

Cato Township Planning Commission  
Meeting Minutes  
February 9, 2022

The Cato Township Planning Commission met for a regular meeting on Wednesday, February 9, 2022, at the Lakeview Community Center.

**Meeting called to order:**

Chairman Morrow called the meeting to order at 5:00pm with the Pledge of Allegiance

**Members present:**

Phil Morrow, Chairman  
David Behrenwald, Cato Board Liaison  
Brandi Clark-Hubbard, Commissioner  
Quanah Striker, Commissioner

**Others present:**

David Kelsey, Cato Zoning Administrator  
Leslie Abdo, Attorney from Foster Swift Collins & Smith PC  
9 members of the public per sign-in sheet, all from Cato Township

Chairman Morrow announced the resignation of commission member Kim Carr, who served as the commission's Recording Secretary. The township board is accepting applicants to fill the vacant position and will select a candidate at their next regular meeting on March 7, 2022.

**Approval of Agenda:**

All commission members agreed to table the election of 2022 commission officers until the new commissioner is present at the April 2022 meeting. Morrow moved and Behrenwald supported to approve the meeting agenda as presented. All in favor, motion carried.

**December 2021 Meeting Minutes:**

Morrow read a summary of the meeting minutes from the December 15, 2021 regular meeting. Clark-Hubbard suggested minute text corrections on special land uses, police power vs zoning ordinance, solar moratorium, bylaw draft, and airport zoning. Morrow moved and Clark-Hubbard supported to approve the December minutes with these corrections. All in favor, motion carried.

**Public Comment:**

Morrow opened public comment at approximately 5:15pm. The commission heard from four Cato residents. Ben Stout provided a document on behalf of the Cato Township Citizens Alliance listing wind and solar recommendations to protect the safety, health, and welfare of non-participating landowners. Jamie Snyder presented a sound demonstration where she played recordings of wind turbine noise. Snyder also provided the following: a letter from ten Cato citizens and property owners expressing concerns with wind turbines; a copy of the draft Pine Township wind ordinance set for public hearing; and an article from the American Bird Conservancy non-profit organization that discusses wind turbine placement. Chris Stout expressed concerns with wind turbines potentially being placed near his property. Marcy Myers expressed concerns with wind turbines and the effects on eagles. Morrow closed public comment at approximately 5:23pm.

### **Zoning Administrator Update:**

Kelsey provided zoning log sheets for the months of September, October, November, and December 2021, which included the following:

Rick Bartlett	6223 Cutler Rd	50x30 building
Tyrel Frey	8659 Edgar Rd	Farm pole barn
Joe Grieser	6844 W Edgar Rd	Pole barn
Angella Nadeau	10890 Church Rd	Pole barn
Scott Crater	8521 Tamarack Rd	Pole barn
Jed Jacobs	8939 Cherrywood Lane	Pole barn height denied
Debra Delano	11965 Birch Dr	2 sheds
Jason Carl	11709 Cherry Drive	Blight complaint
Gordon Beckmann	6224 Tamarack Rd	Barn (livestock)
Rodney Gyger	11661 Almy Rd	Pole barn front yard
Brian Helmus	7106 Cutler	Pole barn

One pole barn permit was issued in January 2022, and Kelsey will provide the zoning log sheet at the next commission meeting. Kelsey also provided a comparative report showing the township's zoning activity for the years 2014 through 2021. A total of 32 permits were issued in 2021, including 6 permits for new homes. Kelsey indicated this was a good number compared to other townships in the area. Kelsey indicated he needs a township form for rezoning requests and requests for zoning text amendments. Behrenwald to ask the township board if such form exists, and if not, will look into further.

### **Zoning Request – Former VFW Hall**

Morrow reported that he spoke with Mr. Leon Thompson on December 31, 2021, after Mr. Thompson previously approached the township board about rezoning the former VFW Hall (south of Lakeview on M-91) from Agricultural Residential (A-R) to Commercial (C). Mr. Thompson indicated a number of possibilities for use of the building, but he did not state any final plans.

Attorney Abdoo spoke at length on the options available to the commission regarding this matter. Caution should be taken to avoid "spot zoning". A special land use permit could also be considered; however, the zoning ordinance must allow for that special use in the zoning district. If not, the property owner could petition for a zoning text amendment to add the use to the district; however, the commission should consider whether such use is consistent with the master plan/zoning districts. In either instance, a formal process of public hearing and recommendation to the township board for final vote would be necessary. Commission members agreed that more information is needed before considering the matter further. Morrow will invite Mr. Thompson to a future meeting to get more information on his plans.

### **Planning Commission 2021 Yearly Review:**

Morrow gave a recap of the annual report he presented to the township board at their February 7, 2022 meeting. Highlights of 2021 commission activity included 4 regular/3 special meetings, wind/solar moratoriums, special meetings on wind ordinance, public feedback on wind, conflict of interest/bylaw concerns, and the hiring of a legal advisor (Foster Swift). Requests to the township board for the future included formal training for commissioners, investment in technology including website, video equipment, and phone/email, safety considerations, approval for legal advisor to

assist with updating the Master Plan and drafting the solar ordinance, public notice postings whenever commission seats become available, FOIA policy/guidelines, and a review of commissioner compensation. 2022 goals are to finish updating the wind ordinance, begin work on the solar ordinance, update the master plan, and give further consideration to a noise ordinance.

Behrenwald to follow up with the township board on getting approval to hire a licensed planner to help with the Master Plan. Morrow indicated the township has previously used Dave Bee from West Michigan Regional Planning Commission in Grand Rapids.

#### **Board Liaison Update:**

Behrenwald reported that the township board passed the moratorium on wind and solar permits as provided by Attorney Abdoo. The township clerk also went through copies of past minutes to determine each commissioner's term. The township board also obtained several bylaw examples from the Michigan Townships Association (MTA) and neighboring townships to use as a reference for conflict of interest language. These were provided to commissioners for review ahead of time along with suggested bylaw edits from Clark-Hubbard and the draft conflict of interest language provided by Attorney Abdoo at the December 15, 2021 meeting. Samples from neighboring townships included Pine, Belvidere, Maple Valley, and Winfield Townships.

#### **Bylaw Updates:**

Commissioners resumed discussion on amendments to the commission's bylaws to address conflict of interest. Clark-Hubbard presented several suggestions to add further clarity on situations where a conflict of interest may exist. These would be added to the conflict of interest language previously provided by Attorney Abdoo. Behrenwald asked about situations where multiple conflicts would cause a lack of quorum. Abdoo responded that the last paragraph in her proposed language indicates all members would be allowed to deliberate and vote if conflict of interest creates a lack of quorum. Clark-Hubbard asked if the language regarding adjoining properties only applies to situations where a formal request is before the commission, such as rezoning of a particular property. Abdoo confirmed this is correct.

Clark-Hubbard motioned to accept Attorney Abdoo's conflict of interest language as presented with the addition of Clark-Hubbard's proposed language as presented. Supported by Striker. All in favor, motion carried. The commission agreed to table consideration of other bylaw changes proposed by Clark-Hubbard until the next commission meeting.

#### **Wind Ordinance Review:**

Attorney Abdoo provided commissioners with a working draft of the wind ordinance that included Abdoo's edits in blue text, the commission's May/June edits in green text, and all other text in black. Abdoo recommended the commission consider simplifying the current small-medium-large turbine structure to two categories: utility-scale and private turbines. Utility-scale could be allowed as a special use in certain zoning districts, and private turbines could be allowed as an accessory use in any district, or limited to specific districts.

Commissioners commenced a line-by-line review of Abdoo's working draft starting with item 1. Purpose and Intent and concluding at the end of the LWET section on item 6f) Access Driveway, with discussion to continue on several items including height and setbacks. Attorney Abdoo will provide an updated working draft to include all changes discussed by commissioners and will also

draft language in several areas for the commission's review including SSMWETs (rooftop) setbacks, guy wire setbacks, building setbacks and location for STMWETs (small tower), sound/noise, property line setbacks for nonparticipating parcels and rights of way, access drive setbacks, setbacks from bodies of water, and a potential airport setback radius. Abdoo will also cross-check several items with other areas of the zoning ordinance to make sure there are no conflicting language/definitions. The updated working draft will be provided to commissioners a couple weeks before the next regular meeting on April 13, 2022.

Abdoo also commented on the topic of property value guarantees that was brought up at the December meeting. She noted that she typically does not include these in wind ordinances because Michigan does not have any case law to support them. A developer could argue that it is equal to requiring an off-site improvement which case law supports to be impermissible.

**Next Meeting:**

The next regular meeting of the commission is scheduled for April 13, 2022.

**Adjournment:**

There being no further business to come before the commission, a motion was made by Morrow and supported by Striker to adjourn the meeting at approximately 8:10pm.

Recorded by:

Brandi Clark-Hubbard  
Cato Township Planning Commissioner

**NOTE:**

The following documents were provided to the commission by members of the public:

- "Wind and Solar Recommendations for the Safety Health and Welfare of Cato Township Non Participating Landowners" – *submitted by Ben Stout of the Cato Township Citizens Alliance*
- Letter from 10 concerned Cato citizens and landowners regarding wind turbines – *submitted by Jamie Snyder*
- Pine Township draft wind ordinance – *submitted by Jamie Snyder*
- "New York's Heritage Wind Decision Aims to Reduce Project's Impact on Birds" – article dated 1/25/2022 from American Bird Conservancy (nonprofit organization) – *submitted by Jamie Snyder*