

CHARTER TOWNSHIP OF MONITOR
SPECIAL PLANNING COMMISSION MEETING
November 26th, 2024

The meeting was called to order by Chairman Jim Bellor at 6pm.

The Pledge of Allegiance of the United States of America was recited by all present.

Chairman Bellor passed the gavel to vice chairman Shabluk since Mr. Bellor is now a trustee and cannot be a chairman.

Members present: J. Bellor, A. Shabluk, E. Rosenbrock, B. Campbell, P. Reder, C. Schweitzer

Members absent: None

Also present: R. Sheppard, Attorney, M. Homier, Foster and Swift Attorney (via zoom), D. Scherzer, T. Spencer, Township Supervisor

**Motion by Bellor, supported by Reder to approve the agenda as presented with the addition of public input moved to after the Foster and Swift discussion.
Motion unanimously carried.**

**Motion by Campbell, supported by Bellor to approve the minutes of November 12th, 2024, as presented.
Motion unanimously carried.**

Items for Consideration

Review of New Zoning Ordinance from Foster and Swift

Shabluk stated starting the conversation with Ordinance No. __: An Ordinance to Amend the Zoning Ordinance to Regulate Utility-Scale Battery Energy Storage Systems.

Homier commented he does not believe the township has a battery storage ordinance so this one is a full text of an ordinance that would regulate battery storage.

Homier stated they have it drafted where the battery storage is by special land use approval and the renewable energy overlay district.

Homier questioned if the PC members would like to leave it there in the ordinance with the overlay district or if it is relegated to say an industrial district.

Homier stated this would comply in our view with the compatibility provisions beginning November 29th when PA 233 takes effect and depending on what the court of appeals does with the October 10th MPFC order.

Homier commented to make the township aware that Foster and Swift made a motion with a preliminary injunction with the Michigan Court of Appeals asking them to state the implementation of the MPFC's order during the pendency of that appeal.

Sheppard stated Ordinance 67 with a suffix of N, O, P, and Q to show all the amendments to the current zoning ordinance.

Sheppard stated in Section 2, the definition should state 2.108 instead of 21.108 and Section 3, should be Section 2.109 instead of 21.109 and underneath that Section 2.108 should be 2.109.

Sheppard questioned homier if he was sure the state and public service commission will not frown upon the special use permit application and if it would allow the township to make it all a special use permit or is it better to just go industrial.

Sheppard states he knows a lot of the renewable energy wants to be located near the grid and especially near the battery facilities, and the only thing we have with battery structure is no residential use of storage containers.

Homier stated MPFC's response to their motion on preliminary injunction is due December 2nd, so their response will be filed Monday, then presumably the Court of Appeals can decide on that motion.

Homier commented he does not expect the MPFC to agree with them, MPFC has taken a position that he thinks rewrites provisions of the legislation but no where in that legislation does it prohibit the township from requiring approval from a special use permit.

Homier commented these are compatible so if a developer were to approach the township, and jump through those time hoops in PA 233, within the time permitted, we would advise the developer we are compatible, and they would be compelled to apply to the township for approval.

Homier stated the MPFC does not have the authority, which he agrees, to adjudicate whether the ordinance is/is not compatible.

Homier commented the MPFC suggested that would be a contestant case hearing in front of an administrative law judge, in which he disagrees.

Homier commented they try and locate facilities near or close to existing substations and/or transmission lines. He does not know specifically about the layout of the township in relation to transmission lines, substations, or industrial areas in relation to those categories.

Homier explained they recommend these be in the industrial district because of the more hazardous nature of this land use.

Sheppard commented that several years ago he did a solar ordinance for another township on the other side of the county near a few wind farms and they had to do their solar within two miles of

the substation, and he knows it is not enforceable and will not work for our township because of the amount of substations around Monitor Township.

Sheppard agreed that the overlay district is better than the industrial district.

Scherzer questioned what the township should do about a site plan that includes all proposed structures and the location of all equipment, as well as all setbacks, the location of property lines, signage, fences, greenbelts and screening, drain tiles, easements, floodplains, bodies of water, proposed access routes, and road right of ways. The site plan must be drawn to scale and must indicate how the UBESS will be connected to the power grid. "An application fee in an amount set by resolution of the Township Board" since we do not have a resolution and there are no fees established at this point.

Scherzer commented they like to see an Escrow amount put down in the application so that the review fee can be paid out of the escrow amount.

Homier questioned the members if the current zoning ordinance the township has already include an escrow or is it item by item.

Homier commented he will have to look further into the escrow and the townships current zoning ordinance to make sure its not already covered in there and if its not, we would be sure to include it in all the new ordinances requiring that escrow account for review cost.

Scherzer agreed.

Scherzer questioned since it doesn't exactly say it in Section 3.54 5(b) "a site plan that includes all proposed structures and the location of all equipment, as well as all setbacks, the location of property lines, signage, fences, greenbelts and screening, drain tiles, easements, floodplains, bodies of water, proposed access routes, and road right of ways. The site plan must be drawn to scale and must indicate how the UBESS will be connected to the power grid," are the normally site plan requirements enforced under this ordinance although it does not mention it in the new ordinance.

Homier agreed.

Homier commented if needed, we can cross reference that section with the existing ordinance.

Sheppard stated he could start that paragraph in the new ordinance with "a site plan shall include all requirements of Section 3.20" which is general provision throughout the ordinance and then all the specifics can be mentioned afterward.

Scherzer commented on Section 3.54 1(c) "Lighting. The lighting of the UBESS is limited to the minimum light necessary for safe operation. Illumination from any lighting must not extend beyond the perimeter of the lot(s) used for the UBESS. The UBESS must not produce any glare that is visible to neighboring lots or persons traveling on public or private roads," that we should change the word lot(s) to parcel(s), so it is the same throughout.

Scherzer questioned on Section 3.54 1(c) “Noise. The noise generated by the UBESS must not exceed forty-five dBA Lmax, as measured at the property line of any adjacent parcel,” where it says forty-five dBA and on the last page is says fifty-five average hourly decibels.

Homier mentioned the two numbers are different because PA 233 requires permits with a sound level of fifty-five dBA on an average basis, but the new ordinance requires to not exceed forty-five dBA Lmax, which is a maximum threshold.

Homier commented its important because Section 3.54 (d) will only be required when a battery storage system is larger than 50 megawatts.

Homier commented if forty-five dBA Lmax was mentioned under Section 3.54 (d), it would make it more restrictive and would not be permitted, which would make it incompatible.

Scherzer questioned what tiles we are referring to in Section 3.54 5(c) “Drain Tile Inspections...” because if they are the farm sub irrigation field tiles, there is no way to put a robotic camera through a 4-inch field tile and the drainage is important.

Homier stated they are field drain tiles and can be televised.

Scherzer questioned that Section 3.54 6(d) “...or other projects as agreed to by the Township and the applicant,” would be problematic for the township.

Homier stated that language came out of PA 233, which is why we kept it.

Scherzer commented his concern that if a resident does not agree, then the township is at a standstill with moving anything forward.

Homier mentioned only for those projects other than “police, fire, public safety, or other infrastructure,” and if all the money is put towards an infrastructure project, since that’s money you might otherwise reappropriate to another infrastructure project.

Scherzer agreed.

Shabluk stated moving the conversation to Ordinance No. __: An Ordinance to Amend the Zoning Ordinance to Regarding Solar Energy Systems under PA 233.

Homier mentioned this ordinance is little different since all we added was the new subsection E, which is the language necessary for PA 233.

Homier stated this will only be affective on/after November 29th, and then only while it is in effect.

Homier commented if subsection E for some reason repeals later, it would no longer apply, and we would not have to do anything with it.

Shabluk mentioned moving the conversation to Ordinance No. __: An Ordinance to Amend the Zoning Ordinance Regarding Wind Energy Conversion Systems under PA 233.

Homier mentioned like the solar ordinance, and utilizing the same language from PA 233, it is relative to wind facilities under PA 233.

Shabluk stated moving the conversation to Ordinance No. __: An Ordinance to Amend the Zoning Ordinance Establishing the Renewable Energy Overlay District.

Sheppard commented there are many abandoned coal mines and shafts in our township making it unusable to put a turbine five hundred feet in the air.

Sheppard questioned Homier where else we would like this overlay district to go other than large pieces of property in an industrial park.

Sheppard mentioned we are not close enough to the MBS International Airport that we would get protection from the fly zone, other than a few small pieces nearby.

Homier explained the Eastern side of the Township, or East of I-75, and in closer proximity to existing transmission facilities and substations with an eye on the lack of density.

Homier stated if you have a rational basis and can articulate the location that is selected, it will make it difficult for any litigate to make a claim for exclusionary zoning.

Homier mentioned the designated wetlands are important because it might be able to prove an impossibility.

Bellor mentioned when we put this ordinance together, and coordinate MBS International Airport, there can be no windmills South of Midland Road.

Sheppard agreed.

Scherzer questioned if the township will oversee finding the parcels they would like to include in the overlay district.

Homier commented the members would include a proposed overlay by parcel numbers or other designation.

Scherzer questioned when revising the official zoning map, we should keep the original one as is, and create a separate zoning map that includes the overlay district.

Homier mentioned there is normally one map with a designation or addition to the legend to that map, with an underlying color and hash marks, indicating that it is an overlay district.

Scherzer stated Spicer can recreate the zoning map and we can try and get ahold of McKenna to get a copy of the map.

Homier commented the township can have multiple overlay districts depending on where the township thinks it makes sense.

Homier mentioned the ordinances are drafted so wind, solar, battery storage would be in a renewable energy overlay district.

Bellor commented they already made that change hence Mackinaw and Pierce Road only being solar.

Sheppard questioned how much of an overlay district that we permit them to do, what do we sacrifice out of the 36/38 square miles of Monitor Township.

Homier stated you can find how many megawatts they need to fill that demand and convert that into an acreage analysis figuring 3-5 acres per one megawatt and rough numbers we suspect the Township is anywhere between 3-500 acres.

Homier recommended to make your overlay bigger on the solar and battery storage side so the township could do a minimum 50-megawatt project.

Homier commented the battery storage projects will be a little easier since they only take between 5-15 acres.

Homier stated the township should consider making the solar a larger overlay district in case a project came up that would exceed the 50-megawatt limitation.

Sheppard questioned if the township would be safe if we found 8 to 10 sections to make an overlay district.

Homier questioned if each section is 640 acres.

Sheppard agreed.

Homier stated if we designated one section for that land use and be in proximity (1-2 miles) with an existing substation or transmission line, there would be a rational basis over that area.

Scherzer questioned if it would be harder for the township to have a battery overlay ordinance when they need to be by the substations since those are normally located near residential land.

Homier commented substations are typically near transmission lines and/or in industrial areas.

Homier explained if you have an existing transmission line and the township lays this overlay district near a transmission line, a developer may need to construct a substation, but would be part of their project and part of the existing transmission line.

Homier mentioned for the PC members to be thoughtful when choosing their overlay districts and then a public hearing would be scheduled, which included publishing and mail a notice to people located in those overlay districts.

Discussion ensued among members.

Sheppard mentioned that we spend time at our next meeting, looking at the township map, identifying substations, highly residential areas, as we recommend locations for the overlay district.

Review of Master Plan

Scherzer mentioned to schedule a work session between PC Members to establish dates on page 88 and express any other concerns the members may have.

Public Input

Chairman Shabluk opened public comment at 7:07 p.m.

Resident (introduced himself as J. Grappin) addressed the PC members about purchasing a commercial building, zoned R2, in Kawkawlin and asked some questions regarding zoning. He would like some direction before purchasing the property which is non-conforming.

Sheppard commented if the property has been used as non-conforming, and no lapse in operation, this should transfer to the new owner.

J. Grappin agreed to work with township officials to get the appropriate documentation.

Resident (introduced himself as M. Marter) provided input on the dairy methane project on 3 Mile Road and he mentioned they may need to tap into another pipeline. He mentioned he will bring this issue before the PC Members in the next few months.

T. Spencer, Township Supervisor, thanked Bob Campbell for 18 years of service to the Planning Commission board and Monitor Township. He also thanked Jim Bellor and Jim Meier for their service on the Planning Commission board; both will be serving as Trustees to the township. Spencer mentioned the holiday event that will be taking place at the township hall soon. Spencer welcomed Bill Reder to the Planning Commission.

Motion by Bellor, supported by Campbell to adjourn the meeting at 7:38 p.m.

Respectfully submitted,

Connie Schweitzer
Secretary
S/tcp