
Letter of Support/Solar Ordinance (Please forward to all Staff)

Kelly Ralko <kelralko@gmail.com>

Tue, May 30 at 12:02 PM

To: Barb Fear <bfearclerk@gmail.com>

Dear Cohoctah Township Planning Commissioners and Board Members,

I want to state my support for the new drafted solar ordinance for utility scale solar and commend you on hearing the concerns of the public in which you have been serving. I know this has been a challenging time for those serving in their respective positions, but you all have shown such professionalism, grace, dignity and compassion for your community members who brought concerns before you many months ago. You were open to listening & learning from members of the public, you have been proactive in taking steps to protect the health, safety and welfare of those who call Cohoctah home. You have been a great example to others who are dealing with the same issues in our county, our state and in other states where this is an issue now many local municipalities are facing.

The overlay district is being utilized by several other Townships as well within Livingston County, such as Marion, Howell, Conway Township, as well as others who are observing. The overlay district idea was first presented by a document placed on the county planning website by the former County Director of Planning, it follows the guidance of the MSU Extension guidelines on page 16 for communities like your own in our state that have much agricultural land. County Planning Commissioners have stated their support of overlay for this type of land use to lessen the impact on the rest of the community.

As you probably also know, Handy Twp. also chose a specific area within their Township where they felt this land use would be most appropriate. Regulating this land use, creating proper siting, defining the appropriate area within your Township and defining more substantial guidelines for solar development was the right thing to do for the people who call Cohoctah home. It will protect home values, surrounding property owners and continue to preserve rural character Cohoctah is so well known for. It also sets the expectations for developers to know what Cohoctah wants renewable energy to look like in your community. The area chosen seems to be one of the most appropriately chosen in our entire county.

Thank you again for taking the time to hire an experienced Attorney in renewable energy projects and for setting an example on how to work with concerned members of the public to address their concerns. You are exemplary individuals and I just want to say thank you.

Most kindly,

Kelly Ralko

Jessamine Hays

First, I would like to thank Mr. Homier not only for the work he has done in Cohoctah Township but for all the townships he has helped. I know you can't tell the townships what to do but can only make suggestions and some townships have been more of a fight to get them to get their acts together. I am sure it has been a struggle. But the residents of all these townships are very thankful for your help. So, thank you. To the Cohoctah Planning Commission and our board thank you for all the work you have put into this. I know at the start we had some problems but thank you for doing what you were appointed to do. To preserve our traditional rural character and to conserve our natural features and protect residents and properties from natural or man-made hazards. As we know there is no demonstrated need for solar in our Township. We all already have electricity. But as a Township we have decided to provide a place for it in our overlay. So, we have done our fair share in providing for this so called "Green Energy". And at the same time protecting our farmland. So, thank you for picking an overlay that does both. We do have a couple of concerns in our ordinance. Page 14 5C the 250-foot setback. This setback sets a bad precedent for not only our Township but for all the others. If we set the setbacks at 1000 feet from any residence with a minimum of 250 feet from the property line the overlay should still have enough property to fulfill our intentions. The houses on the north and east side of the overlay have acres of trees between their residents and the property line. So, changing the setback to 1000 feet from the residences with the 250 feet from the property line on that side of the overlay should not change the amount of acreage in our overlay. The West side of the overlay will be 1000 feet from the house on Fleming and Gannon Rd. Across the road with woods in front of it and 250 feet set back off Hoisington's woods whichever is a farther. So that should supply more land for the overlay because right now we are set at 1000 feet from Hoisington's woods. We then can give more protection to the Victorian house with a 1000-foot setback from her residence. And if the residence is already 1000 feet from the property line you then give her 250 feet from the property line. Page 14 5 D states that the solar setback must be at least 200 feet from non-participating property. That's a contradiction to 5C. Page 14-5 E the 16-foot panel height for grazing. I don't believe this is necessary. And we know the solar companies are going to put pressure to make it 16 feet everywhere because we opened the door for them. That needs to be removed from the ordinance. Page 15 6 B if you allow the 16-foot panels you must redo section 6A to make the tree screening to 16 feet to

block the view of the panels from non-participating residents. We must specify that the screening and fencing go on the setback line. Let's not leave this to interpretation. The screening language the Township "may consider an alternative". Opens another door that we don't want to open. You know the solar companies are going to push for something cheaper. Do you guys want to deal with that later? Or set our screening in stone. I believe these setbacks set a good precedent for our Township. And still fulfills what we intended to do. Thank you again for all the work you have done. Let's finish this and protect our farmland, our residents and have something that future generations can enjoy. I want my legacy to go down as someone who stood up and fought for this beautiful land and this country. I hope you feel the same.

Joann Haas

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May 30, 2023

Cohoctah Township Planning Commission
c/o Township Clerk Barb Fear
10518 Antcliff Rd.
Fowlerville, MI 48836

Re: Proposed Solar Ordinance

Dear Planning Commissioners:

My office represents Hopkins Hectares, LLC and Mr. Robert Hopkins, a landowner in Cohoctah Township. Please enter this correspondence into the official record for this proposed ordinance. Thank you for serving on the Township Planning Commission and considering our comments on this vital issue.

The proposed solar ordinance currently before the Planning Commission should not be approved. The proposed ordinance is not in the best interest of the Township and is unlikely to withstand judicial scrutiny.

Public Policy

While the proposed ordinance gives the appearance of permitting solar developments in the Township, it contains two (2) "poison pills" which make it virtually impossible for a utility-scale solar development to be located in the Township if the proposed ordinance is adopted.

First, the proposed ordinance prevents land enrolled in the Farmland and Open Space Preservation Act ("PA 116") from being used for a utility-scale solar development. This is directly opposed to State of Michigan policy regarding solar power developments and PA 116 land.

From an economic perspective, banning solar energy developments on farmland preservation program land in the Township would have severe ramifications. The adoption of solar energy represents a significant opportunity for local economic growth. It attracts investments, creates jobs, and stimulates the development of a green economy. Restricting these developments would curtail potential sources of revenue for the Township and the State, hindering economic progress and limiting job creation in the renewable energy sector.

Solar energy projects have the potential to generate substantial tax revenue, contributing to the funding of public services and infrastructure improvements. By banning such developments, the Township would forgo these additional resources, potentially burdening taxpayers and impeding local economic development.

Preserving farmland is undoubtedly crucial for sustainable agriculture and food security. However, combining farmland preservation with the integration of renewable energy sources, such as solar power, can lead to more sustainable land use practices. By allowing solar energy developments on protected farmland, the Township can achieve a dual-purpose objective: conservation and renewable energy generation.

Solar energy is a clean and abundant source of power, contributing to the reduction of greenhouse gas emissions and mitigating the effects of climate change. By prohibiting solar energy developments on protected farmland, the Township may inadvertently discourage the transition to renewable energy sources, impeding progress towards environmental sustainability goals. It is imperative to strike a balance between land preservation and meeting energy needs through sustainable means.

A ban on solar energy developments on farmland preservation program land in the Township may have significant social consequences. Access to clean energy is an essential component of a sustainable future. By limiting the availability of solar energy, the Township would impede progress towards reducing reliance on fossil fuels, which are associated with negative health effects and environmental degradation. It also impedes the State's clear stated goals of increasing renewable energy sources.

Furthermore, embracing solar energy developments can have positive community impacts. Solar farms can serve as educational tools, raising awareness about renewable

energy and fostering community engagement. They can also provide opportunities for partnerships with educational institutions, creating research and learning opportunities for those interested in sustainable energy technologies.

In sum, it is directly against public policy for a Michigan Township to pass an ordinance banning solar energy developments on land enrolled in PA 116. The economic, environmental, and social consequences of such a ban are substantial. By impeding economic growth, hindering environmental sustainability efforts, and limiting access to clean energy, the Township would be neglecting its responsibility to promote public welfare. Striking a balance between farmland preservation and renewable energy integration is crucial to ensure sustainable development, foster economic growth, and meet the energy demands of the future.

Exclusionary Zoning

Second, the proposed ordinance establishes an "overlay district" of only 134 acres. Combined with the ban on PA 116 land, this makes the proposed ordinance an example of illegal exclusionary zoning. Initially by judicial declaration, *Kropf v Sterling Heights*, 391 Mich 139, 155–156, 215 NW2d 179 (1974), and shortly after by statute (now codified as MCL 125.3207), Michigan prohibits what has become nationally known as exclusionary zoning. The ZEA provision reads, in its entirety, as follows:

A zoning ordinance or zoning decision shall not have the effect of totally prohibiting the establishment of a land use within a local unit of government in the presence of a demonstrated need for that land use within either that local unit of government or the surrounding area within the state, unless a location within the local unit of government does not exist where the use may be appropriately located or the use is unlawful.

The Michigan Court of Appeals has stated "we know from our precedents that a community cannot effectively zone out legal businesses." *Truckor v Erie Twp*, 283 Mich App 154, 164, 771 NW2d 1 (2009).

Here, the proposed ordinance would "effectively zone out" utility-scale solar developments. Consequently, the proposed ordinance would not survive judicial

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scrutiny since there is a demonstrated need for alternative energy sources, including solar, in the State of Michigan.¹

Conclusion

In sum, the proposed ordinance is a clear attempt to zone utility-scale solar developments out of the Township. This action is not in the best interests of the residents of Cohoctah Township. Excluding solar energy deprives the Township and its residents of the many benefits of solar developments. Further, the proposed ordinance is unlikely to withstand judicial scrutiny and opens the Township to the many negative effects that flow from that result.

My clients urge the Planning Commission to recommend denial of the proposed ordinance and instead adopt a solar ordinance which strikes a reasonable balance between permitting solar development and preserving the character of the Township.

Please do not hesitate to contact me with questions or concerns. Thank you.

Very truly yours,

DALTON & TOMICH, PLC

/s/ Lawrence Opalewski

¹ Specifically, the State of Michigan has a [stated goal](#) of generating 60% of electricity from renewable sources, such as solar, by 2030.