



FOWLER VILLAGE COUNCIL

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 Brad Rhynard
 Dan Schmitt
 Rick Fink
 Melissa Humphrey

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 John C. Rademacher
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 Rhonda Feldpausch
 DPW Employees
 Vern Feldpausch
 Brad Smith

DATE: AUGUST 11, 2020

The Fowler Village Council met Tuesday, August 11, 2020 at 7:00 PM with President Vernon J. Thelen presiding.

ROLL CALL

Roll was called, and a quorum reported. Present: Codi Schrauben, Brad Rhynard, John Rademacher, Rick Fink, Dan Schmitt, Melissa Humphrey, and Rhonda Feldpausch. Absent: Mike Porter.

VILLAGE PERSONNEL

Vern Feldpausch.

VISITORS

None.

AGENDA

BOARD ACTION: Trustee Fink moved, supported by Trustee Humphrey, to approve the agenda as presented. Motion carried.

MINUTES

BOARD ACTION: Trustee Humphrey moved, supported by Trustee Rhynard, to approve the minutes of the July 14, 2020 regular meeting as presented. Motion carried.

BILLS

BOARD ACTION: Trustee Fink moved, supported by Trustee Rhynard, to approve payment of \$35,663.75 from the General Fund, \$5,190.94 from the Sanitary Sewer O & M Fund, \$12,296.50 from the Major Street Fund, and \$2,367.69 from the Water O & M Fund. Motion carried.

ZONING PERMITS

BOARD ACTION: Trustee Fink moved, supported by Trustee Humphrey, to approve Zoning Permit #AB2020-05 submitted by Denise Plowman, #AB2020-06 submitted by Justin Schmitt, and #AB2020-07 submitted by Brian and Debra Thelen. Motion carried.

CLINTON COUNTY SHERIFF

No one present.

COMMITTEE REPORT

None.

TREASURER REPORT

BOARD ACTION: Trustee Fink moved, supported by Trustee Rhynard, to accept the Treasurer's report. Motion carried.

PLANNING COMMISSION

The Planning Commission continues to work with Community Developer's, Inc. regarding a condominium development.

DPW REPORT

Vern Feldpausch reported on the following issues:

- Clean recycle center
- Tree trimming
- Chip seal clean up (2 add'l blocks done with extra materials)
- Crack sealing
- Manhole & water box recovery following chip seal
- Catch basin maintenance & cleaning
- Sewer plant control malfunction

DOWNTOWN POST FIRE
REHABILITATION

Points of discussion regarding downtown post fire rehabilitation:

- The final phase, top soil application and hydroseeding, has been completed.

VILLAGE EMPLOYEE HEALTH
INSURANCE OPT OUT POLICY

BOARD ACTION: Trustee Schrauben moved, supported by Trustee Rhynard, to adopt the following Village Employee Health Insurance Opt Out Policy:

Village employees when in a position of having alternate health insurance options may choose to opt out of village coverage under the following guidelines:

- Opting out will save the village overall health care employee costs.
- The village will compensate the employee for any health benefit related costs that they incur from the alternate insurance provider. Examples: selected coverage (employee share) cost; stipend (if one exists) for opting out of coverage.
- The village will compensate the employee for any taxes, fees, or other related costs incurred from the village compensation they receive. Examples: social security, Medicare, and state taxes.
- The Village Council will decide any unforeseen issues as they become known and make the final decision about compensation.

Case Example

Employee A is a full-time employee with benefit coverage from the Village.

Employee A has access to alternate health insurance from significant other's employee health benefit.

Employee A

Monthly health care cost to the Village of Fowler: \$2,596.00.

Total: Monthly cost \$2,596.00 Annual cost \$31,152.00

Significant Other

Monthly health care cost with their employer \$265.81.

Monthly significant other's benefits for opting out with their employee health benefit:

Stipend \$108.33.

Employee A monthly withholdings incurred from compensation:

Medicare	\$3.86
Social Security	\$16.49
State Tax	\$12.79

Total: \$407.28

Village of Fowler Savings: Monthly \$2,188.72 Annual \$26,264.64

Motion carried.

SOLAR ENERGY ORDINANCE

BOARD ACTION: Trustee Fink moved, supported by Trustee Schmitt, to approve the Solar Energy Systems Ordinance that reads as follows:

FOWLER CODE OF ORDINANCES
AMENDMENT OF CHAPTERS 2, 5, 9 and Add 19
THE VILLAGE OF FOWLER ZONING ORDINANCE
THE VILLAGE OF FOWLER ORDAINS:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE VILLAGE OF FOWLER REGARDING DEFINITIONS UNDER CHAPTER 2, SECTION 2.20; SPECIAL LAND USES UNDER CHAPTER 5, SECTION 5.3; PERMITTED USES UNDER CHAPTER 9, SECTION 9.2; AND ADD CHAPTER 19 – SOLAR ENERGY SYSTEMS. THE ORDINANCE IS AMENDED AS FOLLOWS:

Chapter 2

DEFINITIONS, "S"

SECTION 2.20 DEFINITIONS "S"

SOLAR ENERGY SYSTEM, COMMERCIAL: A utility-scale solar energy system where the primary use of the land is to generate electric energy or other energy by converting

sunlight, whether by Photovoltaic Devices or other conversion technology, for the sale, delivery or consumption of the generated energy by more than one end user, and typically the power output of that system is equal to or greater than 1 megawatt. SOLAR ENERGY SYSTEM, Non-Commercial: A solar energy system where the sole use is to generate electric energy or other energy by converting sunlight, whether by Photovoltaic Devices or other conversion technology, primarily for personal consumption by a single end user at the same property upon which the solar energy system is located.

Chapter 5

R-1 SINGLE FAMILY RESIDENTIAL DISTRICT
SECTION 5.3 SPECIAL LAND USES

The following Special Land Use is added to this Section:

- N. Non-commercial Solar Energy Systems in accordance with Chapter 19.

Chapter 9

I – INDUSTRIAL DISTRICT
SECTION 9.2 PERMITTED USES

The following Permitted Use is added to this Section:

- P. Commercial Solar Energy Systems in accordance with Chapter 19.

CHAPTER 19 - SOLAR ENERGY SYSTEMS

1. INTENT AND PURPOSE

1. It is the purpose of this Chapter to establish regulations and conditions for the siting, installation, operation, repair, decommissioning and removal of Solar Energy Systems within the Village.

2. NON-COMMERCIAL SOLAR ENERGY SYSTEMS

1. All non-commercial Solar Energy Systems, whether ground mounted or roof mounted, are subject to the following general requirements:

1. A solar energy system must conform to all Village, State and Federal regulations and safety requirements as well as applicable industry standards.

2. Solar arrays shall be placed such that concentrated solar glare shall not be directed onto nearby properties or roadways.

3. Solar arrays erected on a building shall not extend beyond the peak of the building roof.

4. Solar arrays mounted on the ground shall be considered an accessory structure and is subject to the requirements of Chapter 3, Section 3.2 of the Village of Fowler Zoning Ordinance.

5. All power transmission lines from a ground mounted solar system to any building or structure shall be located underground.

6. In the event that a solar energy system has been abandoned (meaning not having been in operation for a period of one (1) year), the system shall be removed by the property owner within six (6) months from the date of abandonment.

3. COMMERCIAL SOLAR ENERGY SYSTEM SITE PLAN REVIEW
PROCEDURE

1. All applications for Commercial Solar Energy Systems use must be accompanied by detailed site plan drawings, drawn to scale and dimensioned and certified by a registered engineer licensed in the State of Michigan, displaying, at a minimum, all the requirements for site plan review in accordance with Chapter 11 of this Zoning Ordinance and the following information:

1. All lot lines and dimensions, including a legal description of each lot or parcel comprising the Commercial Solar Energy System.

2. Names of owners of each lot or parcel within the Village of Fowler that is proposed to be within the Commercial Solar Energy System.

3. Vicinity map showing the location of the proposed solar energy system in relationship to other locations within the Village.

4. Location and height of all proposed Solar Array(s), buildings, structures, electrical tie lines and transmission lines, security fencing, and all above-ground structures and utilities associated with a Commercial Solar Energy System.
 5. Horizontal and vertical (elevation), to-scale drawings with dimensions that show the location of the proposed Solar Array(s) buildings, structures, electrical tie lines and transmission lines, security fencing and all above ground structures and utilities on the property.
 6. Location of all existing and proposed overhead and underground electrical transmission or distribution lines within the Commercial Solar Energy System and within 1,000 feet of the outside perimeter of the Commercial Solar Energy System.
 7. Proposed setbacks from the Solar Array(s) to all existing and proposed structures within the Commercial Solar Energy System.
 8. Land elevations for the Solar Array(s) location and the relationship to the land elevations of all existing and proposed structures within the Commercial Solar Energy System.
 9. Access driveways within and to the Commercial Solar Energy System, together with a detailed narrative regarding dimensions, composition, and maintenance of each proposed driveway. All access drives shall be subject to the Clinton County Road Commission approval and shall be planned so as to minimize the use of lands for that purpose.
 10. Planned security measures to prevent unauthorized trespass and access and to warn of potential dangers during the construction, operation, removal, maintenance, or repair of the Commercial Solar Energy System.
 11. A written description of the maintenance program to be used for the Solar Array(s) and other components of the Commercial Solar Energy System, including decommissioning and removal when determined by the Village to be obsolete, uneconomic or abandoned. The description shall include maintenance schedules, types of maintenance to be performed, and decommissioning and removal procedures and schedules if the Commercial Solar Energy System becomes obsolete, uneconomic or abandoned.
 12. A copy of the manufacturer's safety measures.
 13. Planning lighting protection measures.
 14. Additional detail(s) and information as required by the Special Lane Use requirements in accordance with Chapter 12 of the Village of Fowler Zoning Ordinance, or as required by the Planning Commission.
 15. Village Review: Because of ever changing technical capabilities of photovoltaic solar panels and of new technology in general, the Village of Fowler Planning Commission and Village Council shall have the authority to review and consider alternatives in both the dimensional and physical requirements contained in this Section as part of the Special Land Use Review process.
4. GENERAL DEVELOPMENT STANDARDS FOR COMMERCIAL SOLAR ENERGY SYSTEMS:
1. Compliance with the County Building Code and the National Electric Safety Code: Construction of a Commercial Solar Energy System shall comply with the National Electric Safety Code and the County Building Code (as shown by approval by the County) as a condition of any Special Land Use Permit under this section.
 2. Certified Solar Array Components: Components of a Solar Array shall be approved by the Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electronic Testing Laboratories (BIL), or other similar certification organization acceptable to the Village.
 3. Height: Maximum height of a Solar Array, other collection device, components or buildings of the Commercial Solar Energy System shall not exceed eighteen (18) feet in its most upright position at any time or location on the property, as measured from

the natural grade at the base of the Solar Array, device, component or building measured.

4. Lot Size: A Commercial Solar Energy System shall be located on one or more parcels with an aggregate area of 10 acres or greater.

5. Setbacks: A minimum setback distance of seventy-five (75) feet from all property boundaries on the outside perimeter of the Commercial Solar Energy System shall be required for all building and Solar Arrays except for property boundaries where the applicable adjoining owner(s) agree to lessen that setback distance by executing a signed, written waiver of this requirement in a recordable form, provided no such waiver shall act to permit less than the required minimum setback of the applicable zoning district.

6. Lot Coverage: A Commercial Solar Energy System is exempt from maximum lot coverage limitations.

7. Screening/Security: A Commercial Solar Energy System shall be completely enclosed by perimeter security fencing to restrict unauthorized access. Such fencing shall be 6 (six) feet in height as measured from the natural grade of the fencing perimeter. Electric fencing is not permitted. The perimeter of Commercial Solar Energy Systems shall also be screened and buffered by installed evergreen vegetative plantings whenever existing natural forest vegetation does not otherwise continuously obscure the Commercial Solar Energy System's entire perimeter from adjacent parcels, subject to the following requirements:

1. Unless screened and buffered at all times by natural forest vegetation meeting the minimum spacing and height requirements, and having a substantially similar obscuring effect of an evergreen vegetative buffer installed pursuant to this Section, a continuous evergreen vegetative buffer shall be installed and maintained at all times at the perimeter of the all Commercial Solar Energy Systems, including without limitation between such Commercial Solar Energy Systems and adjacent residential and/or public highways or streets. Nothing contained herein shall be construed to prevent reasonable access to any Commercial Solar Energy System as approved by the Special Land Use Permit.

2. The evergreen vegetative buffer shall be composed of evergreen trees or shrubs that at planting shall be a minimum of four (4) feet in height. The evergreen trees or shrubs shall be spaced no more than ten (10) feet apart on center (from the central trunk of one plant to the central trunk of the next plant). Within five (5) years of planting, required evergreen vegetative screening shall be no less than fifteen (15) feet tall.

3. Failure to continuously maintain the required evergreen vegetative buffer shall constitute a violation of this Ordinance and sufficient grounds for revocation of any Special Land Use Permit previously granted.

8. Signage: No lettering, company insignia, advertising or graphics shall be on any part of the Solar Arrays or other components of the Commercial Solar Energy System.

9. Noise: No component of any Commercial Solar Energy System shall emit noise exceeding forty-five (45) dBA as measured at the outside perimeter of the project.

10. Lighting: All lighting for parking lots, driveways, external illumination of buildings, or the illumination of signs shall be directed away from and be shielded from adjacent properties and shall be so arranged as to not adversely affect driver visibility on adjacent public roads.

11. Distribution, Transmission and Interconnection: All collection lines and interconnections from the Solar Array(s) to any electrical substations shall be located and maintained underground inside the Commercial Solar Energy System. The Planning Commission may waive this requirement if it determines that it would be

impractical or unreasonably expensive to install, place or maintain such collection lines and interconnections underground.

12. Abandonment and Decommissioning: Following the operational life of the project, the Applicant shall perform decommissioning and removal of the Commercial Solar Energy System and all its components. The Applicant shall prepare a Decommissioning Plan and submit it to the Planning Commission for review and approval prior to issuance of the Special Land User Permit. Under this plan, all structures and facilities shall be removed, including any structures below-grade, and removed offsite for disposal. No concrete, piping and other materials may be left in place. Any Solar Array or combination of Photovoltaic Devices that is not operated for a continuous period of twelve (12) months shall be considered abandoned and shall be removed under the Decommissioning Plan. The ground must be restored to its original condition within 180 days of abandonment or decommissioning.

13. General Standards: The Planning Commission shall not approve any Commercial Solar Energy System Special Land Use Permit unless it finds that all of the general standards for Special Land Uses contained in Article 12 of this Ordinance are met.

14. Safety: The Planning Commission shall not approve any Commercial Solar Energy System Special Land Use Permit unless it finds the Commercial Solar Energy System will not pose a safety hazard or unreasonable risk of harm to the occupants of any surrounding properties or area wildlife.

15. Conditions and Modifications: Any conditions and modifications approved by the Planning Commission shall be recorded in the Planning Commissions' meeting minutes. The Planning Commission may, in addition to other reasonable conditions, require landscaping, walls, fences and other improvements that are reasonable in relation to and consistent with the nature of the applicable or adjacent zoning districts. After approval, at least two (2) copies of the final approved Site Plan shall be signed and dated by the Chairman of the Planning Commission and authorized representative of the Applicant. One copy shall be kept on file by the Village Clerk, and one copy shall be returned to the Applicant's authorized representative.

16. Inspection: The Village shall have the right at any reasonable time to inspect the premises on which any Commercial Solar Energy System is located. The Village may hire one or more consultants to assist with any such inspections at the Applicant's or project owner's expense.

17. Maintenance and Repair: Each Commercial Solar Energy System must be kept and maintained in good repair and condition at all times. If the Village Zoning Administrator determines that a Commercial Solar Energy System fails at any time to meet the requirements of this Ordinance and the Special Land Use Permit, or that it poses a potential safety hazard, the Applicant shall shut down the Commercial Solar Energy System within 48 hours after notice by the Zoning Administrator and not operate, start or restart the Commercial Solar Energy System until the condition has been corrected. Applicant shall keep a maintenance log on the Solar Array(s), which shall be available for the Village's review on a monthly basis. Applicant shall keep all sites within the Commercial Solar Energy System neat, clean and free of refuse, waste or unsightly, hazardous or unsanitary conditions.

18. Roads: Any material damages to a public road located within the Village resulting from the construction, maintenance or operation of a Commercial Solar Energy System shall be repaired at the Applicant's expense. In addition, the Applicant shall submit to the appropriate Village agency a description of the routes to be used by construction and delivery vehicles; any road improvements that will be necessary to accommodate construction vehicles, equipment or other deliveries; and a performance guarantee acceptable to the Village in an amount necessary to assure repair of any damage to the public roads caused by construction of the Commercial Solar Energy System or any of its elements.

19. Continuing Security and Escrow: If any Commercial Solar Energy System is approved for construction under this Section, Applicant shall be required to post continuing security and a continuing escrow deposit prior to commencement of construction, which shall remain in effect until the Commercial Solar Energy System has been finally removed, as provided below:

1. Continuing Security: If a Special Land Use Permit is approved pursuant to this section, the Planning Commission shall require security in the form of a cash deposit, irrevocable letter of credit, or surety bond acceptable to the Village, which will be furnished by the applicant to the Village in order to ensure full compliance with this section and all conditions of approval. When determining the amount of each required security, the Village may also require an annual escalator or increase based on the Consumer Price Index (or the equivalent or its successor) . Such financial guarantee shall be deposited or filed with the Village Clerk after a Special Land Use Permit has been approved but before construction commences on the Commercial Solar Energy System. At a minimum, the financial security shall be in an amount determined by the Village to be reasonably sufficient to restore the property to its previous condition prior to construction and operation of the Commercial Solar Energy System. Such financial security shall be kept in full force and effect during the entire time that the Commercial Solar Energy System exists or is in place, and such financial security shall be irrevocable and non-cancelable.

2. Continuing Escrow Deposit: A continuing escrow deposit shall be held by the Village and shall be funded in cash by the applicant prior to the commencement of construction of any Commercial Solar Energy System and shall be maintained by the owner or operator until the Commercial Solar Energy System has been permanently decommissioned and removed. The monetary amount placed by the Applicant in escrow with the Village shall be estimated by the Village to cover all reasonable costs and expenses associated with continuing enforcement of this Ordinance and the terms of the Special Land Use Permit, which costs can include, but are not limited to, reasonable fees for the Village Attorney, Village Planner and Village Engineer, as well as costs for any reports or studies that the Village determines are reasonably related to enforcement of the Ordinance and the Special Land Use Permit. If the Village is required to expend any portion of the escrow deposit or if the existing escrow amount paid by the Applicant proves to be insufficient to cover the Village's enforcement costs, the Village may require the Commercial Solar Energy System Applicant to place additional monies into escrow with the Village.

3. Continuing Obligations: Failure to keep any required financial security and escrow deposit in full force and effect at all times while a Commercial Solar Energy System exists or is in place shall constitute a material and significant violation of the Special Land Use Permit and this Ordinance, and will subject the Commercial Solar Energy System applicant, owner and operator to all remedies available to the Village, including enforcement action and revocation of the Special Land Use Permit.

20. Conditions: In addition to the requirements of this Section, the Planning Commission may impose additional reasonable conditions on the approval of a Commercial Solar Energy System as a Special Land Use Permit.

21. Other Requirements: Each Commercial Solar Energy System shall also comply with all applicable Village, County, State and Federal requirements, in addition to other applicable Village Ordinances. Motion carried.

DIXON ENGINEERING WARRANTY
INSPECTION

BOARD ACTION: Trustee Fink moved, supported by Trustee Rhynard, to approve the Dixon Engineering Warranty Inspection Services (ROV) proposal in the amount of \$1,700.00. Motion carried.

CORRESPONDENCE

Dave Pohl – Clinton County Commissioner submitted the following information:

- Contract with Craig Longnecker as County Administrator effective September 22, 2020 when process is complete
 - Approval of resolution to join the Michigan Public Safety Communications System. Approval of contract with Televate to complete signal level test.
 - 339 confirmed Covid cases and 13 deaths in Clinton County.
 - Continued budget adjustments due to Covid impact on revenue and expenses.
- 10 MINUTE OPEN DISCUSSION
- Credit card payments for utilities and taxes

ADJOURNMENT

BOARD ACTION: Trustee Fink moved, supported by Trustee Rhynard, to adjourn the meeting. Motion carried

Meeting adjourned at 7:43 PM.

Rhonda Feldpausch, Village Clerk