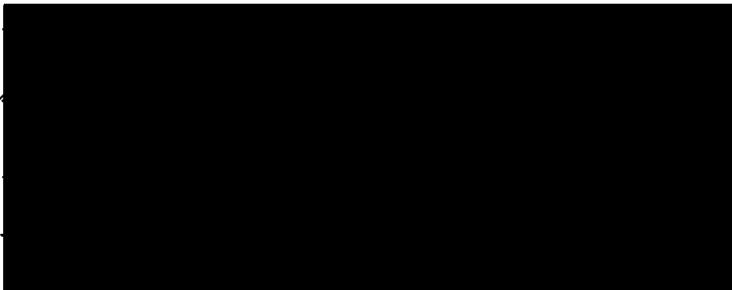
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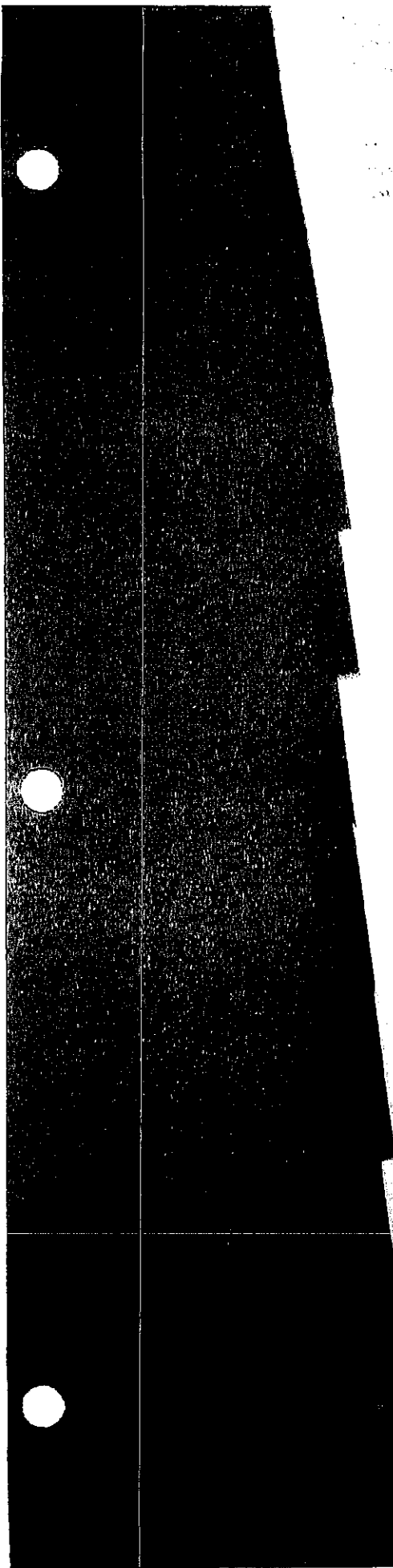
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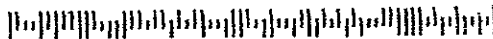
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Tamara Brunken  
Bon Homme County Auditor  
P.O. Box 605  
Tyndall, SD 57066

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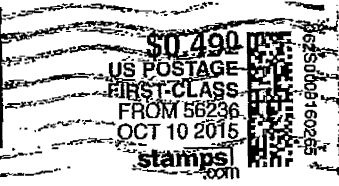


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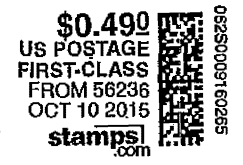


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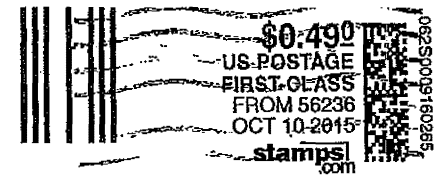


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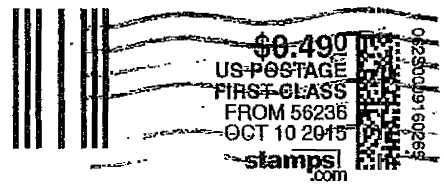
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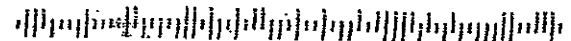
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# 10

To the Editor

I would like to respond to Ronnie Hornstra's letter in last week's paper concerning the count on the letters submitted to my office last fall in favor or opposed to Article 17, concerning wind tower setbacks in Bon Homme County.

There were 24 letters total. There were 7 letters against Article 17 including 6 from Bon Homme County landowners. There were 17 remaining letters. 16 of these 17 letters were form letters. I opened 10 of them and they said exactly the same thing, just signed by different people. Only three of these letters were from Bon Homme county landowners. There were 6 of these 17 letters that came in after the deadline that my office dictated. Therefore these 6 letters were never opened, but I counted them in the "for Article 17" pile because they had the same address, return address label type and the same size envelope as the other letters that supported Article 17. This was my mistake. These letters that came in too late should have never been counted, and especially not counted as "for Article 17" because they were never opened.

Eric Elsberry requested proper expenses to travel to Sioux Falls VA to pick up a PIV card, which is now needed for the VA part of his job. Motion by Fathke and seconded by Hauck to approve. All voting aye, motion carried.

Auditor Brunken updated the board on the recent encounter in her office with Gregg Hubner. He was upset about the letters that were received in her office in support or in opposition to the Article 17 zoning change. He accused Auditor Brunken of being corrupt because there were 17 letters that were in favor of Article 17, but of these there were 6 that were unopened. Brunken could not recall why these were not opened, but the letters were received before the public meeting held on October 20<sup>th</sup>. There were also 7 letters that were opened that were against Article 17. Mr. Hubner was very threatening in the way he addressed her and stated that if she did not write a letter of apology to the papers he was going to contact the Attorney General's office and Kelo TV. He also presented Brunken with a letter that he had already written for her convenience. Brunken stated that she would consider a letter, but needed to check with her State's Attorney and the Commissioner Chairman. Brunken reported that Attorney Rothschadl recommended that she not write the letter as she has no legal obligation to publish a letter to the editor regarding this matter, and that the board open the (6) letters in question.

Chairman Jelsma then opened the letters and reviewed them along with the rest of the board; each letter was indeed in favor of Article 17. The consensus of the board was to agree with Rothschadl and recommended that Brunken not write a letter.

Brunken did state that in order for this to not happen again, anytime there is date sensitive mail, she will use a date stamp to indicate when it was received.

The board declared the issue done and moved on to the next order of business.

Auditor Brunken asked that the next Commissioner meeting be moved to March 22, 2016 at 9:00 a.m. due to other meeting conflicts. Motion by Fathke and seconded by Soukup to approve the date change. All voting aye, motion carried.

Motion by Bachmann and seconded by Fathke to approve the minutes from the February 16, 2016 meeting. All voting aye, motion carried.

In the absence of Sheriff Gramkow, Brunken presented a quote to replace their server on the first floor that serves the Sheriff dept., VA/Zoning dept., & jail. It is (6) years old and is causing problems with the Sheriff's reports. After meeting with Yankton Computer and Network Services it was recommended to replace the server. Gramkow was quoted a PowerEdge T320 Tower server for \$2,556.87 along with labor being approximately \$1,500. After some discussion, motion by Bachmann and seconded by Soukup to purchase the server. All voting aye, motion carried.

The board reviewed the time cards.

## **Job Opening - Deputy Auditor**

Bon Homme County is taking applications until April 6, 2016 for the position of Deputy Auditor. This is a full time position with paid holidays, sick leave, health insurance and South Dakota retirement. The hours are Monday through Friday, 8:00 am to 4:30 pm. Minimum education requirement is a high school diploma or GED certificate. The following skills and abilities are required: basic accounting knowledge, be able to type accurately, basic computer and office machinery knowledge, ability to use Microsoft Word and Excel, great attention to detail, excellent customer service and organizational skills, ability to clearly and concisely speak and write to professionals, phone skills, and extremely legible handwriting. Applicants must be able to maintain confidential information. Applications and full job description will be available at the Bon Homme Auditors Office, 300 W18th Ave., Tyndall SD 57066, or by email: [tamara.brunken@state.sd.us](mailto:tamara.brunken@state.sd.us). Applications and resumes may be mailed to (PO Box 605) or hand delivered to the Auditor's office.

**Bon Homme County is an Equal Opportunity Employer**

(Pub: March 23, 30)

STATE OF SOUTH DAKOTA



**OFFICE OF ATTORNEY GENERAL**

1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501-8501  
Phone (605) 773-3215  
Fax (605) 773-4106  
TTY (605) 773-6585  
<http://atg.sd.gov/>

**MARTY J. JACKLEY**  
ATTORNEY GENERAL

**CHARLES D. McGUIGAN**  
CHIEF DEPUTY ATTORNEY GENERAL

July 6, 2016

Mr. Greg C. Hubner  
29976 406th Ave.  
Avon, SD 57315

RE: *Windmill Setbacks*

Dear Mr. Hubner:

Thank you for your letter of April 4, 2016. Therein, you state, "I am certainly not comfortable with the County Auditor counting these unopened letters for the developers when in fact she never saw them." Similarly, you state to DCI Agent Cunningham that the first time Auditor Brunken lied was when she said she counted the unopened letters in "for" pile when in fact they had not been opened and she didn't know if the letters were for or against the project. But you also point out that Auditor Brunken explained to Ed Van Gerpen that the unopened letters came in after the deadline, but since the envelopes had the same markings as the "for" letters, Auditor Brunken counted them in the "for" pile. You also point out that when the unopened letters were open, indeed "they were all for Article 17, which everybody expected, because it was just seven more form letters." Finally, you point out to Agent Cunningham that the commission was not required to vote based on the "for" or "against" letters it had received.

In any criminal case, the State has the burden of proving each element of an alleged crime "beyond a reasonable doubt." As defense attorneys like to remind jurors, that is a very high burden. Criminal intent is an element in every criminal charge. South Dakota Pattern Jury Instruction 1-12-1 defines criminal intent as follows:

In the crime of \_\_\_\_\_ the defendant must have criminal intent. To constitute criminal intent it is not necessary that there should exist an intent to violate the

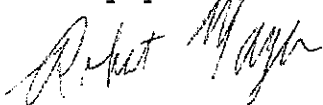
Mr. Greg Hubner  
July 6, 2016  
Page | 2

law. When a person intentionally does an act which the law declares to be a crime, the person is acting with criminal intent, even though the person may not know that the conduct is unlawful.

Again, Auditor Brunken told Van Gerpen that since the unopened envelopes had the same markings as the "for" letters, she counted them in the "for" pile even though she didn't open them. You personally confirmed this with David Ratzlaff. The unopened letters came in after the deadline so that is why they were not opened. However, Auditor Brunken counted them as "for." And at the end of the day, the letters were not binding. I can think of no criminal statute such actions would violate. The evidence you present simply does not establish the element of criminal intent beyond a reasonable doubt. As such, criminal charges will be declined.

Thank you for consulting the Attorney General's Office in this matter. We encourage people to come forth with evidence of corruption. However, there is nothing further we can do.

Sincerely yours



Robert Mayer  
Deputy Attorney General

RM/ms