

Newberry Township Board of Supervisors Special Meeting and Public Hearings

October 13, 2026

ATTENDANCE:

Mario Eckert, Chairman
Tony Miller, Vice Chairman
Rob Harkin, Supervisor
Diane Shellenhamer, Supervisor
Jane Harman, Supervisor
Aaron Schwartz, Manager
James Sanders, Solicitor

CALL TO ORDER

The special meeting and public hearings was called to order at 5:00 PM. All present stood for the Pledge of Allegiance.

ANNOUNCEMENTS

Chairman Eckert stated that there were no announcements.

PUBLIC COMMENTS

Chairman Eckert reviewed the ground rules under the Township's Public Meeting Policy. Speakers were to state their names for the record and address the Board, with a five-minute limit for agenda matters and three minutes for non-agenda matters. Testimony on each proposed Ordinance would be taken separately during the public hearings. Several speakers addressed both Ordinances during this period.

David Parsons, Chairman of the Planning Commission, said he had emailed the Board and Township Manager about a week earlier with the Planning Commission's recommendations on both ordinances. He reported that the Commission met on July 13 for about four hours and reviewed both Ordinances line by line.

On the Data Center Ordinance, he explained that data centers would be a conditional use in the General Industrial district and the Rural Industrial district. He said the General Industrial district covers about 201 acres near Route 83 South near Sheep Bridge Road. He said the Rural Industrial district covers about 133 acres south of York Haven near Industrial Drive.

The Commission had no objection to the General Industrial district. It objected to the Rural Industrial district because that district is defined for light industrial use, which a data center is not. He said data centers typically require large volumes of water, generate large volumes of sewage, and need lot sizes that the district keeps deliberately small.

The Commission's recommendations were to:

- delete all references to the Rural Industrial zoning district;
- increase minimum setbacks to 500 feet from the 200 and 400 feet proposed;
- reduce the noise limit from 60 to 50 decibels, citing 24/7 operation, and address vibration;

- delete the water and sewer provision allowing non-public water sources such as private wells and groundwater withdrawals, to protect homeowners' water sources;
- revise the financial security percentages; and
- add the enforcement language from the Solar Ordinance to the Data Center Ordinance.

On the Solar Ordinance, he cited provisions on abandonment after six months without electricity generation and 30-day written notice to the Township, which he described as important to decommissioning. He suggested the Board consider tabling both Ordinances to gather more public input.

Chairman Eckert stated that Mr. Parsons's email was the only written input the Township had received. Supervisor Harman noted that the Township had solicited input for months and that only a few residents had attended the Planning Commission meeting. She said the process had been transparent but that residents often do not respond until adoption is imminent.

Manager Schwartz responded that the setbacks had been compromised because many lots are small and 500-foot setbacks on every side would make them unbuildable. He said the decibel limits had been lowered in response to the Commission's recommendation. He said the Ordinance requires a closed-loop cooling system, so there is no continuous water use, and requires applicants to identify their water source. Mr. Parsons expressed concern that large corporations could assemble several small parcels. He confirmed the Planning Commission was unaware of any data center inquiries.

Steven Myers, a township resident, said he spoke from an emotional standpoint as a resident. He said he learned of the hearing from an 8.5-by-11 notice posted outside Redland Valley and from a Facebook post, and that he had not known about the Data Center Ordinance until recently. He said a 5 PM meeting is difficult for people just getting off work.

He reported strong opposition in neighboring Conewago Township. He said residents who visited data centers in Virginia reported constant noise, and he predicted that many more vocal residents would appear once notified. He urged the Board to table the Ordinances and send a mailer to every household. He also urged the Township to consult neighboring townships about how they are responding. He said the setback concerns exist because residents "don't want this in their backyard."

Supervisor Harman responded that the effort began months earlier. She said the prior Board never adopted a Solar Ordinance proposed roughly two years ago, and that the current Board, with three new members, had worked on both Ordinances for about ten months. She said the Township needs an Ordinance in place because applicants will come "knocking on our door" when the Township has none.

Chairman Eckert stated that the Board shared the concern about both land uses. The goal was to protect residents and open space, and the Ordinances could be built upon and amended. He apologized for the notice and committed to improved advertising in the future. He asked that the Township Manager be allowed to present the Ordinances.

In response to Mr. Myers's questions, Manager Schwartz confirmed that data centers would be allowed only in the two industrial districts. Mr. Parsons clarified the district acreages. Chairman Eckert used an analogy of the "eye of the needle," saying restrictions cannot be so tight that development becomes impossible.

Manager Schwartz added that the Ordinances do not invite data centers but regulate them if one is proposed, because the Township "can't just say no." He said regulating too small an area could expose the Township to litigation and push an applicant toward a location the Township does not want. He said that not having an Ordinance leaves the Township without protection.

Jeff Holland, a township resident, addressed the Solar Ordinance. He thanked staff for clarifying earlier in the day which agricultural areas fall in the overlay. He asked where the overlay is documented. Manager Schwartz said an overlay map identifies the specific parcels by hatching and that it would be added to the official zoning map upon adoption.

Mr. Holland asked for a plain-language explanation of Section 323.5, items 14 and 15, covering agrivoltaics, the 20 percent limit, and dwelling rights. Solicitor Sanders explained that the dwelling rights provision keeps the dwelling rights tied to the parcel on which the solar system is placed. This prevents transferring them to other parcels, as some townships allow. He explained that agrivoltaic production is dual use of the land for solar and agriculture, such as grazing sheep.

After discussion and several clarifications, Solicitor Sanders explained that the 20 percent provision limits Class 2 or Class 3 prime agricultural soils to no more than 20 percent of the development area. It is based on soil quality, not zoning classification.

Mr. Holland asked whether anyone had examined the soil within the proposed overlay. Solicitor Sanders said that was a question for the Township Engineer. Chairman Eckert stated that such review would occur case by case when an applicant seeks approval. Mr. Holland concluded that parts of the overlay might not be developable if they do not meet the criteria.

PUBLIC HEARINGS

Ordinance No. 441 – Solar Energy Ordinance and Solar Energy Overlay District

Chairman Eckert opened the hearing and turned the presentation over to Manager Schwartz. Manager Schwartz reviewed the notice and review history:

- On June 30th, the Solar Ordinance, the Data Center Ordinance, and the proposed overlay map were forwarded to the York County Planning Commission.
- On July 13th, the Newberry Township Planning Commission considered the Solar Ordinance and recommended approval by a 5-0 vote. Manager Schwartz stated that the recommendation was without changes.
- On September 3rd, notices were mailed to the owners of every parcel in the overlay.
- On October 5th, signs were posted along the major corridors.
- The Ordinance and overlay map were also available at the Township office and on the Township website.

Planning Commission red lines. Mr. Parsons stated that the Planning Commission did make recommendations on the Solar Ordinance. He said he emailed them to all five Supervisors and the Township Manager on October 5th. The recommendations included:

- Section 5.a.9: a six-month presumption of abandonment and 30-day written notice.
- Page 6: weed control.
- Page 10: deleting language on tree removal and landmarks.
- Page 11: decommissioning requirements and financial security percentages.
- Page 14: a Knox Box requirement.

Manager Schwartz stated that he did not recall receiving that email. He said he had received red lines only for the Data Center Ordinance. He said the version posted online had been finalized shortly before October 5th, and that he had made minor housekeeping corrections along the way. Mr. Parsons noted that some of the Commission's housekeeping changes, such as correcting references from ASES to PSES and correcting code chapter numbers, appeared to have been incorporated. Manager Schwartz explained that ASES covers accessory (residential) systems and PSES covers principal (commercial) systems.

Manager Schwartz stated that he had not seen the red lines. He compared examples and found that several, such as Section 6, item 11.a and the tree removal language, were already reflected in the clean version, while 17.b was not.

Supervisor Harkins recalled that the Ordinance had been developed over several months. He said the Township had been awaiting the overlay district, and that a solar developer had agreed to build to the draft Ordinance. Solicitor Sanders added that the draft is modeled after neighboring townships' Ordinances and the county's model Ordinance. Chairman Eckert expressed a desire not to act hastily if there was room for improvement.

Presentation highlights. Manager Schwartz summarized the Ordinance as follows:

- It regulates accessory systems (home use) and principal systems (solar farms).
- It sets geographic boundaries through the overlay map.
- It requires conditional use approval by the Board for principal systems.

- It has limited exceptions for ground-mounted systems of 100 square feet or less.
- Principal systems must have setbacks of 300 feet from residential districts, a maximum 15 percent impervious coverage, 6-foot fencing, and access roads with a minimum 22-foot cartway.
- Principal systems must comply with stormwater requirements and a noise maximum of 45 dBA at property lines.
- The Ordinance includes glare mitigation, an emergency response plan circulated to first responders, protection of agricultural soils, and restrictions on dwelling development rights.
- It requires a designated public contact and a response to complaints within 72 hours.
- It requires a decommissioning plan secured at 110 percent of decommissioning cost, with no offset for salvage value.

Public testimony. Supervisor Harman asked about ASSES/PSES references in the text, which was addressed as described above.

Tom Adams, a township resident, asked whether the Ordinance requires panel slopes or arrays to face south. Manager Schwartz said the Ordinance does not go to that level of detail. Chairman Eckert and Supervisor Harman noted that efficiency would be addressed in the applicant's engineering. Mr. Adams also asked whether geothermal or wind would be addressed. The Board responded that it would be a separate discussion.

Chairman Eckert then called a brief recess to confer with the Solicitor about the Planning Commission's proposed language changes. Upon reconvening, he stated that if major changes were found to be necessary at the time of the vote, a caveat would allow them to be implemented legally.

Mr. Holland asked why the accessory system section lacks a noise standard like the one for principal systems. Chairman Eckert responded that residential systems do not present a noise concern while solar farms could. Mr. Holland also asked about item 8, requiring electrical control devices to be locked. Manager Schwartz clarified that the intent is to prevent unauthorized access to the interior of control or junction boxes, for example through a lock or closure requiring tools. He said emergency disconnect switches designed for first responders are different.

No further testimony was offered, and Chairman Eckert declared the hearing closed.

Ordinance No. 442 – Data Center Zoning Ordinance

Chairman Eckert opened the hearing on proposed Ordinance No. 442, amending Chapter 380, Zoning, to define data centers and related accessory uses and establish them as conditional uses in the General Industrial and Rural Industrial zoning districts. The Ordinance also provides development, operational, infrastructure, emergency management, and decommissioning standards.

Manager Schwartz confirmed the record:

- On June 30th, the Ordinance was forwarded to the York County Planning Commission.
- On July 13th, the Newberry Township Planning Commission recommended approval with changes by a 5-0 vote.
- On August 18th, the York County Planning Commission reviewed the Ordinance under Project No. 26-047 and recommended adoption.
- On August 31st, a minor revision based on Township Planning Commission recommendations was forwarded to the County and approved.
- Public hearing notice was published on September 17th and September 24th.
- The Ordinance was available for public review at the Township office and on the website.

Steven Myers asked why Rural Industrial was included along with General Industrial. Manager Schwartz explained that limiting data centers to General Industrial alone might be too restrictive, inviting a legal challenge and the possibility of an applicant seeking a different, less desirable location. He added that parcels in both districts are small, that a major road divides the General Industrial district, and that few residences are near either district. Mr. Myers asked how future dual zoning of large agricultural parcels could be prevented. Manager Schwartz responded that the Board cannot bind future boards, but any amendment would require advertising and public hearings.

Brian Rehbein, Vice Chairman of the Planning Commission, said the Planning Commission voted to remove Rural Industrial and asked who had restored it. Manager Schwartz responded that he had forwarded the Planning Commission's red lines and his own recommendation to the Board, and that the Board was aware of the changes. He said there had been no formal Board vote. He added that Rural Industrial had been retained and that many other Planning Commission recommendations had been incorporated.

Mr. Rehbein stated that the Commission had spent considerable time on the red lines, that it also believed the Township could not "box these guys out," but that Rural Industrial did not fit the use. Chairman Eckert noted that the acreage involved is small.

Supervisor Harkins stated that the Board appreciates the Planning Commission's work but that its input is a recommendation and the Board holds final authority. He said the broader approach was intended to avoid being so restrictive that the Ordinance ended up in court. Chairman Eckert repeated the "needle and thread" point. He said he considered the document strongly restrictive and that, as a developer, it would dissuade him. In response to Mr. Myers's question of whether it is enough, Chairman Eckert said the Board sought to be restrictive enough to be unattractive without being impossible.

Solicitor Sanders stated that he had reviewed the version presented to the Planning Commission but had not seen later red lines. He said the Ordinance is modeled on the county Ordinance and used in other York County townships, which makes it defensible. He said whether it is too restrictive cannot be evaluated until an actual plan is submitted. He characterized including Rural Industrial as a political and engineering decision rather than a legal one.

An additional township resident commended the drafters and urged prompt adoption. He cited a data center being developed in a neighboring township near his property. He noted that the noise limit for solar farms (45 decibels) differs from that for data centers (50 decibels) and said a 5-decibel difference is significant. He welcomed the required noise study.

Tom Adams stated that he had not seen the proposal but that the sites under consideration elsewhere are 250 to 300 acres, and he did not see a site in the Township of that size. He urged the Board to work with other Townships, the County, and the State, to identify appropriate locations, such as abandoned industrial sites. Chairman Eckert agreed and noted that the Township was acting to protect its residents in the meantime.

No further testimony was offered, and Chairman Eckert declared the hearing closed.

NEW BUSINESS

Consideration and Adoption of Ordinance No. 441 – Solar Energy Ordinance and Solar Energy Overlay District

Chairman Eckert opened the item for discussion. The Supervisors who were asked offered no comments.

Motion by Supervisor Harkins to adopt Ordinance No. 441, establishing Chapter 323, Solar Energy, providing regulations for Accessory Solar Energy Systems (ASES) and Principal Solar Energy Systems (PSES), establishing the Solar Energy Overlay District, and amending the official Newberry Township Zoning Map to incorporate the Solar Energy Overlay District as depicted in Exhibit A. Seconded by Supervisor Shellenhamer. Motion carried unanimously.

Consideration and Adoption of Ordinance No. 442 – Data Center Zoning Ordinance

Chairman Eckert opened the item for discussion.

Supervisor Harman stated for the record that she remained concerned about the Rural Industrial district. She said she would prefer the opening to be so small that a data center could not fit, and she was "on the other side of the fence" from the "threading the needle" approach. She commended Mr. Parsons and the Planning Commission volunteers, said she found it offensive to hear their work dismissed as "just a recommendation," and said she did not want to pass an Ordinance "not up to par."

Vice Chair Miller expressed appreciation for the volunteers' work and said most of the Planning Commission's red lines had been incorporated into the final documents. Vice Chair Miller stated that, having sat through

repeated Workshops, the priority was to put something on the books, since nothing would prevent an applicant from filing the following day. Mr. Myers suggested holding a special meeting instead. Vice Chair Miller responded that a motion would be voted on.

Supervisor Harkins reiterated his appreciation for the Planning Commission, noted that most of its points were adopted, and said the Board was "doing our job like you were doing your job." Supervisor Shellenhamer stated that the Ordinance could be revisited, and she invited residents to bring bullet points to another Workshop.

Chairman Eckert said the purpose of the evening was to establish an Ordinance, comparing it to having a stick rather than nothing when a bear approaches. Manager Schwartz apologized to Mr. Parsons for the impression that the Planning Commission's work had been diminished. He said he had provided the full red-line version, a side-by-side comparison, and his own recommendation after consulting the Solicitor and reviewing what other municipalities were doing, and that the final decision rested with the Board.

Motion by Vice Chair Miller to adopt Ordinance No. 442, amending Chapter 380, Zoning, of the Newberry Township Code of Ordinances to define and establish specific requirements for Data Centers and Data Center Accessory Uses; to establish Data Centers as conditional uses in the General Industrial (I) and Rural Industrial (RI) Zoning Districts; and to provide related development, operational, infrastructure, emergency management, decommissioning, and other applicable provisions. Seconded by Supervisor Harkins. Supervisor Harman voted in opposition ("opposed as written"). Motion carried.

ADJOURNMENT

Motion by Supervisor Harkins to adjourn the meeting. Seconded by Supervisor Shellenhamer. Motion carried unanimously.

Respectfully Submitted,



Aaron Schwartz, Secretary

