



Conway Township Planning Commission

Monday, February 13, 2023 | 7:00pm

Fowlerville Junior High School | 7677 Sharpe Road, Fowlerville, Michigan 48836

1. **CALL TO ORDER / PLEDGE**
2. **ROLL CALL**
3. **CALL TO THE PUBLIC**
4. **APPROVAL OF PLANNING COMMISSION MEETING February 13, 2023 AGENDA**
5. **APPROVAL OF THE January 9, 2023 MEETING MINUTES**
6. **COMMUNICATIONS**
 - a. Zoning Administrator's Report
 - b. Livingston County Planning Commission Update / Report
7. **PUBLIC HEARING ON A PROPOSED ZONING AMENDMENT TO IMPOSE A MORATORIUM ON THE ISSUANCE OF PERMITS, LICENSES, OR APPROVALS FOR, OR FOR ANY CONSTRUCTION OF, COMMERCIAL WIND AND SOLAR ENERGY PROJECTS AND TO REPEAL SECTIONS OF THE TOWNSHIP ZONING ORDINANCE PERTAINING TO "WIND ENERGY" AND "SOLAR ENERGY COLLECTORS."**
8. **NEW BUSINESS**

Consideration of Proposed Zoning Amendment To Impose A Moratorium On The Issuance Of Permits, Licenses, Or Approvals For, Or For Any Construction Of, Commercial Wind And Solar Energy Projects And To Repeal Sections Of The Township Zoning Ordinance Pertaining To "Wind Energy" And "Solar Energy Collectors."
9. **PLANNING COMMISSION MEMBER DISCUSSION**
10. **ADJOURNMENT**

Any person may speak for up to 3 minutes during the public comment period.

Next Meeting will be Monday, March 13, 2023



Conway Township Planning Commission Meeting Minutes

Monday, January 9th, 2023 | 7:00pm EST

Fowlerville Jr. High Auditorium | 7677 Sharpe Road, Fowlerville, MI 48836

Agenda	Items Discussed	Actions to be Taken
Attendees	<p>PC Members Present: Jeff Klein, Meghan Swain-Kuch, Dave Whitt, George Pushies - Ex-Officio, Shawn Morrison, Lucas Curd, and Kayla Poissant</p> <p>Zoning Administrator – Gary Klein</p> <p>Livingston County Planning Commissioner: Dennis Bowdoin</p> <p>Township Attorney: Abby Cooper, JD, and Michael D. Homier</p> <p>Township Planners:</p>	None
Call to Order/Pledge	<p>Chair, M. Swain-Kuch called the Conway Township Planning Commission meeting to order at 7:01pm and led the Pledge of Allegiance.</p>	None
Call to the Public	<p>Steve Smith- 8763 Robb Rd.- He stated that he wanted to share some humor after last month’s stressful meeting. He went on to share jokes and “roast” PC members. He submitted his speech to the PC.</p> <p>Jim Dannemiller- 6428 Chase Lake Rd- He stated that he would be referencing a letter submitted to the Conway Township Planning Commission in December 2022. He stated that the materials posted on the website were not from the Solar Advisory Committee. He stated that residents were not consulted on the proposed amendment, and that Sarah Mills is a paid advocate for solar. He stated that M. Swain-Kuch is on the Library Board, and with regards to solar it is a conflict of interest and should not be allowed to be involved with it. He asked that the PC and Mr. Homier decide how much a conflict there is.</p> <p>Kennedy Parker- 7000 Hayner Rd.- She stated that a representative from one of the solar utility companies had showed up at her house a couple weeks ago. She also stated that workshops that were approved from the Board of Trustees hasn’t happened yet, and she is</p>	None

anticipating working and scheduling them. She stated that the best leadership can come from the most difficult conversations. She stated that the signatures from the petition were published online from the attorney letter submitted to the PC, and that the Solar Advisory Committee did not publish them but that Conway Township published them. She asked about the law regarding posting them publicly.

Sarah Porter- 9402 Sober Rd.- She stated that she appreciated that the PC took Mr. Homier's advise to not vote on the proposed amendment last month on solar, and that this issue is not a property rights issues, but a land use issue. She mentioned news stations not covering stories regarding wind or solar because they do not fit the story be portrayed. She stated that sources of information be checked, and although they are not against solar, they are against utility scale solar.

Mike Brown- 9265 Sober Rd.- He stated that Herman Eckler stated in research that large scale solar prefer open farm land to make it look better to the community, and that research from Kentucky on the impact of property values showed a 15%-30% drop in neighboring properties. He stated that solar panels are not that efficient with only a 20% efficiency rate over 5 hours, and that there is a federal tax break of around 30%. He stated that the life of solar farms went from 6 years to 30 years, and that if Eckler had concerns for solar than everyone should too. He also had a concern regarding the local jobs that are or are not being created by these projects.

Larry G.- 9341 Robb Rd.- He stated that he is opposed to any large-scale solar projects, and has submitted letters and spoke about this in the past. He stated that he hopes the PC, Township, and County listens to the public about not allowing this to pass. He stated that the community always passes the mileages, and does not need any financial benefit from the utility companies.

Gwen Kato- 4268 Larchmoor (Owns property in Conway)- She stated that her name has been bashed, and is here to clear the air. She stated that she does care about the land, and that her mother signed up their land for solar so that their future generations wouldn't have to work as hard as they used to. She stated that she believes that lands should be kept in the family, and not

sold into separate parcels, and that selling to other farmers isn't plausible because no farmer wants to buy it. She stated that she has seen beautiful solar fields in Virginia, and after 70 years of her family's land being farmed, she thinks that 20 years of rest would be great to see.

Steve Weiss- 7104 Sober Rd.- He stated that he is not an expert on solar, but he has worked on solar farms. He has never seen what is being proposed by the utility companies, and have properties completely surrounded by solar fields. He stated that it is horrible to see the utility companies are doing, and do not allow the 200 ft setback to go through.

Mary DeFaut- 8308 N. Fowlerville Rd.- She stated that the food shortages are important, and that those behind it are doing it from the bottom up. She stated that if there is no land to grow the crops, then crops can not be grown.

Mary Ratelle- 2345 Gannon Rd. Cohoctah- She stated that she is not against solar, but is against large-scale solar. She is concerned about the drainage issues being presented, and she personally is worried about the flooding impact. She stated that the run-off from Conway goes into the Gannon Road area, which will cause major flooding issues in that area. She is also concerned about the first responders if they need to respond to a fire or situation. She stated that the toxins in the panel will not just go into the ground, but also into the air.

Megan Beach- 9020 Eva Lane- She stated that she is opposed to the large-scale solar farms. She stated that the solar panels are not pushing honey bees or flocks of sheep, and has not seen this happen even in Shiawassee County. She also stated that the survey done by Ranger had open-ended questions, and the responses were only yes or no.

Jill Redinger- 6728 Hayner Rd.- She stated that she is concerned about the first responders and how a large fire would be handled. She is concerned about water quality, and that this area is like a big wind tunnel which would be bad if a fire did happen. She asked about trainings or special equipment that may be needed, and how different properties would be affected by this. She

is also concerned about the waterfowl birds that mistake the panels as water, and as a result the birds are burnt, unable to fly, and eventually die.

Joann Haas- 10785 Fleming Rd.- She stated that spraying will continue on solar fields, and they will be using even more because it will travel through the air. She also mentions that the mental health impact that the solar fields will cause will be dramatic. She agreed that the owners who own the land will control the food.

Duane Pickney- 5602 (unreadable) Ingham County- Lock Township- He stated that Granger just bought 550 acres in Lock Township, and rumor is that they are going to be building a landfill there. Granger claims they are going to be doing renewable. He stated that his township is also opposing solar, wind, and landfill proposals. He stated that if anyone was willing to go to their meetings, he would be appreciative. He stated he is concerned with the first responders, and how a fire or dangerous situation would be handled.

Tom Smyth- 9490 Sherwood Rd.- He stated that he is concerned about the utility companies are dangling money in front of the farmers where they get some upfront, and the rest after the deal is complete. He is concerned about companies being held responsible for noise ordinances, pollution, etc. He stated that these companies just keep selling the projects to another company, which causes problems.

Brian Williams- 6124 N. Herrington Rd.- He stated that he is land-use advocate, but that no one has the right to damage his property. He is concerned about companies not fulfilling their responsibilities and doing what they said they were going to do, and he stated that the right thing to do would be to zone against solar. He stated that the health, welfare, and destruction are reasons enough.

Russell Labadie- 6876 Hayner Rd.- He stated that he is against the large-scale solar projects. He asked about whom to send issues or concerns to. He also stated that we needed to be honest about the amount of sunlight we have received lately.

Eric Peterson- 8550 Sherwood Rd.- He stated that the Constitution can be complex, but it really comes down to

	<p>the right to be left alone. He stated that Conway Township was the most honest when it came to voting, and that he is proud of that. He stated that it is unconstitutional if another person's property affects his. He stated that although there are different viewpoints, the main agreement is to be left alone on their own properties.</p> <p>Lu Smith- 10587 (unreadable)- She stated that the survey could have been done in another part of town which wouldn't provide accurate responses and that if companies would lie about that, then what else would they lie about.</p> <p>Tammy Shoenbeck- (didn't sign in)- She stated that she is a certified residential appraiser, and that property values will be affected with solar fields. She stated that she isn't against solar, but doesn't want drainage issues or property values losses either.</p>	
Approval of Agenda	Motion to accept the meeting agenda as amended for January 9 th , 2023. Motion by D. Whitt. Support J. Klein. Motion Approved.	Motion Approved
Approval of December 12th, 2022 Minutes	Motion to accept meeting minutes from December 12 th , 2022. Motion by D. Whitt. Support by J. Klein. Motion Approved.	Motion Approved
Approval of Planning Commission Annual Report for 2022	<p>Corrections to the Annual Report</p> <ol style="list-style-type: none"> 1. October- Added in the Citizens Planner Training <p>Motion to approve the Planning Commission Annual Report for 2022. Motion by J. Klein. Support by D. Whitt. Motion Approved.</p>	Motion Approved
Communications	<ol style="list-style-type: none"> a. Zoning Administrator Report: <ol style="list-style-type: none"> a. Two land-use permits approved last month. b. Board Ex-Officio Report: <ol style="list-style-type: none"> a. G. Pushies discussed a motion from the Board of Trustees to make the 200ft setback back to the 1000ft setback in the proposed solar amendment. G. Pushies also discussed the workshops approved by the Board of Trustees. He stated that the intent of the workshops was not to violate the Open Meetings Act, but to 	<p>None</p> <p>None</p>

	<p>progress this proposal along by allowing the Solar Advisory Committee to work with the Planning Commission. G. Pushies asked for legal advice from Mr. Homier on the workshops.</p> <ul style="list-style-type: none"> b. Mr. Homier stated that the Open Meetings Act states that any meeting where there are deliberations have to be open to the public. He stated that an advisory committee could meet, but it would be to only gain information. Mr. Homier stated to be conservative, that all of these meetings need to be open to the public in order to not violate the Open Public Meetings Act. c. G. Pushies thanked Steve Smith on his letters regarding sound and the TAA information. d. G. Pushies stated that he doesn't have a conflict of interest to his knowledge in regards to his property being originally apart of the solar proposal, and that he has not been contacted by Ranger Power. He asked if the Planning Commission if there was a conflict of interest in which no one had an issue. <ul style="list-style-type: none"> c. Livingston County Planning Commission Report: <ul style="list-style-type: none"> a. M. Swain-Kuch attached the agenda from the LCPC meeting to the monthly packet. She stated she did not have access to the approved minutes. 	
<p>Closed Session- Discussion of Written Confidential Legal Opinion with Township Attorneys</p>	<p>Motion for the Planning Commission to meet in a closed session under section 8(h) of the Open Public Meetings Act to discuss attorney-client privileged material in the form of a written legal opinion with the Township Attorneys, which is exempt from disclosure by the Freedom of Information Act. Motion by M. Swain-Kuch. Support by D. Whitt. Discussion- A time limit was discussed. Mr. Homier stated that the meeting depended on how long the PC needed, but no time limit was needed.</p> <p>Roll Call Vote-</p> <ul style="list-style-type: none"> a. Lucas Curd- Yes b. Jeff Klein- Yes c. Shawn Morrison- Yes 	

	<p>d. Kayla Poissant- Yes e. George Pushies- Yes f. Meghan Swain-Kuch- Yes g. David Whitt- Yes</p> <p>Motion Approved.</p> <p>The closed session began at 8:23pm. The Planning Commission left the closed session at 9:23pm.</p> <p>Motion to close the closed session and restart the meeting. Motion by M. Swain-Kuch. Support by D. Whitt. Motion Approved.</p> <p>Motion to set a Public Hearing to consider an amendment to the Zoning Ordinance to impose a moratorium on wind and solar land uses for Monday, February 13th, 2023. Motion by M. Swain-Kuch. Supported by G. Pushies. Motion Approved.</p>	<p>Motion Approved</p> <p>Motion Approved</p> <p>Motion Approved</p>
<p>New Business</p>	<p>a. Election of Planning Commission Officers- M. Swain-Kuch stated that there must be an election for the Officer positions of Chair, Vice Chair, and Secretary.</p> <p>a. Motion to elect Meghan Swain-Kuch as Chair of the Planning Commission. Motion by D. Whitt. Supported by J. Klein. G. Pushies opposed. Motion Approved.</p> <p>b. Motion to elect Lucas Curd as Vice Chair of the Planning Commission. Motion by D. Whitt. Supported by M. Swain-Kuch. G. Pushies opposed. Motion Approved.</p> <p>c. Motion to elect Kayla Poissant as Secretary. Motion by G. Pushies. Supported by D. Whitt. Motion Approved.</p> <p>b. Cadence of Meetings- M. Swain-Kuch stated that the PC must meet no less than four times a year.</p> <p>a. Motion to meet on the 2nd (second) Monday of every month. Motion by D. Whitt. Supported by J. Klein. Motion Approved.</p>	<p>Motion Approved</p> <p>Motion Approved</p> <p>Motion Approved</p> <p>Motion Approved</p>

Commission Discussion	None at this time.	None
Last Call to the Public	<p>Sarah Porter- 9402 Sober Rd.- She asked why the Township was paying for two attorneys for this meeting. She stated that Mr. Homier was hired for the solar matter, and when A. Cooper was asked a question, she deferred to Mr. Homier. She asked about the legal duties and why they cost so much, and wondered how other townships handle situations like this.</p> <p>Kennedy Parker- 7000 Hayner Rd.- She gave advise regarding PC minutes and how to use Microsoft Word's dictation function to transcribe the minutes. She stated that she hoped to see more publicity for the upcoming Public Hearing in February. She stated that no one, even farmer, have the right to do whatever they want with their land, and that is why there is a local public body of government to oversee it. She stated that there is no demonstrated need in this community for solar, and that there is no farming in regards to solar.</p> <p>Speaker did not sign-in- She is concerned about the drainage issues she became aware of. She stated that she has two sump pumps to care for her house because of all the water, and has the county drain running under her driveway. The country drain water does flood her driveway, and is concerned about the increased flooding due to solar farms.</p> <p>Steve Weiss- 7104 Sober Rd.- He stated that the developers of solar farms do not care about the drainage, existing or future drainage issues. He stated that the Fire Department will have to allow the fire continue to burn because there is no special equipment or training to handle the situation. He also stated that it would take a lot of time to turn off the power to the site in order to put out the fire, and in the meantime toxins will seep into the ground and the air creating a toxic plume.</p> <p>Eli Skeyskal- 8875 Owosso Rd.- She thanks Steve Smith for his article in the newspaper, and stated that she refers to that article regularly. She read a portion of his article, and stated that the community needs to think about the community looks now and how it will look like after these projects are gone. She stated that the community should fight against the solar companies.</p>	None

Adjournment	Motion to adjourn at 9:47pm. Motion by D. Whitt. Support by J. Klein. Motion approved.	Motion Approved
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Respectfully Submitted:

Approved:

Kayla Poissant,
PC Secretary

Meghan Swain-Kuch,
PC Chair

DRAFT



Livingston County Department of Planning

LIVINGSTON COUNTY PLANNING COMMISSION MEETING

Wednesday, January 18, 2023 – 6:30 p.m.

Administration Building, Board of Commissioners Chambers
304 East Grand River, Howell, MI 48843

Please note that this is a hybrid meeting with County Planning Commissioners and staff meeting in-person. Audience participants are welcome to attend in-person or via Zoom by using the meeting link at the bottom of the agenda

Kathleen J. Kline-Hudson
AICP, PEM
Director

Robert A. Stanford
AICP, PEM
Principal Planner

Scott Barb
AICP, PEM
Principal Planner

Agenda

1. Call to Order
2. Pledge of Allegiance to the Flag
3. Roll and Introduction of Guests
4. Approval of Agenda – January 18, 2023
5. Approval of Meeting Minutes – December 21, 2022
6. Call to the Public
7. Zoning Reviews
 - A. Z-01-23 Green Oak Township, Text Amendment, Article IX Signs
 - B. Z-02-23 Putnam Township, Rezoning, PUD Planned Unit Development to A-O Agricultural/Open Space District in Section 14
 - C. Z-03-23 Marion Township, Text Amendment, Article XIV Off-Street Parking and Loading, Sections 14.01 - 14.04 Intent of Parking Provisions, Location, Site Development
 - D. Z-04-23 Marion Township, Text Amendment, Articles 3, 6, and 17 Kennels and Keeping of Animals
 - E. Z-05-23 Handy Township, Rezoning, AC Ancillary Commercial to AR Agricultural Residential in Section 22
 - F. Z-06-23 Cohoctah Township, Text Amendment, Various Sections, Solar Farms and Solar Energy Systems
8. Old Business
 - A. 2023-2027 Parks & Open Space Plan, Adopted December 27, 2022
9. New Business
 - A. Update on Planning Director position
10. Reports
11. Commissioners Heard and Call to the Public
12. Adjournment

Department Information

Administration Building
304 E. Grand River Avenue
Suite 206
Howell, MI 48843-2323

•
(517) 546-7555
Fax (517) 552-2347

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Web Site
co.livingston.mi.us



Livingston County Department of Planning

MEMORANDUM

TO: Livingston County Planning Commissioners and the Cohoctah Township Board of Trustees

FROM: Robert Stanford, Principal Planner

DATE: January 6, 2023

SUBJECT: Z-06-23 Amendments to Zoning Ordinance Article -
Various Sections and Articles:
Utility Scale Solar Energy Systems and Moratorium

Kathleen J. Kline-Hudson
AICP, PEM
Director

Robert A. Stanford
AICP, PEM
Principal Planner

Scott Barb
PEM
Principal Planner

During the November 16, 2022 Livingston County Planning Commission meeting, the Commission heard, reviewed and made recommendation on *Livingston County Zoning Case #Z-37-22 (Recommendation: Take No Action, Encourage Further Review)*. With this set of amendments the township proposed to do the following:

- The township proposed to remove the definition of “Solar Farm” from Section 2.02.
- The township proposed to replace references to “Solar farms” to “Utility scale solar energy systems” in Sections 4.03(M), 5.03(L), 6.03(K), 7.03(H), 10.03(G), 11.03(X), and 16.58(C).
- The township proposed to delete Section 13.17 regarding Solar Buildings.
- The township proposed to replace existing section 13.27 in its entirety and revise it with new regulations throughout.

While it was felt by County Planning Staff that the proposed amendments were very comprehensive and many of them sufficiently addressed many of the elements related to proper planning and zoning related to the issue according to the current establish set of unofficial guidelines developed by the Michigan State University Extension and University of Michigan-Graham Institute of Sustainability entitled: “Planning & Zoning for Solar Energy Systems: A Guide for Michigan Local Governments”¹, there were many undefined, unclear and vague areas through the proposed amendments that the County Planning Commission recommended that the Township take back the amendments to reevaluate and continue to better clarify these areas of deficiencies in the proposal and perhaps repropose to the County Planning Commission at a near future date a cleaner more refined set of amendments.

¹(Source: available at:
<https://www.canr.msu.edu/planning/uploads/files/SES-Sample-Ordinance-final-20211011-single.pdf>)

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Administration Building
304 E. Grand River Avenue
Suite 206
Howell, MI 48843-2323

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Subsequent to this action, the Cohoctah Township Planning Commission received the recommendation of the County Planning Commission and has decided to take this current action. In addition, the township has decided to retain new legal counsel specifically to aid and assist in the further development of the township's solar and wind energy ordinance. The proposed amendments as presented in this review are a result of advice provided by the township's new legal counsel.

In conversations and public meetings attended by Staff with township planning commissioners, board members and legal counsel, Staff has come to the understanding that the township had indeed implemented a similar moratorium over the past year or so previous, which concluded on or around November-December of 2022. Because of the uncertainty and level of necessary additional work that is required to revise the previously proposed set of amendments (see case #Z-37-22) as well as the new ground swell of concern and activity by the township residents, the Township Planning Commission has decided to initiate this new course of action under the proposed moratorium.

For purposes of this review, proposed additions to existing text are noted in red underline, deletions in ~~striketrough~~.

ITEM 1. The Township Planning Commission has initiated this new course of action with the following Resolution, which formulates the basis for the action.

WHEREAS, Public Act 110 of 2006, MCL 125.3101 et seq., as amended, authorizes a township board to adopt and amend zoning ordinances that regulate the use of land and structures within its zoning jurisdiction to meet the needs for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land, to ensure that use of the land is situated in appropriate locations and relationships, to limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities, to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility requirements, and to promote public health, safety, and welfare; and

WHEREAS, the Planning Commission wishes to consider recommending regulations applicable to Commercial Wind and to Solar Energy Projects in the Township; and

WHEREAS, the Planning Commission finds that it is necessary and reasonable for the Township Board to establish a temporary moratorium upon the issuance of any and all permits, licenses, and approvals for any property in the Township for the establishment and use of Commercial Wind and Solar Energy Projects for a period of 12 months, with the ability to extend said moratorium for up to an additional 12 months by the adoption of a resolution for extension by the Township Board; and

WHEREAS, the Planning Commission finds that adopting such a moratorium is in the best interest of the public health, safety, and welfare to ensure that the Planning Commission and the Township Board have sufficient time and space during which to thoughtfully consider such regulations without the added pressure of pending applications or proposed developments involving Commercial Wind and Solar Energy Projects; and



WHEREAS, the Planning Commission has determined that the following sections of the Township's Zoning Ordinance relating to "solar farms" should be repealed while the Planning Commission considers revised regulations: the definition of "solar energy system" and "solar farm" in section 2.02, section 4.03(M), section 5.03(L), section 6.03(K), section 7.03(H), section 10.03(G), section 11.03(X), section 16.58(C), section 13.27, and any other section that could be construed to permit Commercial Wind and Solar Energy Projects in the Township while the moratorium remains in effect.

NOW, THEREFORE, the Planning Commission of the Township of Cohoctah resolves as follows:

1. The Planning Commission recommends that the Township Board adopt Ordinance No. 2023-___, An Ordinance to Amend the Township Zoning Ordinance to Include a Moratorium on the Issuance of Permits, Licenses, or Approvals for, or for Any Construction of, Commercial Wind and Solar Energy Projects, And To Repeal Sections Of The Township Zoning Ordinance Pertaining To "Solar Farms" And "Solar Energy Systems" (the "Ordinance," attached as **Exhibit A**).
2. The Planning Commission shall forward this Resolution and the Ordinance, along with the minutes of the public hearing, to the Livingston County Planning Commission for review and recommendation and to the Township Board for consideration.
3. A copy of the Ordinance shall be available for examination at the office of the Clerk, and copies may be provided for a reasonable charge.
4. Any and all resolutions that are in conflict with this Resolution should be repealed but only to the extent necessary to give this Resolution full force and effect.

ITEM 2. The following is a summary of the proposed Ordinance and moratorium text.

Section 1. Addition of New Section 13.28 to Township Zoning Ordinance. This section adds Section 13.28 to the Township Zoning Ordinance. The new Section 13.28 contains the following subsections:

- A. Subsection (A)** defines "Commercial Wind and Solar Energy Project."
- B. Subsection (B)** describes the purpose and findings of the proposed Ordinance, including the need for a moratorium and repeal of sections of the Zoning Ordinance pertaining to "solar farms" and "solar energy systems."
- C. Subsection (C)** imposes a moratorium upon the issuance of any and all permits, licenses, or approvals for any property in the Township for the establishment or use of Commercial Wind and Solar Energy Projects, so long as the Ordinance is in effect.
- D. Subsection (D)** describes the term of the moratorium imposed by the Ordinance stating it will be in effect for 12 months following the effective date of the Ordinance,



and that the Township Board may extend the moratorium by resolution for an additional 12 months.

Section 2. Validity and Severability. This section provides that if any portion of the Ordinance is found invalid, such holding will not affect the validity of the remaining portions of the Ordinance.

Section 3. Repealer. This section repeals any ordinances or parts of ordinances in conflict with this Ordinance, including but not limited to Ordinance No. 84 adopted on November 9, 2017.

Section 4. Effective Date. This section provides that the Ordinance is effective as provided by law.

ITEM 3. The Township proposes an ordinance to amend the Township Zoning Ordinance to include a moratorium on the issuance of permits, licenses, or approvals for, or for any construction of, commercial wind and solar projects, and to repeal sections of the township zoning ordinance pertaining to “solar farms” and “solar energy systems”. New Section 13.28 is added to the Township Zoning Ordinance and reads as follows:

Section 13.28 Moratorium on Commercial Wind and Solar Projects and Repeal of Sections of the Township Zoning Ordinance Pertaining to “Solar Farms” and “Solar Energy Systems”

A: Definition. A “Commercial Wind and Solar Energy Project” is a utility-scale commercial facility that converts energy into electricity, whether by wind, photovoltaics (PV) or various experimental solar technologies, for the primary purpose of wholesale or retail sales of generated electricity.

B. Purpose and Findings. The purpose of this moratorium is to provide sufficient time for the Cohoctah Township Planning Commission and Township Board to fully and thoughtfully explore, analyze, research, and make informed decisions regarding Commercial Wind and Solar Energy Projects. In support of this Ordinance, the Cohoctah Township Planning Commission and Township Board have determined the following:

1. The integration of Commercial Wind and Solar Energy Projects within the Township's existing land uses requires suitable regulations and controls to ensure compliance with the Township's Master Plan and for the protection for the health, safety and welfare of all of the Township's residents.
2. The Township wishes to consider whether amendments to its Zoning Ordinance to regulate the establishment and use of Commercial Wind and Solar Energy Projects are necessary in order to better protect the public health, safety, and welfare of Township residents.
3. Imposing a moratorium, on a limited temporary basis, is reasonable and necessary in order to allow the Township time and space to fully and thoughtfully explore, analyze, research and



develop any proposed zoning amendments regarding potential amendments to the Township's Zoning Ordinance applicable to Commercial Wind and Solar Energy Projects.

4. A moratorium should be imposed upon the issuance of any and all permits, licenses, and approvals for any property in the Township for the establishment and use of Commercial Wind and Solar Energy Projects for 12 months, subject to further extension by resolution adopted by the Township Board.
5. The following sections of the Township's Zoning Ordinance relating to "solar farms" should be repealed while the Planning Commission considers revised regulations: the definition of "solar energy system" and "solar farm" in section 2.02, section 4.03(M), section 5.03(L), section 6.03(K), section 7.03(H), section 10.03(G), section 11.03(X), section 16.58(C), section 13.27, and any other section that could be construed to permit Commercial Wind and Solar Energy Projects in the Township while the moratorium remains in effect. .

C: Moratorium. A moratorium is hereby imposed upon the issuance of any and all permits, licenses, or approvals for any property in the Township for the establishment and use of Commercial Wind and Solar Energy Projects, so long as this Ordinance is in effect.

D. Term of Moratorium; Renewal. The moratorium imposed by this Ordinance remains in effect for 12 months following the effective date of this Ordinance. Before this moratorium expires, the Township Board may, by resolution, extend the moratorium for up to 12 additional months, if in its judgment the Township Board determines additional time is necessary. If an extension is adopted, the Township will publish notice of the resolution of extension.

Section 2. Validity and Severability.

Should any portion of this Ordinance be found invalid for any reason, such holding will not affect the validity of the remaining portions of this Ordinance.

Section 3. Repealer.

Any ordinances or parts of ordinances in conflict with this Ordinance, including but not limited to Ordinance No. 84 adopted on November 9, 2017, are hereby repealed only to the extent necessary to give this Ordinance full force and effect. Specifically but without limitation, the following sections of the Township Zoning Ordinance pertaining to "solar farms" are repealed: the definition of "solar energy system" and "solar farm" in section 2.02, section 4.03(M), section 5.03(L), section 6.03(K), section 7.03(H), section 10.03(G), section 11.03(X), section 16.58(C), section 13.27, and any other section that could be construed to permit Commercial Wind and Solar Energy Projects in the Township while the moratorium remains in effect.

Section 4. Effective Date.

This Ordinance is effective as provided by law.



Staff Comments: Staff understands the Township’s desire to make sure the development and implementation of the set of regulations pertaining to commercial wind and solar energy projects are prepared to the best of its ability. The Township recently developed a set of regulations pertaining to utility solar energy systems which was recently reviewed and recommend on by the County Planning Commission (see County Zoning Case Z-37-22). It is Staff’s understanding that with this current amendment, that previous submission will be held up and set aside for the time being while this moratorium is in place, to possibly be reintroduced into the Zoning Ordinance at some future date.

Staff would caution the township to limit the length of this proposed moratorium to the absolute least amount of time necessary to properly undergo its desired reexamination of the subject matter and the subsequent redevelopment of utility-scale wind and solar energy land use regulations.

Adopting a moratorium is not without legal risk. A local government must do so with caution and ensure that the municipal attorney is directly involved.

The following excerpt is taken from a Michigan State University Extension article entitled: “A zoning moratorium should only be done with caution”². It provides a great explanation for the need for a local municipality to exercise caution when determining to utilize a moratorium.

²(Source: “A zoning moratorium should only be done with caution” written by Brad Neumann, Michigan State University Extension, April 08, 2020, found online at: https://www.canr.msu.edu/news/zoning_moratoriums_should_only_be_done_with_caution)

Local units of government sometimes adopt moratoria to prevent anyone from developing or building something until regulations concerning the activity are developed and adopted. This has occurred in Michigan with medical marijuana dispensaries, signs and billboards, scrapyards, and wind and solar energy generation systems, to name a few.

The problem in Michigan is that there is no statutory authority for a local government to adopt a moratorium in the first place. This is a problem because there is no specific procedure or process for enacting a moratorium – leading to questions about how it is done.

On the other side of the coin, the U.S. Supreme Court has recognized the legitimate use of moratoria (Tahoe-Sierra, U.S. (2002)), and there are appellate level court cases in Michigan that provide support for the idea that moratoria can be done (e.g. Central Advertising Co. v St. Joseph Township 125 Mich App 548, 554-555 (1983).) In one case, “a moratorium on the issuance of building permits in a particular district of the city for a reasonably limited time” was not voided by the court (Heritage Hill v Grand Rapids, 48 Mich App 765, 768 (1973)). Nor did the Michigan Court of Appeals find it to be legally offensive for a township to declare a “brief moratorium on all sewer connections” (BPA II v Harrison Township, 73 Mich App 731, 733-734 (1977)).

While courts have not struck down moratoria in Michigan, there is no appellate court that has upheld a moratorium in Michigan for longer than six months. Moratoria are supposed to be short, tied to a direct threat to the public health, safety and general welfare, given a specific start and end date, and then removed at the end of that date.



The serious and important point is that a local government should never enact a moratorium without the direct involvement of the government's corporate attorney, who should be experienced in municipal and land use law. This is particularly important because there may be question over the government's authority to do so. There may also be question on how it is done. Normally, one would find such direction in enabling legislation, but this is lacking in Michigan. Therefore, it is important that a moratorium is enacted in a way that the attorney is comfortable with, because he or she will be the one to stand to defend the local government if challenged.

Under the doctrine of legislative equivalency, an ordinance can only be amended/suspended by another ordinance, meaning a moratorium can only be enacted by adoption of an ordinance. While some Michigan communities have attempted to enact a moratorium by resolution, it is well-established case law in Michigan that an ordinance cannot be suspended by resolution as shown in these examples:

- *City of Saginaw v Consumers' Power Co., 213 Mich 460, 469 (1921) ("[A]n ordinance may not be repealed or amended without action of equal dignity to that required in its enactment.")*
- *Lee v City of Taylor, 63 Mich App 221, 223 (1975) ("It is settled that a municipal corporation may only repeal an ordinance by an act of equal dignity and formality.")*
- *McCarthy v Village of Marcellus, 32 Mich App 679, 688-89 (1971) ("An ordinance or resolution cannot be amended, repealed, or suspended by another act by a council of less dignity than the ordinance or resolution itself.")*
- *Lorencz v Brookfield Twp., Mich App (No. 319235, Apr. 28, 2015, Unpublished) ("[A]n ordinance may only be repealed by an act of equal dignity, which requires the township to repeal by ordinance and not resolution.")*

It is important that the text of the moratorium ordinance include specific content on:

- *The narrow subject to which the moratorium applies*
- *An explanation as to how the moratorium is addressing a direct and immediate threat to public health, safety and general welfare.*
- *Findings of fact that support the public health, safety and welfare threat.*
- *A specific starting date.*
- *A specific ending date.*
- *Anything else the local government's attorney believes is important to convey.*

Township Recommendation: Approval. The Cohoctah Township Planning Commission recommended Approval of this zoning amendment at its January 6, 2023, public hearing. There were several public comments regarding this amendment noted in the minutes.

Staff Recommendation: Approval With Conditions. Following the November 2022 County Planning Commission meeting, the Planning Commission recommended "Take No Action,



Encourage Further Review”, on Livingston County Zoning Case #Z-37-22, as there were many areas of concern with the amendments as proposed and a great deal of increased effort was seen as needed by Cohoctah Township to properly address these concerns and greatly improve the set of regulations going forward.

This, coupled with the fact that the township has retained new legal counsel in its efforts to reassess the current situation and move forward in this planning process under their guidance may necessitate an additional previously unforeseen time commitment in order to effectively and efficiently develop a set of guidelines regulating utility-scale solar that best addresses the health, safety and well-being of the residents of the community and best serves the community as a whole.

Therefore, it is recommended that the township continue to remain diligent in finding a well-conceived and reasonable final resolution to this land use issue as expeditiously as possible, including repeal of regulations as proposed if the township feels this is necessary, relying on the advice of its legal counsel as it progresses through this new course of action. However, the recommendation would also be that these steps are taken without implementation of the moratorium as proposed by the amendments, which constitute the conditions of this Approval.

It is believed that undertaking a further continuation of a previous moratorium period is an unnecessary step and that the tasks necessary to improve the previously proposed set of regulations (as provided in the Staff review for the case) can be completed through the normal course of action utilized in the past by the township whenever any further revisions or refinements that are suggested or recommended to proposed amendments by the County Planning Commission are subsequently implemented by the township.

**CONWAY TOWNSHIP
PLANNING COMMISSION**

**RESOLUTION TO RECOMMEND TO TOWNSHIP BOARD ADOPTION OF
AN ORDINANCE TO IMPOSE A MORATORIUM ON THE ISSUANCE OF PERMITS,
LICENSES, OR APPROVALS FOR, OR FOR ANY CONSTRUCTION OF,
COMMERCIAL WIND AND SOLAR ENERGY PROJECTS AND TO REPEAL
SECTIONS OF THE TOWNSHIP ZONING ORDINANCE PERTAINING TO “WIND
ENERGY” AND “SOLAR ENERGY COLLECTORS”**

At a meeting of the Planning Commission for the Township of Conway, Livingston County, Michigan, held on the 13th day of February, 2023, at 7:00 p.m.

PRESENT: _____

ABSENT: _____

The following preamble and resolution were offered by _____
and seconded by _____.

WHEREAS, Public Act 110 of 2006, MCL 125.3101 *et seq.*, as amended, authorizes a township board to adopt and amend zoning ordinances that regulate the use of land and structures within its zoning jurisdiction to meet the needs for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land, to ensure that use of the land is situated in appropriate locations and relationships, to limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities, to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility requirements, and to promote public health, safety, and welfare; and

WHEREAS, the Planning Commission wishes to consider recommending regulations applicable to Commercial Wind and Commercial Solar Energy Projects in the Township; and

WHEREAS, the Planning Commission finds that it is necessary and reasonable for the Township Board to establish a temporary moratorium upon the issuance of any and all permits, licenses, and approvals for any property in the Township for the establishment and use of Commercial Wind and Commercial Solar Energy Projects for a period of 12 months, with the ability to extend said moratorium for up to an additional 12 months by the adoption of a resolution for extension by the Township Board; and

WHEREAS, the Planning Commission finds that adopting such a moratorium is in the best interest of the public health, safety, and welfare to ensure that the Planning Commission and the Township Board have sufficient time and space during which to thoughtfully consider such regulations without the added pressure of pending applications or proposed developments involving Commercial Wind and Commercial Solar Energy Projects; and

NOW, THEREFORE, the Planning Commission of the Township of Conway resolves as follows:

1. The Planning Commission recommends that the Township Board adopt Ordinance No. 2023-01, An Ordinance To Impose A Moratorium On The Issuance Of Permits, Licenses, Or Approvals For, Or For Any Construction Of, Commercial Wind And Commercial Solar Energy Projects And To Repeal Sections Of The Township Zoning Ordinance Pertaining To “Wind Energy” And “Solar Energy Collectors” (the “Ordinance,” attached as **Exhibit A**).
2. The Planning Commission shall forward this Resolution and the Ordinance, along with the minutes of the public hearing, to the Livingston County Planning Commission for review and recommendation and to the Township Board for consideration.
3. A copy of the Ordinance shall be available for examination at the office of the Clerk, and copies may be provided for a reasonable charge.

4. Resolutions that conflict with this Resolution are repealed but only to the extent necessary to give this Resolution full force and effect.

A vote on the above Resolution was taken and was as follows:

ADOPTED:

YEAS: _____

NAYS: _____

STATE OF MICHIGAN)
) ss.
COUNTY OF LIVINGSTON)

I, the undersigned, the duly qualified and acting Planning Commission Secretary of the Township of Conway, Michigan, CERTIFY that the foregoing is a true and complete copy of certain proceedings taken by the Planning Commission of said Township at a meeting held on the 13th day of February, 2023.

Kayla Poissant, Planning Commission Secretary

**CONWAY TOWNSHIP
TOWNSHIP BOARD**

ORDINANCE NO. 2023-01

**AN ORDINANCE TO IMPOSE A MORATORIUM ON THE ISSUANCE OF PERMITS,
LICENSES, OR APPROVALS FOR, OR FOR ANY CONSTRUCTION OF,
COMMERCIAL WIND AND COMMERCIAL SOLAR ENERGY PROJECTS AND TO
REPEAL SECTIONS OF THE TOWNSHIP ZONING ORDINANCE PERTAINING TO
“WIND ENERGY” AND “SOLAR ENERGY COLLECTORS”**

CONWAY TOWNSHIP ORDAINS:

Section 1. Addition of Section 6.27 to Township Zoning Ordinance. New Section 6.27 is added to the Township Zoning Ordinance and reads as follows:

Section 6.27 Moratorium on Commercial Wind and Commercial Solar Projects and Repeal of Sections of the Township Zoning Ordinance Pertaining to “Solar Farms” and “Solar Energy Systems”

- A: Definition.** A “Commercial Wind” and “Commercial Solar Energy Project” are utility-scale commercial facilities that convert energy into electricity, whether by wind, photovoltaics (PV) or various experimental wind or solar technologies, for the primary purpose of wholesale or retail commercial sales of generated electricity.
- B. Purpose and Findings.** The purpose of this moratorium is to provide sufficient time for the Conway Township Planning Commission and Township Board to fully and thoughtfully explore, analyze, research, and make informed decisions regarding Commercial Wind and Commercial Solar Energy Projects. In support of this Ordinance, the Conway Township Planning Commission and Township Board have determined the following:
1. The integration of Commercial Wind and Commercial Solar Energy Projects within the Township's existing land uses requires suitable regulations and controls to ensure compliance with the Township’s Master Plan and for the protection for the health, safety and welfare of all of the Township’s residents.
 2. The Township wishes to consider whether amendments to its Zoning Ordinance to regulate the establishment and use of Commercial Wind and Commercial Solar Energy Projects are necessary in order to better protect the public health, safety, and welfare of Township residents.
 3. Imposing a moratorium, on a limited temporary basis, is reasonable and necessary in order to allow the Township time and space to fully and thoughtfully explore, analyze, research and develop any proposed zoning amendments regarding potential amendments to the Township's Zoning Ordinance applicable to Commercial Wind and Commercial Solar Energy Projects.
 4. A moratorium should be imposed upon the issuance of any and all permits, licenses, and

approvals for any property in the Township for the establishment and use of Commercial Wind and Commercial Solar Energy Projects for 12 months, subject to further extension by resolution adopted by the Township Board.

5. Any and all sections of the Township Zoning Ordinance pertaining to “wind energy” and “solar energy collectors” should be repealed, including Section 6.24, Section 6.26, Section 7.02(A)(13), Section 7.03(A)(18), Section 7.03(A)(20), Section 7.03(A)(21), Section 8.02(A)(13), Section 8.03(A)(11), Section 8.03(A)(12), Section 10.02(A)(15), Section 10.03(A)(8), Section 10.03(A)(9), Section 10.03(A)(10), Section 11.02(C)(F), Section 11.03(A)(7), Section 11.03(A)(8), Section 11.03(A)(9), and the definition of “Solar Energy Collector” in Article 2.

C: Moratorium. A moratorium is hereby imposed upon the issuance of any and all permits, licenses, or approvals for any property in the Township for the establishment and use of Commercial Wind and Commercial Solar Energy Projects, so long as this Ordinance is in effect.

D. Term of Moratorium; Renewal. The moratorium imposed by this Ordinance remains in effect for 12 months following the effective date of this Ordinance. Before this moratorium expires, the Township Board may, by resolution, extend the moratorium for up to 12 additional months, if in its judgment the Township Board determines additional time is necessary. If an extension is adopted, the Township will publish notice of the resolution of extension.

Section 2. Validity and Severability.

Should any portion of this Ordinance be found invalid for any reason, such holding will not affect the validity of the remaining portions of this Ordinance.

Section 3. Repealer.

Any ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed only to the extent necessary to give this Ordinance full force and effect. Specifically but without limitation, the following sections of the Township Zoning Ordinance pertaining to “wind energy” and “solar energy collectors” are hereby repealed while the moratorium remains in effect: Section 6.24, Section 6.26, Section 7.02(A)(13), Section 7.03(A)(18), Section 7.03(A)(20), Section 7.03(A)(21), Section 8.02(A)(13), Section 8.03(A)(11), Section 8.03(A)(12), Section 10.02(A)(15), Section 10.03(A)(8), Section 10.03(A)(9), Section 10.03(A)(10), Section 11.02(C)(F), Section 11.03(A)(7), Section 11.03(A)(8), Section 11.03(A)(9), and the definition of “Solar Energy Collector” in Article 2.

Section 4. EFFECTIVE DATE.

This Ordinance shall take effect seven (7) days after publication of a notice of adoption as provided by law.