

Cato Township Planning Commission  
Meeting Minutes  
December 15, 2021

Meeting held at Lakeview Community Center

Meeting called to Order:  
Morrow called the meeting to order @ 5pm

Members present:  
Phil Morrow, Chairman  
Kim Carr, Secretary  
David Behrenwald, Cato Board Liaison  
Brandi Clark Hubbard, Commissioner  
Quanah Striker, Commissioner  
Excused: David Kelsey Cato Township Zoning Administrator  
Invited Guest: Leslie Abdoo Attorney Foster Swift Collins & Smith PC

Pledge of Allegiance:  
Morrow invited all present to join in the Pledge of Allegiance

September Meeting Minutes:  
Carr covered meeting minutes for September 9, 2021. One correction suggested was made that the meeting was a "Special" meeting rather than a "Regular" meeting. Motion was made by Behrenwald and supported by Striker to approve the minutes as corrected.

Welcome Guest:  
Introduction of Leslie Abdoo, partner of Foster Swift Collins & Smith Law firm to commission and welcomed as the attorney to assist Cato Township through the review of the existing Wind Ordinance, etc..

Public Comments:  
Morrow discussed ground rules & expectations for guest/visitors.  
13 guest in attendance of which 11 were Cato Township residents.  
7 comments about wind energy  
A petition in favor of wind energy was presented commission by Cato Township resident Dave Dowling.

Zoning Administrator Update:  
September:      October :      December:  
Dave Kelsey was excused from meeting.

Cato Township Board Update:  
Behrenwald, Cato Township Board/Planning Commission Liaison reported that the Board approved a 6 month wind energy moratorium as requested by the Commission.  
Also a request from new property owner (Leon Thompson) of the old Lakeview VFW property requested consideration of rezoning the property from Agriculture to Commercial. The Board has deferred the request to the Planning Commission. Carr suggested rather than rezoning the property that consideration of a special use permit be considered and that the commission should include direction from Kelsey, Cato Township Zoning Administrator. Attorney Abdoo stated there are options and a special use is preferred over rezoning in the middle of agriculture property. She noted that a special use

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goes with the owner so when property is sold the agriculture zoning would resume. It is also easier to regulate in that circumstance. Tabled until next mtg.

**Moratorium Documentation Requirements:**

A sample document was distributed. The Board approved an additional 6 month moratorium. Attorney Abdo stated the doctrine of Equal Dignity must be changed or amend by a resolution of the Board.

Section 4 was specifically referenced Abdo noted:

This is the strongest legal action the Board can take.

No public hearing is required for a police power.

The state supports land rights.

Comfortable doing police powers versus motion.

Language expires in 12 months or by adoption of wind ordinance and should include such language.

Becomes effective upon Board approval and News publication.

Behrenwald requested combined moratorium for Wind and Solar.

Hubbard suggested it's not technical to have solar in the moratorium and inquired if that's necessary.

Abdo replied that it is necessary & noted MET towers are not necessary in a moratorium and could be excluded.

Behrenwald questioned whether there is a device for solar like there are MET. Abdo stated she is not aware of such.

Motion was made by Hubbard and supported by Striker for Attorney Abdo to draft a Moratorium for Board consideration at their January meeting. Motion Carried.

**2022 Special Meeting Request:**

Tabled

The Board would like to see progress of 12/15/2021 Planning Commission meeting prior to considering necessity of Special meetings.

**Bylaws Review:**

Abdo presented a draft of new Planning Commission Bylaws. Review and discussion by the Commission.

Abdo noted:

This subject is a "gray area" and specifically her firm's "conservative" position.

Was asked to address Michigan Planning Enabling & Conflict of Interest (unsure if Board has an ordinance for this).

Board is not required to approve bylaws.

Morrow noted differing opinions between these drafted Bylaws and other neighboring townships and MTA Attorney. Abdo replied this is the most conservative opinion.

Hubbard & Striker stated preference of erring on the side of conservative and would like full disclosure in public meeting and recusal from voting.

Questions were raised regarding Planning Commission and Board Members role noting all Members are land owners and lease signing occurring after the voting occurs, is that considered a conflict? Abdo stated a "potential leaser" is not in conflict.

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Motion was made by Carr and supported by Striker to table movement on addressing Bylaws revisions until other verbiage and clarity can be sought and reviewed. Motion carried.

Carr offered full disclosure of her husbands Corporation signing a potential lease noting she personally doesn't benefit financial, is not a shareholder or opinion/decision maker and has no participation with that business. Personal joint owned properties with her and her husband are not signed under any leases. Carr also disclosed that she was asked by the Board to join the Commission over a decade ago & joined with no personal motives, has never made decisions based on a personal opinion or gain and has served as an objective member, hearing and seeking understanding of all parties involved.

Morrow entertained discussion on whether there is a Conflict. Hubbard made a motion that there is a Conflict of Interest and said a person should recuse on deliberations. Motion supported by Striker.

Roll call vote:

Hubbard - yes

Striker - yes

Behrenald- no

Morrow - no

Carr - abstained

Motion failed, tie vote.

Abdoo stated a tie vote is a failed motion. She stated the Commission could table Wind discussions if not comfortable with motion.

Abdoo reiterated that this is a "gray" area of law which is why it is difficult and reminded the Commission that this is the most conservative position.

Wind Ordinance Review:

Morrow made a motion that the Commission proceed with reviewing the Wind Energy Ordinance this evening. Motion supported by Carr. Motion failed: 4 no 1 yes (Morrow)

Hubbard distributed a document prepared by Sidney Township land owner Robert Scott on "Who Benefits" noting Mr. Scott has widely distributed this document in other townships as well.

Striker stated the responsibility to "Protect the Health, Safety and Welfare of the Community" questioning if the "safety" is violated, is it on the land owner? Abdoo stated only if it is an ordinance violation.

Question raised by Hubbard requesting "Property Value Guarantee"? Abdoo replied that values fluctuate all the time and this is not enforceable.

Hubbard expressed concern around airport FAA is loose. Abdoo stated that the airport is dually governed by the FAA and the Village under the "tall structure act" and is not township zoning ordinance. Other areas noted to be are: FAA, County roads and drains, lakes, rivers topography.

Cato Township Meeting 2022 meetings:

Motion made and approved.....second Wednesday every other month @ 5pm

Lakeview Community Center

February 9

April 13

June 8

August 10

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October 12

December 14

Adjournment:

Motion was made and supported to adjourn at 7:27pm. Motion carried.

Recorded by -

Kimberlee J Carr

Recording Secretary

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