

**RANDOLPH TOWNSHIP  
PORTAGE COUNTY, OHIO  
A RESOLUTION  
“COMMUNITY RIGHTS and UNCONVENTIONAL SHALE GAS and OIL  
EXTRACTION BAN”**

\_\_\_/\_\_\_/2012

Motion by \_\_\_\_\_

WHEREAS, the Board of Trustees of Randolph Township finds the unconventional extraction of shale gas and oil in Randolph would violate the rights of residents and neighborhoods, and poses a significant threat to their health, safety, and welfare; and

WHEREAS, widespread environmental and human health impacts have resulted from unconventional gas and oil extraction in other areas; and

WHEREAS, “regulating” the activity of unconventional gas and oil extraction automatically means allowing unconventional gas and oil extraction to occur within the Township, thus violating the rights of residents and neighborhoods and endangering their health, safety, and welfare by allowing the deposit of toxins into the air, soil, water, environment, and the bodies of residents within our Township; and

WHEREAS, meaningful regulatory limitations and prohibitions concerning unconventional shale gas and oil extraction, along with zoning and land use provisions, are barred by the state because they conflict with purported legal powers claimed by resource extraction corporations; and

WHEREAS, the Board of Trustees of Randolph Township recognize environmental and economic sustainability cannot be achieved if the rights of community majorities are routinely subordinated to and overridden by corporate minorities claiming certain legal powers; and

WHEREAS, the Board of Trustees of Randolph Township also recognizes that sustainability cannot be achieved within a system of preemption which enables those corporations to use state governments to override local self-government, and which restricts communities to only that lawmaking specifically authorized by state government; and

WHEREAS, the Board of Trustees of Randolph Township believes that the protection of residents, neighborhoods, and the natural environment constitutes the highest and best use of the police powers that this community possesses; and

WHEREAS, the Board of Trustees of Randolph Township also believes that local legislation that embodies the interests of the community is mandated by the doctrine of the consent of the governed, and the right to local, community self-government; and

WHEREAS, this resolution establishes a Bill of Rights which recognizes and secures the civil and political rights of Randolph Township residents, pursuant to Article I, Section 20 of the Ohio Constitution which states: "This enumeration of rights shall not be construed to impair or deny others retained by the people, and all powers, not herein delegated, remain with the people"; and

WHEREAS, this resolution bans the unconventional extraction of shale gas and oil within the Township because that extraction violates the civil rights of Randolph Township residents, and because it threatens the health, safety, and welfare of residents and neighborhoods of Randolph Township; and

WHEREAS, this resolution removes legal powers and authority from gas and oil extraction corporations within Randolph Township, in recognition that those legal powers are illegitimate and unjust, in that they place the rights of those corporations over the rights and political authority of Randolph Township residents; and

WHEREAS, this resolution is enacted pursuant to the inherent right of the residents of Randolph Township to govern their own community, including, without limitation, the Declaration of Independence's declaration that governments are instituted to secure the rights of people, and the Ohio Constitution's recognition that "All political power is inherent in the people"; and

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Randolph Township Board of Trustees, Portage County, Ohio, that we hereby adopt the following resolution, which establishes a Community Bill of Rights for the residents and communities of the Township, bans unconventional extraction of shale gas and oil within Randolph Township because that extraction cannot be achieved without violating the rights of residents and communities or endangering their health, safety, and welfare, removes certain legal powers from gas and oil extraction corporations operating within Randolph Township, nullifies state laws, permits, and other authorizations which interfere with the rights secured by this resolution, and imposes liabilities and fines for violations thereof.

## **Section 1 – Definitions**

(a) "Corporations," for purposes of this resolution, shall include any corporation, limited partnership, limited liability partnership, business trust, or limited liability company organized under the laws of any state of the United States or under the laws of any country, and any other business entity that possesses State-conferred limited liability attributes for its owners, directors, officers, and/or managers.

(b) "Extraction" shall mean the digging or drilling of a well for the purposes of exploring for, developing or producing shale gas and oil or other hydrocarbons.

(c) "Extraction, Production and Delivery Infrastructures" shall mean, but not be limited to, pipelines, processing facilities, compressors, as well as anything used for exploration, storage or transportation of shale gas and oil extracted using unconventional extraction processes. The term shall include equipment and materials used for seismic testing.

(d) "Horizontal gas and oil well drilling" shall mean intentional deviation of a shale gas wellbore from the vertical for the purpose of reaching subsurface areas laterally remote from the point where a well drilling bit or similar equipment enters the earth at the surface.

(e) "Hydraulic fracturing" shall mean operations in which water, chemicals and a solid proppant are pumped into a wellbore at a rate sufficient to increase the pressure downhole to a value in excess of the fracture gradient of the formation rock, causing the formation to crack, thus allowing the fracturing fluid to enter and extend the crack farther into the formation, forming passages through which shale gas or oil can flow.

(f) "Production Activities" shall include, but not be limited to, the siting of compressors; drill rigs; pipelines; waste water storage, treatment or processing facilities; temporary housing; and any extraction, production or delivery infrastructures related to, or supporting, unconventional extraction of shale gas and oil.

(g) "Unconventional Extraction" shall mean extraction activities involving gas or oil well drilling in combination with hydraulic fracturing.

## **Section 2 – Statements of Law: Rights of Randolph Township Residents and the Natural Environment.**

(a) Right to Water. All residents, natural communities and ecosystems in

Randolph Township possess a fundamental and inalienable right to sustainably access, use, consume, and preserve water drawn from natural water cycles that provide water necessary to sustain life within the Township.

(b) Rights of Natural Communities. Natural communities and ecosystems, including, but not limited to, wetlands, streams, rivers, aquifers, and other water systems, possess inalienable and fundamental rights to exist and flourish within Randolph Township. Residents of the Township shall possess legal standing to enforce those rights on behalf of those natural communities and ecosystems.

(c) Right to a Sustainable Energy Future. All residents, natural communities, and ecosystems in Randolph Township possess a right to a sustainable energy future which includes, but is not limited to, the production and use of energy from renewable fuel sources.

(d) Right to Local Community Self-Government. All residents of Randolph Township possess the fundamental and inalienable right to a form of governance where they live which recognizes that all power is inherent in the people, that all free governments are founded on the people's authority and consent, and that corporate entities and their directors and managers shall not enjoy special privileges or powers under the law which make community majorities subordinate to them.

(e) People as Sovereign. Randolph Township shall be the governing authority responsible to, and governed by, the residents of the Township. Use of the "Randolph Township" government by the sovereign people of the Township to make law shall not be construed to limit or surrender the sovereign authority or immunities of the people to a state-designated administrative body that is subordinate to them in all respects at all times. The people at all times enjoy and retain an inalienable and infeasible right to self-governance in the community where they reside.

(f) Rights as Self-Executing. All rights delineated and secured by this resolution shall be self-executing and these rights shall be enforceable against corporations and governmental entities.

### **Section 3 – Statements of Law – Prohibitions and Corporate Legal Privileges**

(a) It shall be unlawful for any corporation to engage in the unconventional extraction of shale gas or oil within Randolph Township.

(b) It shall be unlawful for any corporation to engage in the extraction of water from any surface or subsurface source within Randolph Township for use in the unconventional extraction of shale gas or oil, or for any director, officer, owner, or manager of a corporation to use a corporation to extract water from any surface or subsurface source within Randolph Township for use in the unconventional extraction of shale gas or oil. It shall be unlawful for a corporation to import water into Randolph Township for use in the unconventional extraction of shale gas or oil; or for any director, officer, owner, or manager of a corporation to do so.

(c) It shall be unlawful for any corporation, or any director, officer, owner, or manager of a corporation to use a corporation, to engage in the creation, use or siting within Randolph Township of unconventional extraction, production and delivery infrastructures or equipment.

(d) It shall be unlawful within Randolph Township for any corporation, or any director, officer, owner, or manager of a corporation to use a corporation, to store, transport or process waste water, "produced" water, "frack" water, brine or other materials, chemicals or by-products used in the unconventional extraction of shale gas or oil. It shall be unlawful for any corporation, or any person using a corporation, to deposit those materials into the land, air or waters within Randolph Township.

(e) Corporations in violation of the prohibitions enacted by this resolution shall not have the rights of "persons" afforded by the United States and Ohio Constitutions, nor shall those corporations be afforded rights under the 1st or 5th amendments to the United States Constitution or corresponding sections of the Ohio Constitution, nor shall those corporations be afforded the protections of the commerce or contracts clauses within the United States Constitution or corresponding sections of the Ohio Constitution.

(f) Corporations in violation of the prohibitions enacted by this resolution shall not possess the authority or power to enforce State or federal preemptive law against the people of Randolph Township, or to challenge or overturn resolutions adopted by the Board of Trustees of Randolph Township, when that enforcement or challenge interferes with the rights asserted by this resolution or interferes with the authority of the Township to protect the health, safety, and welfare of its residents.

(g) No permit, license, privilege or charter issued by any State or federal agency, Commission or Board to any person or any corporation operating under a State charter, or any director, officer, owner, or manager of a corporation operating under a State charter, which would violate the prohibitions of this resolution or deprive any Township resident(s), natural community, or ecosystem of any rights, privileges, or immunities

secured by this resolution, the Ohio Constitution, the United States Constitution, or other laws, shall be deemed valid within Randolph Township

#### **Section 4 – Enforcement**

(a) Any person, corporation, or other entity that violates any prohibition of this Resolution shall be guilty of a summary offense and, upon conviction thereof, shall be sentenced to pay \$1,000 for the first violation, and \$2,000 for each subsequent violation. A separate offense shall arise for each day or portion thereof in which a violation occurs.

(b) Randolph Township may also enforce this Resolution through an action in equity brought in a Court of competent jurisdiction. In such an action, Randolph Township shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees.

(c) Any Randolph Township resident shall have the authority to enforce this Resolution through an action in equity brought in a Court of competent jurisdiction. In such an action, the resident shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees.

(d) Any person who brings an action to secure or protect the rights of natural communities or ecosystems within Randolph Township shall bring that action in the name of the natural community or ecosystem in a court of competent jurisdiction. Damages shall be measured by the cost of restoring the natural community or ecosystem to its pre-damaged state, and shall be paid to Randolph Township or other applicable governmental entity, to be used exclusively for the full and complete restoration of the natural community or ecosystem.

#### **Section 5 – Effective Date and Existing Permit Holders**

This Resolution shall be effective five (5) days after the date of its enactment, at which point the Resolution shall apply to any and all commercial extractions of shale gas or oil in Randolph regardless of the date of any applicable permits.

#### **Section 6 – People's Right to Self-Government**

The foundation for the making and adoption of this law is the people's fundamental and inalienable right to govern themselves, and thereby secure their rights to life, liberty, and pursuit of happiness. Any attempts to use other units and levels of government to preempt, amend, alter, or overturn this resolution, or parts of this resolution, shall

require the Board of Trustees of Randolph Township to hold public meetings that explore the adoption of other measures that expand local control and the ability of residents to protect their fundamental and inalienable right to self-government. Such consideration may include actions to separate the Township from the other levels of government used to preempt, amend, alter, or overturn the provisions of this resolution or other levels of government used to intimidate the people of Randolph Township or their elected officials.

**Section 7 – Severability**

The provisions of this resolution are severable. If any court of competent jurisdiction decides that any section, clause, sentence, part, or provision of this resolution is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences, parts, or provisions of the resolution. The Board of Trustees of Randolph Township hereby declares that in the event of such a decision, and the determination that the court’s ruling is legitimate, it would have enacted this resolution even without the section, clause, sentence, part, or provision that the court decides is illegal, invalid, or unconstitutional.

**Section 8 – Repealer**

All inconsistent provisions of prior resolutions adopted by the Randolph Township Board of Trustees are hereby repealed, but only to the extent necessary to remedy the inconsistency

Seconded by \_\_\_\_\_

Vote: \_\_\_\_\_; \_\_\_\_\_; \_\_\_\_\_.