

**EATON COUNTY
ZONING ORDINANCE COMMITTEE MEETING
April 30, 2018**

Call to Order: Ben Tirrell called the meeting to order at 3:00 p.m. in the Board of Commissioners Room, Eaton County Courthouse, 1045 Independence Blvd., Charlotte, MI 48813.

Planning Commission Committee Members present: Christine Barnes and Ben Tirrell

Additional Planning Commission Members present: Tim Cattron, Jeana Rohrs and Barbara Rogers

Staff present: Claudine Williams and Brandy Hatt

Agenda Approval: A motion was made by **Commissioner Barnes** to approve the agenda for the April 30, 2018. **Commissioner Tirrell** supported. Motion carried.

Minutes Approval: A motion was made by **Commissioner Barnes** to approve the April 2, 2018 minutes as printed. **Commissioner Tirrell** supported. Motion carried.

Commissioner Tirrell opened Public Comment. He stated public comments are limited to three minutes.

Public:

Mr. John Coakley, 2100 E. Strange Highway, asked what is on the agenda. He stated he knows the solar ordinance is going to be discussed, but the agenda does not specify what is going to be discussed. He stated he knows there was a discussion about the classification of land. **Commissioner Tirrell** stated the text amendment for solar is the only thing on the agenda.

Mr. Roger Wickerham, Benton Township Supervisor, stated if solar facilities are allowed in a Limited Agricultural Zoning District; he hopes the size of the facilities and number of arrays are limited unless the townships approve more. He stated Benton Township is an agricultural township, it is the reason people move there. **Commissioner Tirrell** asked Mr. Wickerham what an appropriate size is. Mr. Wickerham stated he is not sure, but he knows a square mile is too large. **Commissioner Barnes** asked how many acres are in a square mile. Someone in the audience stated there are six-hundred forty acres in a square mile.

Mr. Matt Zimmerman stated he is an attorney representing a couple of solar companies interested in Eaton County. He stated the discussion at the last meeting included exploring using the NCRS LESA system to try to determine locations for large solar systems. He stated in his experience with that tool, it is not helpful because of the nature of the land and land uses within the county; the tool looks at two areas, first the soils and second the site assessment. He stated both will come back with high scores. Mr. Zimmerman stated the properties with low scores will be the percentage of land surrounding urban areas with sewer and other systems which are the areas more densely populated and impact more people. He stated the sites his clients have chosen are in a lower density area. He stated if the intent is to not allow solar in Eaton County, using the NCRS LESA system would be the way to do it. He stated he proposes looking at the infrastructure and distance from substations. **Commissioner Cattron** asked Mr. Zimmerman how he would propose to address the township that wish to protect farm land. Mr. Zimmerman stated Oneida Township did it by only allowing solar facilities in an Industrial Zoning District. He stated that will keep solar out of Oneida Township unless they are willing to rezone properties. **Commission Cattron** stated Mr. Zimmerman is correct about the scattering of prime farm land throughout the county, especially if the prime farm land is combined with the drainage. He stated the second evaluation could be modified to USDA standards, thus making it so the scores are not as high. Mr. Zimmerman stated Commissioner Cattron is correct, the tools could be modified, but it would still lean on the urban areas. He stated a true industrial project needs the facilities; a solar project does not need facilities.

Mr. Lindsey Hoxie, 2968 Pinch Highway, asked why the Zoning Ordinance Committee is considering allowing solar facilities to be constructed on agricultural property. He asked if the decision benefits the county financially. Ms. Williams stated the Planning Commission does not look at or regulate taxation. Mr. Hoxie

stated he believes the county will obtain tax money from allowing these projects. He stated the attorney stated they do not need the facilities, but they are the utility. Mr. Hoxie stated the Planning Commission is going to allow a power plant to be constructed in a green space. He stated green power should not take up green space. He stated we still don't know everything about solar energy, what if there is a fire, they still produce power and our fire departments do not know how to put the fires out. He stated years ago, the power line came through Eaton County, then substations, now we are looking at solar. Mr. Hoxie stated if the Planning Commission allows this it will be challenged. He stated he needs approval to put in a junk yard. We are an agricultural community; he stated he has a picture of an eagle on his refrigerator; they hunt our farm land. He stated there are other organizations taking interest in solar as well.

Ms. Cindy Coakley, 2100 E. Strange Highway, stated this is the first time she has heard her property referred to as low density. She stated for several months the Geronimo website has indicated the Sand Stone Creek Project targets forty-thousand acres, that isn't even possible to come from Eaton County. She stated the project appears to covers other areas as well. **Commissioner Tirrell** stated the Zoning Ordinance Committee is not discussing one specific solar facility today. Ms. Coakley stated there have been behaviors on the parts of people in regards to solar energy that have been sad to see. She stated the discussion in Oneida Township brought them together. She stated she knows they are not discussion a specific project. She stated she would like to see things conducted in a professional and transparent way. She stated the transparency is poor. Ms. Coakley stated she has sat in the audience and listened to the public be spoken down to. She would like this to be a different type of process. She stated in Oneida Township they were listened to and considered, there were people opposed there as well. She asked that Eaton County refer to Oneida Township for solar energy regulations. She stated she has seen and observed things she wished she hadn't. She stated she appreciates the work the Zoning Ordinance Committee does, but asked that they remember who they represent.

Ms. Kat Webber, Oneida Township, stated she knows what the panels are made from; they are made from melted sand and steel. She stated they are installed the same as a fence post. Ms. Webber stated even if Eaton County allows for solar energy, it is not their only approval. She stated mapping of the drain tiles is a requirement of their permitting process with Michigan Department of Environmental Quality to ensure they are protected. She stated they train local fire departments to handle fires at solar facilities and wild life is protected. Ms. Webber stated there are ten-million acres of farm land in Michigan, we are using six-million acres; solar is protecting the farm land from being used as a strip mall. She stated they are growing energy, which is no different than growing corn for ethanol.

Ms. April Stopczynski, 2261 N. Cochran Road, stated she would like the Zoning Ordinance Committee to consider the Oneida Township Zoning Ordinance. She thanked them for taking comments and making changes. She stated when people look at properties, it is an emotional decision. Ms. Stopczynski stated the rural setting is why we are proud to be Michiganders. She stated she heard someone mention solar facilities would protect farm land from being used as strip malls; the areas proposed for solar would not support a strip mall.

Seeing no other public speakers, **Commissioner Tirrell** asked Ms. Williams to give an update on the LESA program. Ms. Williams stated she and Commissioner Cattron met with NRCS staff and Harmony Gmazel from MSU Extension on April 19. She stated after they discussed Eaton County soils and the evaluation process and soil scoring, it is questionable if any parcels located in Eaton County would score low enough to allow for solar development under the NRCS LESA scoring guidelines. Ms. Williams stated she spoke with legal counsel regarding the matter and was advised if a tool is created that prevents a use, it would be exclusionary. She stated legal counsel also confirmed only allowing solar as a use in an Industrial Zoning District is not exclusionary as this zoning district is provided for on our zoning maps. Ms. Williams stated Ms. Segar from NRCS suggested looking at the top three classes of the highest scoring soils, which would be fifty-six percent of the county; the first two classes of land would encompass twenty-six percent of the county. Ms. Williams passed out maps and other language from other communities ordinances. She stated she found other communities that prevent to removal of top soil from the property. **Commissioner Tirrell** asked what NCRS thought about using the tool for a non permanent conversion. He stated he personally does not think the tool is a good fit for a non permanent conversion. **Commissioner Cattron** stated NRCS staff did not feel it was a good fit for a non permanent conversion. **Commissioner Cattron** suggested using a portion of the soils tool

and proximity to electrical substations. **Commissioner Tirrell** stated he thinks it has the potential to make the process more complicated. He added he has had several people contact him, more in favor than in the past. **Commissioner Tirrell** stated we have talked about the LESA criteria a few times now, but he believes it is hard to explain to people and he believes anyone should be able to read through the Zoning Ordinance and know what they can do and understand it.

Commissioner Tirrell asked Ms. Williams about the setback information from Michigan State University. Ms. Williams stated she was under the impression from Ms. Gmazel of MSU, there was a mathematical formula for determining setbacks for solar facilities across the board, but it is a site specific formula. **Commissioner Barnes** stated she would like to have a setback further from homes while allowing the vacant unoccupied areas to be utilized, thus having less of a setback. **Commissioner Rogers** agreed with Commissioner Barnes on the setbacks. **Commissioner Barnes** stated she believes a seventy-five foot setback to an occupied home is too close. **Commissioner Rogers** stated there are properties in Eaton County that the facilities could be located on the back forty and no one would know they are there.

Commissioner Tirrell stated the area or size of a facility has been a part of the conversation since the beginning of this process. He stated MSU does not suggest a limit and he does not know what an appropriate maximum size would or should be. **Commissioner Cattron** stated he does not know of a rational way to come up with an acreage cap. Ms. Williams stated Oneida Township has limited solar facilities to two-hundred fifty acres, but she is not sure of what rational was used to determine the amount. **Commissioner Barnes** asked Ms. Williams if the limit is per project or per property. Ms. Williams stated it is per project and read a portion of Oneida Township Solar Ordinance in regards to acreage limits.

Commissioner Tirrell explained his proposed language under decommissioning, which requires the property to be decommissioned to USDA standards. **Commissioner Barnes** stated Commissioner Cattron is the soils expert, she asked his opinion on Commissioner Tirrell's proposed language. **Commissioner Cattron** stated he likes the proposed language; specifically, he likes that the property is required to meet USDA requirements for land at the time of removal. He also stated we would have the financial guarantee in place to ensure it meets the standards. **Commissioner Tirrell** stated his proposed language is based on conversations he has had with constituents lately. **Commissioner Cattron** stated he noticed some of the proposals received from staff stated the top soils cannot be removed from the property.

Commissioner Tirrell stated he believes they may be at a point where the proposed language could be looked at by the Planning Commission and then sent to the elected officials. He stated he believes they have preserved the farm land. **Commissioner Cattron** stated he does not believe the farm land has been protected in the best way possible. **Commissioner Tirrell** asked Commissioner Cattron what he would like to see added. **Commissioner Cattron** stated he would like Commissioner Tirrell's proposed language added to the amendment and a requirement that the top soil cannot be removed from the property added to the language. Ms. Williams read Commissioner Tirrell's proposed language out loud. **Commissioner Barnes** asked Commissioner Tirrell how he came up with his proposed language. **Commissioner Tirrell** stated he got the language from Federal Register on Prime Farm Land.

Commissioner Tirrell read the proposed landscaping section out loud; he suggested putting the requirement regarding no removal of top soil from the property in the landscaping section. **Commissioner Cattron** suggested the language be added to section 14.39.3. H, Site Plan Requirements. He stated Commissioner Tirrell's proposed language should be added to item J.

Commissioner Rogers stated she wants to ensure they protect as many people as possible. **Commissioner Tirrell** asked if they should discuss limiting the acreage again. **Commissioner Rohrs** stated she does not believe they should limit the acreage of a solar facility because no other uses are limited by acreage. **Commissioner Tirrell** asked if anyone would like a limit on the acreage for a solar facility. **Commissioner Rogers** stated if we have the proper setbacks in place and proper screening, an acreage requirement should not be necessary. **Commissioner Rohrs** stated she feels setting an acreage limit could be exclusionary. **Commissioner Tirrell** asked Commissioner Barnes if she is comfortable moving forward without an acreage limit. **Commissioner Barnes** stated if we do not set acreage limits for other uses, how can we for solar. She stated she is not personally comfortable not setting an acreage limit. **Commissioner Barnes** stated she has

been involved in solar both personally and professionally since 2017. She stated she will be voting with her districts when this comes before the Planning Commission and Board of Commissioners. **Commissioner Rogers** stated she wishes there was another way to do this; she has a hard time dealing with solar panels because she does not like them, but she understands they need to look at the whole picture and not favor one thing over another. She stated when the State of Michigan offered the tax credit for PA 116 a lot of farmers signed up, but she did not. She stated she will not allow solar on her property either. **Commissioner Barnes** stated she likes green energy and does like the idea of solar; however these Ordinances are written and live on for decades without change. She stated it is on them to try and get it right and to be fair. **Commissioner Barnes** stated as the language is proposed, she does not think it will pass Public Works and Planning. She stated she believes it will be sent back to the Planning Commission for further consideration. **Commissioner Barnes** stated she believes the Zoning Ordinance Committee needs to get the work done. She said she reluctantly agrees to move forward without an acreage limitation, but only because it is not limited for other uses. **Commissioner Barnes** stated she is still uncomfortable with the setbacks; seventy-five feet from a house is not far enough. She stated people move to the country for the wide open spaces. **Commissioner Tirrell** asked Commissioner Barnes if she has a number in mind. **Commissioner Barnes** stated she too was hoping MSU had a mathematical formula to determine the setbacks. She stated when she built a fence on her property, she built it three feet from the property line with the good side facing the neighbors, she did not have to, but she wanted to be a good neighbor. **Commissioner Rogers** stated some people she has spoken with have suggested a two-hundred foot setback, screened at the road and a less restrictive setback in the back acreage. **Commissioner Barnes** asked if anyone is familiar with the new solar facility in Delta Township. She stated the arrays are lower to the ground. Ms. Williams stated she would look into them and look at Delta Township's Ordinance.

Commissioner Tirrell asked how far a greenhouse is required to be from a property line. Ms. Williams said they are required to be ten feet from the side and rear property lines. The Zoning Ordinance Committee held a brief discussion on setbacks that would put solar facilities further from homes and closer to vacant land, which may allow for more of the property to be used. **Commissioner Catron** stated the setback formula from MSU was complicated; he asked Ms. Williams if Washington State had a setback formula. Ms. Williams said no, they do not. **Commissioner Barnes** stated the setbacks bother her. She stated she is very connected in her areas; they do not want solar facilities on agricultural properties. She stated some have even asked if they can pass a resolution like they did with medical marihuana. **Commissioner Catron** stated he does not like allowing solar facilities on prime farm land, but he does not see a way to avoid it. **Commissioner Tirrell** stated he does not see how we can limit the use of private property. He pointed out some farm land being farmed poorly. **Commissioner Barnes** asked for Ms. Williams input. Ms. Williams stated she will look further into setback information for the Zoning Ordinance Committee.

Ms. Williams asked if the Committee wanted to discuss limiting the distance a solar facility could be from a substation or transmission line. **Commissioner Tirrell** stated he believes the distance is a given and that the market will determine the distance.

Commissioner Tirrell stated he thinks the Zoning Ordinance Committee should discuss setbacks further.

The Zoning Ordinance Committee scheduled their next meeting for Tuesday, May 22nd at 3:00 p.m.

Commissioner Tirrell opened Public Comment. He stated public comments are limited to three minutes.

Ms. April Stopczynski, 6621 N. Cochran Road, stated the Zoning Ordinance Committee could have different setbacks from dwellings and property lines.

Mr. Matt Zimmerman, attorney, stated he has no idea where the forty-thousand acre development spoke of earlier on Geronimo's website comes from. He stated if it is on a website, he is not aware of it. He stated he is aware the committee is not discussing requirements for a specific project, but the sand stone project is five-hundred forty acres.

Ms. Kat Webber, Oneida Township, stated a power company can only handle so much wattage. She suggested checking with Consumers Energy to determine the limits for their substations.

Mr. John Coakley, 2100 E. Strange Highway, advised the Zoning Ordinance Committee to look at the solar development in Detroit to see how solar is working out there and how DTE is responding to it. He stated they do not want any more solar projects. Mr. Coakley stated Cypress Energy is looking at constructing smaller solar projects.

Commissioner Barnes informed everyone she has a meeting with Ms. Kat Webber's solar company tomorrow. She stated she appreciated the education.

Commissioner Rogers stated she received a letter from Geronimo regarding their open house at the Country Mill. She stated it is on the same night as the Board of Commissioners Meeting.

Meeting adjourned at 4:20 p.m.