

Supervisor Dave Best called the meeting to order at 7:00 p.m.

Present: Supervisor-Dave Best, Clerk- Jennie Dagher, Treasurer-Carolyn Woodley, Trustee Ann Derderian & Trustee Dean Bedford

Also Present: Professor Gerry Fisher, Twp. Attorney Dennis McCarthy, Planner Doug Piggott, Planning Commission Board members, Chair - George Nash, members Dan Miller, Kevin Knisely, Phil Bellinger, Roger Hamilton, Lance Gould and those persons listed on the attached three sign in sheets.

This Township Board meeting is being held with the Metamora Township Planning Commission as a joint educational meeting with a presentation from Township Special Counsel Gerry Fisher regarding PA 113, it origins, provisions and meaning.

Approve Agenda

0001-16

Motion by Derderian, supported by Bedford to approve the agenda as presented. Motion carried, all voting aye.

Approve Consent Agenda

0002-16

Motion by Derderian, supported by Bedford, to approve the consent agenda as presented. Approval of regular meeting held December 14, 2015 and Special Budget Meeting held December 17, 2015, approval of December 2015 bills which cover checks #22828 thru #22968 for a total amount of \$ 84,557.58 which includes Township payroll and bills and checks #2411 thru #2417 for the amount of \$1,334.67 which includes Building Department payroll and bills. The total amount of Township and Building payroll and bills for December 2015 is \$85,892.25. Motion carried, all voting aye.

Public Time:

Republican State Representative Nominee Gary Howell introduced himself and that he will be on the March 8, 2016 Presidential Primary Ballot.

Fire Department Business:

Fire Chief Eady went over the Fire report with the Board.

January 11, 2016HELD
Metamora²⁰
Jennie Dagher page 2
Clerk

Township of

Form M-1-PY

The Rieg's Press, Inc., Flint, Michigan

0003-16

Motion by Woodley, supported by Bedford to approve sending John Tap Jr. to EMT School at a cost of \$800.00. Motion carried, all voting aye.

Police Department Business:

Chief Mallett went over the police report with the Board.

Township Business:

Supervisor Best handed the Township Board meeting over to our Township Attorney, Dennis McCarthy. Mr. McCarthy introduced Professor Gerry Fisher, Special Counsel for Metamora Township. Professor Fisher then proceeded to present his power point presentation on PA 113, its origins, provisions and meaning. Following this educational presentation, Professor Fisher had a question and answer session from the public.

Legal Counsel for Levy, Mr. J. Patrick Lennon, requested that the Petition of opposition which was sent to Metamora Township, in response to the Resolution establishing a Moratorium on gravel mining applications, which was approved at the December 14, 2015 Township Board Meeting be entered into the record. A copy of this petition of opposition is attached to the minutes.

Supervisor Business:

Nothing at this time.

Adjourn:**0004-16**

Motion by Bedford, supported by Derderian to adjourn Metamora Township Board Meeting at 8:02 p.m. Motion carried, all voting aye.


Jennie Dagher, Clerk
Recording Secretary
Dave Best, Supervisor

**CC: All Board Members
Persons requesting same**

Metamora Township Board Meeting

Sign up sheet

JANUARY 11, 2016

Please Print

NAME	COMPANY	ADDRESS
Matt VanSledright	AAOM	Laramie Village
Sarah Jones	AAOM	Wixom, MI
OLIVE M. Bedford		Metamora
Ralph Romanowski		Dryden
Richard Zanotti		FARMINGTON HILLS
DOUG & NAN TOPPIN		METAMORA
JILL BRISTOW		DRYDEN
Jeff Hogen		The County Press
GEORGE NASH		METAMORA
Anne Sourenis		Dryden
Lynn Knisely		Metamora
Pat Lennon		Honeyman
Chad Chisholm		Metamora
Kathy Jacob		Metamora
MIKE JACOB		METAMORA
Dore Eddy		

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Metamora Township Board Meeting

Sign up sheet

JANUARY 11, 2016

Please Print

NAME	COMPANY	ADDRESS
Wanda Moore		METAMORA
Mark & Melissa Calvert		Dryden
Victor Dzenkowsky		METAMORA
LINDA EGELAND		METAMORA
Simon Andzelewski		Dryden
Dennis Callewaert		Metamora
KAREN CALLEWAERT		METAMORA
PATRICK BETCHER		DRYDEN
Lynne Buttel		METAMORA
GRETTCHEN / ROBERT POTYK		METAMORA
Cindy Austin		Metamora
Rob + Sarah Champion		"
John Crawford		"
Emorya Christina Clark		"
Dan Malkett		
Mike Novak		"

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JANUARY 11, 2016

ADDRESS

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HONIGMAN

Honigman Miller Schwartz and Cohn LLP
Attorneys and Counselors

J. Patrick Lennon

(269) 337-7712
Fax: (269) 337-7713
Lennon@honigman.com

January 8, 2016

Via Pdf E-mail -- Clerk@metamoratownship.com

Mr. David Best, Township Supervisor
Ms. Jennie Dagher, Township Clerk

Re: Petition Objecting to "Resolution Establishing Moratorium on Gravel Mining Applications"

Dear Mr. Best and Ms. Dagher:

This Firm represents Edw. C. Levy Co. and its related affiliates and divisions, including American Aggregates of Michigan, Inc. (together, "Levy"). Subject to Levy's objections and reservations set forth below, this letter constitutes Levy's "petition" as an aggrieved party under the Resolution Establishing Moratorium on Gravel Mining Applications in Order to Consider New Statutory Standards" (the "Resolution"), a copy of which is attached to this Petition as Exhibit A.

As you know, the Metamora Township Board (the "Board") held a meeting on December 14, 2015. During that meeting, the Township Attorney introduced, and the Board imposed, the Resolution. The Resolution makes express reference to Levy and to the fact that Levy "has filed with Metamora Township an application seeking approval for gravel mining." The Resolution purports, among other things, to preclude the Township and its officials from processing or considering requests for approval of gravel mining in Metamora Township. It brought an immediate halt to the progress of Levy's application, which had taken months to prepare, was based on the existing law, and had already been received by the Township and scheduled for a public hearing before the Township Planning Commission.

The Resolution further purports to create a new and statutorily unauthorized "administrative remedy" for any "aggrieved party." But, as the Resolution notes, "the number of requests for approval of gravel mining uses has not been significant." Thus, as a practical matter, this putative "remedy" is aimed solely at disenfranchising Levy while delaying consideration of its application. The proffered justification for these actions is a desire to "study" and "examine" the zoning ordinance in light of 2011 PA 113 ("Public Act 113"). This, despite that Public Act 113 is a five-year-old amendment to the Michigan Zoning Enabling Act that simply restored—after a one-year interruption—the standard that had applied for the previous 30 years.

Notwithstanding that the Resolution consists of six full pages of text, complete with legislative and judicial discussion—and thus obviously was the result of significant advance

HONIGMAN

Mr. David Best
Ms. Jennie Dagher
January 8, 2016
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preparation—neither the Resolution nor any mention of a moratorium was included in the Agenda for the meeting. (Ex. B, Agenda.) Nor was Levy provided any notice that the Resolution, or any discussion of moratorium, would be raised at the meeting. This, despite that the Resolution expressly refers to Levy and its application, and despite that Levy is the owner of one parcel and the lessee of another parcel of land that are directly affected by this action.

Moreover, the Resolution itself was adopted for immediate effect just moments after being read into the record, without any public hearing, any discussion as part of an open meeting, any opportunity for submission of written comments, any input from the planning commission, or even a single question or remark from any Board member. Levy was not given an opportunity to prepare a statement or review a written copy of the Resolution before a vote was taken. The draft minutes of the meeting do not reflect the specific objections Levy was forced to make on the spot to the impropriety and unfairness of the proceeding, much less the substance of the Resolution. (Ex. C, Minutes.)

In light of these numerous procedural and other deficiencies, it is clear that the Resolution was not validly adopted. In essence, the Board has purported to amend the Township's zoning ordinance without following the requirements of the Zoning Enabling Act (*see* MCL 125.3401), the Open Meetings Act (*see* MCL 15.263), or its own amendment procedure (*see* Metamora Twp. Zoning Ordinance § 2002(B)-(D)). The Resolution therefore is void. *See Keating Int'l Corp v. Orion Twp*, 51 Mich App 122, 125 (1974) ("Failure to strictly adhere to the requirements of an enabling act voids any zoning ordinance passed pursuant to that enabling act."). In light of the foregoing, Levy hereby petitions the Board to annul the Resolution and urges the Township to consider Levy's application at the February planning commission meeting as previously scheduled.

The context in which these improprieties and procedural deficiencies arose is also deeply troubling. As the Board is well aware, efforts to mine the D-bar-A Property dating back to at least the early 1980s have been met with vocal opposition, most recently from the Metamora Land Preservation Alliance ("MLPA"). This has resulted in extensive and costly litigation. Since Levy filed its recent application, the MLPA once again has arisen—not in response to any particular aspect of Levy's proposal, but rather in opposition to any effort to mine sand and gravel in the Township, no matter how thoughtful the proposal.

As reflected in its application, Levy went to great lengths to develop its proposal in a manner that is sensitive to the environment and compatible with surrounding properties. And Levy has committed to work with the Township and all of its constituents—including the MLPA—to address any legitimate concerns and to provide accurate, open, and complete information about this important project, which ultimately will provide significant benefits to the Township and the surrounding region. Those efforts can only succeed, however, through a public, fair, and impartial process. Zoning actions based on capitulation to public pressure,

HONIGMAN

Mr. David Best
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January 8, 2016
Page 3

rather than the governing law, routinely are invalidated. *See, e.g., Nickola v Grand Blanc Twp*, 47 Mich App 684 (1973).

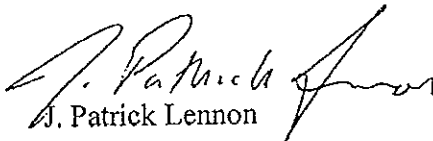
Levy urges the Board not to be led astray from its public obligations by false narratives, such as those pitting private property owners against local businesses, and by predictions of dire outcomes that allegedly will be substantiated sometime in the future by "experts" yet to be engaged. (See Ex. D, MLPA Newsletter; Ex. E, *Opposition Grows*, The County Press 12/27/2015.) Unlike the bare assertions of project opponents, Levy obtained reports from top experts and specialists in their fields who independently verified that "very serious consequences" will not result from the mining activities. Despite the submission of thorough and credible information, as the *Opposition Grows* article demonstrates, the passage of the Resolution already has been interpreted as an effort by the Township to gain "additional time to mount an opposition" to Levy's application. (Ex. E.) Levy sincerely hopes this is not the case, and that the Township intends to and will conduct a full and fair evaluation of Levy's application in light of the extensive data presented therein and the applicable law, including Public Act 113.

The foregoing is not, and is not intended to be, a complete statement of Levy's objections to the Resolution and to the procedure by which it was adopted. Levy's analysis is ongoing and it expressly reserves, and does not waive, all of its rights. Nor should this Petition be interpreted as an acknowledgment or admission that the purported exclusive administrative remedy set forth in the Resolution is valid or binding, which Levy expressly disputes. Levy submits this Petition solely in a continued effort to work collaboratively with the Township.

As always, thank you for your consideration. We are happy to answer any questions and look forward to seeing you on Monday evening.

Sincerely,

HONIGMAN MILLER SCHWARTZ AND COHN LLP


J. Patrick Lennon

Enclosures

c: Michael Nolan, Esq. (w/ encls, via e-mail)
L. Steven Weiner
Richard Zanoliti
Bob Doyle

EXHIBIT A
RESOLUTION

STATE OF MICHIGAN, COUNTY OF LAPEER

TOWNSHIP OF METAMORA

RESOLUTION ESTABLISHING MORATORIUM
ON GRAVEL MINING APPLICATIONS IN ORDER TO CONSIDER NEW
STATUTORY STANDARDS

RECITATIONS:

Metamora Township ("Township") has a zoning ordinance enacted in accordance with the Michigan Zoning Enabling Act, MCL 125.3101, and following sections.

During the past several years, there have been very material modifications in the law relating to Township review and approval of applications seeking the right to undertake mineral mining in Michigan, including gravel mining.

Until 1982, the law on this subject had been uncertain in terms of the standard of review applicable. In that year, the Michigan Supreme Court decided *Silva v Ada Township*, 416 Mich 153 (1982), in which the Court attempted to establish a rule of law on the review of mineral mining applications. However, there was controversy on this decision. On July 15, 2010, in *Kyser v Kasson Township*, 486 Mich 514 (2010), the Michigan Supreme Court concluded that the rule of law stated in *Silva* had been improperly decided, and held that the review of mineral mining applications should not be based on the rule in *Silva*.

After the 2010 *Kyser* decision, the Michigan Legislature has on two occasions amended that part of the Michigan Zoning Enabling Act to expressly address mineral and related mining in MCL 125.3205, with amendments being effective in 2011 and 2013.

Such new law has included special legislation applicable to the review and approval of applications submitted to local governments seeking approval of gravel mining.

MCL 125.3205(3) through (5) [collectively, "Gravel Mining Standards"], created by such new legislation, specifies as follows:

(3) An ordinance shall not prevent the extraction, by mining, of valuable natural resources from any property unless very serious consequences would result from the extraction of those natural resources. Natural resources shall be considered valuable for the purposes of this section if a person, by extracting the natural resources, can receive revenue and reasonably expect to operate at a profit.

(4) A person challenging a zoning decision under subsection (3) has the initial burden of showing that there are valuable natural resources located on the relevant property, that there is a need for the natural resources by the person or in the market served by the person, and that no very serious consequences would result from the extraction, by mining, of the natural resources.

(5) In determining under this section whether very serious consequences would result from the extraction, by mining, of natural resources, the standards set forth in *Silva v Ada Township*, 416 Mich 153 (1982), shall be applied and all of the following factors may be considered, if applicable:

- (a) The relationship of extraction and associated activities with existing land uses.
- (b) The impact on existing land uses in the vicinity of the property.
- (c) The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.

- (d) The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.
- (e) The impact on other identifiable health, safety, and welfare interests in the local unit of government.
- (f) The overall public interest in the extraction of the specific natural resources on the property.

(6) Subsections (3) to (5) do not limit a local unit of government's reasonable regulation of hours of operation, blasting hours, noise levels, dust control measures, and traffic, not preempted by part 632 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.63201 to 324.63223. However, such regulation shall be reasonable in accommodating customary mining operations.

The Gravel Mining Standards have materially altered the review and approval of applications for gravel mining in relation to the law announced in *Kyser v Kasson Township*, 486 Mich 514 (2010), and appear to represent a legislative attempt to reverse the Michigan Supreme Court on the interpretation of law and perhaps the constitution.

During the period after the enactment of the Gravel Mining Standards by the Michigan Legislature, and until recently, the so-called "great recession" caused the reduction in the need and demand for gravel in Michigan, and the number of requests for approval of gravel mining uses has not been significant.

Accordingly, the attention of Metamora Township and many other Michigan communities has not been focused on the Gravel Mining Standards.

The Edward C. Levy Co. ("Levy") apparently believes that this period of low demand for gravel resources may be changing, and has filed with Metamora Township an application seeking approval for gravel mining on hundreds of acres of land, indicating in its application that it projects that the mining will last some 30 years, subject to market conditions.

Levy has stated to Township representatives that the Township's ordinances governing the consideration of gravel mining applications are unlawful, or contain inapplicable and invalid provisions, inconsistent with the Gravel Mining Standards.

Examination of the Township's ordinances in light of the significant swings in Michigan law relating to the review of applications for gravel mining (outlined above), and considering the enactment of the Gravel Mining Standards, the Township Board has found and determined that it would be of critical importance to the public health, safety, and welfare of the Township and its residents to study its ordinances with the view of determining whether amendment of the Township Zoning Ordinance with regard to gravel mining is necessary or appropriate.

Accordingly, the Township Board finds that it is necessary for the Township to study the Gravel Mining Standards and consider amending its Zoning Ordinance to accommodate such new standards and procedures, and finds that it should direct the Township Attorney to lead the effort to pursue such study and report to the Board a recommendation on amending the Zoning Ordinance within 60 days following the adoption of this Resolution.

Considering the complexity of this subject matter, the magnitude of the departure of the Gravel Mining Standards from customary planning and zoning, and the requirements to prepare draft ordinance provisions, consider the implications on nearby communities, conduct public hearings and provide members of the public with adequate opportunity to examine this issue and provide input to the Township, it is anticipated that the study and actions to consider amending

the Zoning Ordinance to conform with the Gravel Mining Standards will require at least four (4) months.

The Township cannot feasibly process and review applications for gravel mining until such amendments have been prepared, considered, and enacted.

NOW, THEREFORE, IT IS RESOLVED that the Township Board of Metamora Township hereby adopts a four (4) month moratorium on all requests seeking approval of gravel mining in Metamora Township, and during this four (4) month period, neither the Planning Commission nor the Township Board, nor any administrative official or consultant of the Township, shall process or consider requests seeking approval of gravel mining in Metamora Township.

IT IS FURTHER RESOLVED that the Township Board directs the Township Attorney to lead the effort to pursue a study of the need for, and best means of, conforming the Zoning Ordinance to the Gravel Mining Standards, and report the findings and recommendations from this study to the Township Board within 60 days following the adoption of this Resolution.

IT IS FURTHER RESOLVED that, in the event any private property owner in the Township alleges to be aggrieved by this moratorium based on the Due Process Clause, Takings Clause, or other provision of state or federal constitution or law ("Aggrieved Party"), the administrative remedy for such party shall be as follows:

- 1) The Aggrieved Party shall present a petition seeking relief to the Township Board, which shall include all of the following: a detailed statement of all grounds on which the party alleges to be aggrieved; the facts giving rise to the Aggrieved Party's claim; the opinion of one or more relevant experts, made under oath, supporting each and every conclusion supporting the Aggrieved Party's claim.

- 2) Upon receipt of such a petition, the Township Board shall seek such analysis of the claims by its consultants and experts as may be required to respond to the petition, and shall thereafter notice and conduct a public hearing on the allegations made in the petition.
- 3) After the public hearing, the Township Board shall review the materials submitted, consider the evidence presented at hearing, and have such evidence reviewed by its experts if found to be necessary by the Township Board, with the view of determining whether the claims of the Aggrieved Party are valid.
- 4) At the conclusion of its review, the Township Board shall either fashion a remedy which will obviate any violation of constitution or law found to exist, or deny the petition.

Motion by Trustee Derderian, supported by Trustee Bedford to adopt resolution as presented.

Roll Call Vote:

Ayes: Trustee Derderian, aye; Trustee Bedford, aye; Treasurer Carolyn Woodley, aye; Supervisor Dave Best, aye; Clerk Jennie Dagher, aye.

Nays: None

Absent and Excused: None

RESOLUTION DECLARED ADOPTED THIS 14TH DAY OF DECEMBER, 2015.

By: _____

JENNIE DAGHER,

Clerk for the Township of Metamora

CERTIFICATE

I, JENNIE DAGHER, Clerk of the Township of Metamora, do hereby certify that the above is a true and correct copy of a Resolution duly adopted by the Township Board of the Township of Metamora on the 14th day of December, 2015.

Dated: December 14, 2015

JENNIE DAGHER, Clerk

EXHIBIT B

TOWNSHIP BOARD MEETING AGENDA

METAMORA TOWNSHIP BOARD MEETING
AGENDA
December 14, 2015

Pledge of Allegiance to the Flag

Approve Agenda

Approve Consent Agenda

1. Approve Township Board regular Mtg. Minutes dated November 9, 2015. 2. Accept Treasurers report as presented. 3. Transfer Funds. 4. Approve Bills. 5. Assessor report December 2015

Public Time - Items not on the agenda:

A.

Fire Dept. Business:

A. Approval to rehire Tyler Bozigar to the Dept.

B. Approval to send Dan Sauve to EMT School at a cost of \$800.00

C.

Police Dept. Business:

A.

Township Business:

A. Attorney Chris Bzdok to review proposed amendments to Metamora Township Master Plan

Supervisor Business:

Adjourn:

EXHIBIT C

DRAFT MEETING MINUTES

MINUTES OF Township Board Meeting -

HELD December 14, 2015

Metamora

²⁰Jennie Dagher - Page 1

Township of

Clerk

Form MC-6PT

Do Not Print on Fire Machine

DRAFT

Supervisor Dave Best called the meeting to order at 7:00 p.m.

Present: Supervisor-Dave Best, Clerk- Jennie Dagher, Treasurer-Carolyn Woodley, Trustee Ann Derderian & Trustee Dean Bedford

Also Present: See attached.

Approve Agenda

0097-15

Motion by Derderian, supported by Bedford to approve the agenda as presented. Motion carried, all voting aye.

Approve Consent Agenda

0098-15

Motion by Bedford, supported by Woodley, to approve the consent agenda as presented. Approval of regular meeting held November 9, 2015, approval of November 2015 bills which cover checks #22700 thru #22845 for a total amount of \$195,139.74 which includes Township payroll and bills (also includes fire air packs at \$105,120.00) and checks #2406 thru #2410 for the amount of \$2,327.31 which includes Building Department payroll and bills. The total amount of Township and Building payroll and bills for November 2015 is \$197,467.05. Motion carried, all voting aye.

Public Time:

Commissioner Eady stated that the total cost county wide to run the special election on November 3, 2015 was \$121,741.01.

Fire Department Business:

Fire Chief Eady went over the Fire report with the Board.

0099-15

Motion by Woodley, supported by Derderian to approve rehire of Tyler Bozigar to the fire department. Motion carried, all voting aye.

0100-15

Motion by Derderian, supported by Bedford to approve sending Dan Sauve to EMT School at a cost of \$800.00. Motion carried, all voting aye.

MINUTES OF Township Board Meeting

HELD December 14, 2015

Metamora

Jennie Dagher page 2
Clerk

Township of

Form M-1 Police Department Business

The People Press, Inc., Flint, Michigan

Chief Mallett went over the police report with the Board. Chief Mallett also stated that Officer Amy Timmer turned in her resignation to be effective January 1, 2016. Officer Timmer has been an employee for the Township for 19 years and we wish her the best on her retirement.

Township Business:

Attorney Bzdok reviewed the three main elements on the proposed Gravel Master Plan and zoning amendments which were submitted to the Planning Commission Board by the MLPA. These proposed changes were approved by the Planning Commission and directed to the Township Board for their approval, which no action has been taken. Attorney Bzdok stated that they are asking the Board for action to be taken on the first and third elements and no action on the second element, the gravel overlay district at this time.

Township Attorney Mike Nolan, addressed the Board and offered information regarding the current state of the law regarding gravel mining and zoning issues, noted the blame/credit for the issues created by PA113 lies with the Michigan legislature which passed this amendment to the Zoning Enabling Act, and that as a result, advised the Board not to take action with regard to the proposed amendments offered by Mr. Bzdok at this time. To assist the Board in the analysis of the complex issues surrounding gravel mining in our community, Mr. Nolan publicly announced that the Board has retained attorney Gerry Fisher to serve as co-counsel with attorney Nolan.

Next, attorney Nolan proposed that the Board schedule a joint meeting of the Township Board and the Planning Commission at the next regularly scheduled Township Board Meeting to be held on January 11, 2016.

Attorney Gerry Fisher will address both Boards on gravel mining statutory standards, which the Township Board agreed to do.

Attorney Nolan then addressed the Board requesting that they consider the adoption of a resolution "Establishing a Moratorium on Gravel Mining Applications in Order to Consider New Statutory Standards" which follows:

0101-15

STATE OF MICHIGAN, COUNTY OF LAPEER
TOWNSHIP OF METAMORA

RESOLUTION ESTABLISHING MORATORIUM
ON GRAVEL MINING APPLICATIONS IN ORDER TO CONSIDER NEW STATUTORY STANDARDS

RECITATIONS:

Metamora Township ("Township") has a zoning ordinance enacted in accordance with the Michigan Zoning Enabling Act, MCL 125.3101, and following sections.

DRAFT

MINUTES OF

Township Board Meeting

HELD

December 14, 2013

Township of

Metamora

Jennie Dagher page 3 Clerk

Form M-1-PF

The Recorder's Office, Inc. 1000 Main

DRAFT

During the past several years, there have been very material modifications in the law relating to Township review and approval of applications seeking the right to undertake mineral mining in Michigan, including gravel mining.

Until 1982, the law on this subject had been uncertain in terms of the standard of review applicable. In that year, the Michigan Supreme Court decided *Silva v Ada Township*, 416 Mich 153 (1982), in which the Court attempted to establish a rule of law on the review of mineral mining applications. However, there was controversy on this decision. On July 15, 2010, in *Kyser v Kasson Township*, 486 Mich 514 (2010), the Michigan Supreme Court concluded that the rule of law stated in *Silva* had been improperly decided, and held that the review of mineral mining applications should not be based on the rule in *Silva*.

After the 2010 *Kyser* decision, the Michigan Legislature has on two occasions amended that part of the Michigan Zoning Enabling Act to expressly address mineral and related mining in MCL 125.3205, with amendments being effective in 2011 and 2013.

Such new law has included special legislation applicable to the review and approval of applications submitted to local governments seeking approval of gravel mining.

MCL 125.3205(3) through (5) [collectively, "Gravel Mining Standards"], created by such new legislation, specifies as follows:

(3) An ordinance shall not prevent the extraction, by mining, of valuable natural resources from any property unless very serious consequences would result from the extraction of those natural resources. Natural resources shall be considered valuable for the purposes of this section if a person, by extracting the natural resources, can receive revenue and reasonably expect to operate at a profit.

(4) A person challenging a zoning decision under subsection (3) has the initial burden of showing that there are valuable natural resources located on the relevant property, that there is a need for the natural resources by the person or in the market served by the person, and that no very serious consequences would result from the extraction, by mining, of the natural resources.

(5) In determining under this section whether very serious consequences would result from the extraction, by mining, of natural resources, the standards set forth in *Silva v Ada Township*, 416 Mich 153 (1982), shall be applied and all of the following factors may be considered, if applicable:

(a) The relationship of extraction and associated activities with existing land uses.

(b) The impact on existing land uses in the vicinity of the property.

(c) The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.

(d) The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.

(e) The impact on other identifiable health, safety, and welfare interests in the local unit of government.

(f) The overall public interest in the extraction of the specific natural resources on the property.

(6) Subsections (3) to (5) do not limit a local unit of government's reasonable regulation of hours of operation, blasting hours, noise levels, dust control measures, and traffic, not preempted by part 632 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.63201 to 324.63223. However, such regulation shall be reasonable in accommodating customary mining operations.

The Gravel Mining Standards have materially altered the review and approval of applications for gravel mining in relation to the law announced in *Kyser v Kasson Township*, 486 Mich 514 (2010), and appear to represent a legislative attempt to reverse the Michigan Supreme Court on the interpretation of law and perhaps the constitution.

During the period after the enactment of the Gravel Mining Standards by the Michigan Legislature, and until recently, the so-called "great recession" caused the reduction in the need and demand for gravel in Michigan, and the number of requests for approval of gravel mining uses has not been significant.

Accordingly, the attention of Metamora Township and many other Michigan communities has not been focused on the Gravel Mining Standards.

The Edward C. Levy Co. ("Levy") apparently believes that this period of low demand for gravel resources may be changing, and has filed with Metamora Township an application seeking approval for gravel mining on hundreds of acres of land, indicating in its application that it projects that the mining will last some 30 years, subject to market conditions.

Levy has stated to Township representatives that the Township's ordinances governing the consideration of gravel mining applications are unlawful, or contain inapplicable and invalid provisions, inconsistent with the Gravel Mining Standards.

Examination of the Township's ordinances in light of the significant swings in Michigan law relating to the review of applications for gravel mining (outlined above), and considering the enactment of the Gravel Mining Standards, the Township Board has found and determined that it would be of critical importance to the public health, safety, and welfare of the Township and its residents to study its ordinances with the view of determining whether amendment of the Township Zoning Ordinance with regard to gravel mining is necessary or appropriate.

MINUTES OF Township Board Meeting

HELD December 14, 2015
Metamora Jennie Dagher 4

Township of

Clerk

Form M-1-PT

The People's Press, Inc., Flint, Michigan

Accordingly, the Township Board finds that it is necessary for the Township to study the Gravel Mining Standards and consider amending its Zoning Ordinance to accommodate such new standards and procedures, and finds that it should direct the Township Attorney to lead the effort to pursue such study and report to the Board a recommendation on amending the Zoning Ordinance within 60 days following the adoption of this Resolution. Considering the complexity of this subject matter, the magnitude of the departure of the Gravel Mining Standards from customary planning and zoning, and the requirements to prepare draft ordinance provisions, consider the implications on nearby communities, conduct public hearings and provide members of the public with adequate opportunity to examine this issue and provide input to the Township, it is anticipated that the study and actions to consider amending the Zoning Ordinance to conform with the Gravel Mining Standards will require at least four (4) months.

The Township cannot feasibly process and review applications for gravel mining until such amendments have been prepared, considered, and enacted.

NOW, THEREFORE, IT IS RESOLVED that the Township Board of Metamora Township hereby adopts a four (4) month moratorium on all requests seeking approval of gravel mining in Metamora Township, and during this four (4) month period, neither the Planning Commission nor the Township Board, nor any administrative official or consultant of the Township, shall process or consider requests seeking approval of gravel mining in Metamora Township.

IT IS FURTHER RESOLVED that the Township Board directs the Township Attorney to lead the effort to pursue a study of the need for, and best means of, conforming the Zoning Ordinance to the Gravel Mining Standards, and report the findings and recommendations from this study to the Township Board within 60 days following the adoption of this Resolution.

IT IS FURTHER RESOLVED that, in the event any private property owner in the Township alleges to be aggrieved by this moratorium based on the Due Process Clause, Takings Clause, or other provision of state or federal constitution or law ("Aggrieved Party"), the administrative remedy for such party shall be as follows:

The Aggrieved Party shall present a petition seeking relief to the Township Board, which shall include all of the following: a detailed statement of all grounds on which the party alleges to be aggrieved; the facts giving rise to the Aggrieved Party's claim; the opinion of one or more relevant experts, made under oath, supporting each and every conclusion supporting the Aggrieved Party's claim.

Upon receipt of such a petition, the Township Board shall seek such analysis of the claims by its consultants and experts as may be required to respond to the petition, and shall thereafter notice and conduct a public hearing on the allegations made in the petition.

After the public hearing, the Township Board shall review the materials submitted, consider the evidence presented at hearing, and have such evidence reviewed by its experts if found to be necessary by the Township Board, with the view of determining whether the claims of the Aggrieved Party are valid.

At the conclusion of its review, the Township Board shall either fashion a remedy which will obviate any violation of constitution or law found to exist, or deny the petition.

Motion by Trustee Derderian, supported by Trustee Bedford to adopt resolution as presented.

Roll Call Vote:

Ayes: Trustee Derderian, aye; Trustee Bedford, aye; Treasurer Carolyn Woodley, aye; Supervisor Dave Best, aye;

Clerk Jennie Dagher, aye.

Nays: None

Absent and Excused: None

RESOLUTION DECLARED ADOPTED THIS 14TH DAY OF DECEMBER, 2015.

By: _____
 JENNIE DAGHER,

Clerk for the Township of Metamora

CERTIFICATE

I, JENNIE DAGHER, Clerk of the Township of Metamora, do hereby certify that the above is a true and correct copy of a Resolution duly adopted by the Township Board of the Township of Metamora on the 14th day of December, 2015.

Dated: _____

 JENNIE DAGHER, Clerk

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The Board's Public Hearing Notice

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Finally, attorney Nolan indicated that the correspondence received by the Township from Edw. C. Levy's attorney, Mr. Pat Lennon, of Honigman Miller Schwartz and Cohn LLP, dated December 11, 2015 and September 23, 2015, respectively, should be recognized and received into the record which are included to the minutes of this meeting in opposition to the proposed amendments to the Master Plan and Zoning Ordinances submitted to the Planning Commission and the Township Board by Mr. Bzdok which follows....

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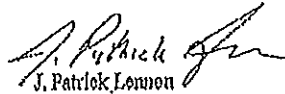
Beyond possible impacts on our client, we would also suggest that you confirm you have complied with the appropriate process. We have not had the opportunity to fully investigate these matters, but trust you will consider the possible issues that may arise as a result of the 17 month delay. There may be questions or issues about expiration of the Planning Commission approval, the rights of adjoining governmental units to new notices, and whether the Amendments must be returned to the Planning Commission. We trust the Township Board will fully analyze and confirm they are in compliance with these issues/requirements before considering and/or approving the Amendments.

We hope the foregoing discussion and the enclosed letter are of assistance. We look forward to participating in the Township Board meeting and further sharing our thoughts. In the meantime, we understand this and the attached letter will be included in the record and provided to the members of the Township Board. Please let me know as soon as possible if that will not be the case.

As always, thank you for your consideration of the positions set forth herein. We are happy to answer any questions and look forward to seeing you on Monday evening.

Sincerely,

HONIGSMAN MILLER SCHWARTZ AND COHN LLP


J. Patrick Lennon

Enclosure

cc: Michael Nolan (w/ enc via e-mail)
L. Steven Welner
Richard Zanotti
Bob Doyle

350 East Michigan Avenue • Suite 300 • Kalamazoo, Michigan 49007-3800
Detroit • Lansing • Grand Rapids • Ann Arbor • Kalamazoo

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rezoning to the Overlay District and obtaining a special land use approval) also violates the exclusionary zoning provision, other provisions of the Michigan Zoning Enabling Act and other applicable laws.

The idea that the Amendments (or more particularly the ordinances) would not exclude mining because they grant Gravel Overlay District status to existing mines is legally meaningless and can be better explained as an attempt to disguise complete exclusion. See e.g., *Evelius Typ v H & D Trucking Co*, 181 Mich App 25 (1989). This approach ignores the fact that existing mines would be entitled to legal non-conforming use status even if they were not part of a Gravel Overlay District. As such, their so-called "inclusion" is nugatory and does not protect the Amendments (or any ordinances enacted pursuant thereto) from PA 113, prohibitions against exclusionary zoning or other challenges.

The Planning Process Should be Based on the Location of Minerals and Should Include Input from Mining Professionals

The planning approach that the Township has used to this point in the process is flawed. As we pointed out in our recent meeting, customary mining related land planning typically begins with an analysis of where the minerals are located, after which zoning districts and specific mining ordinances are tailored to the designated locations. This approach enables land owners, neighbors and others to plan, invest and develop reasonable expectations regarding present and future uses. Unfortunately, the customary location based planning approach has not been used to this point. Instead, the Amendments ignore the location of the minerals and bestow Township leaders with the discretion to approve or deny any future mines through their power to grant or deny a proposed Overlay District. Even when viewed in its most favorable light, this approach creates uncertainty, has the potential for inconsistency (and mischief), eliminates planning opportunities and excludes new mines in the Township. When viewed in a more skeptical light, the approach can be seen as total exclusion of mining that attempts to veil itself as planning. As discussed at our recent meeting, whatever flaws may have occurred to date, the Township still has the opportunity to (1) determine where the minerals are located, (2) tailor the Amendments (and any ordinances) to the identified locations, and (3) develop a plan that balances interests, conforms to applicable law and that can be relied on by landowners, neighbors and the community at large.

In addition to failing to consider the location of the minerals in its planning process, it also appears that the Township has received disproportionate input, participation and influence from anti-mining interests and virtually no input or participation from mining professionals. We have learned that the self-styled Metamora Land Preservation Alliance ("MLPA") has been the driving force behind imposition of the Amendments. The MLPA, an organization that is openly opposed to mining, even produced a Memo to Metamora Township dated August 24, 2012 which proposed the language for the Amendments and the zoning ordinances that would carry them out. We note that the substance of the current Amendments is essentially the same as the MLPA's desired language. The Memo also openly targeted limitations on mining

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and brazenly (and inaccurately) suggested approaches directly intended to circumvent PA 113 under the guise of complying with it. In addition, one member of the planning commission expressly understood that the true intent of the Memo was to ban mining. See March 13, 2013 Planning Commission Minutes p. 2. Beyond its Memo to the Township, the MLPA has circulated communications and letters that also contain inaccurate information, misstate the law and lack credibility. Given the MLPA's stated goals, the Township would be unwise to rely on information or legal positions the MLPA "offers" in support of the Amendments.

The apparent influence of the MLPA is exacerbated by the lack of input and participation from those that represent mining interests (at least prior to Levy's recent involvement). To this point, there has been no counter-balance to the anti-mining positions of the MLPA and no "check" on its legal positions or the credibility of its information. This "vacuum" has resulted in a process that has taken the Amendments well beyond compliance with applicable laws. Fortunately, the Township still has an opportunity to address the shortcomings and involve mining professionals in the process. Mining professionals have the most current and complete information, the most at stake and can identify the location of the mineral resources. All of this information and input can be used to develop the most effective and balanced plans. The failure to consider these perspectives and use this information would not only lead to an inferior plan (and Amendments) but also could raise questions about the legality of the process and jeopardize its results. As discussed further herein, we hope the Township will consider information produced by mining interests (just as it considered the Memo and other information produced by the MLPA) and will modify the Amendments (and zoning ordinances) in a way that balances the interests and conforms to applicable law.

Ongoing Litigation and Specific Impact on Levy's Current
Interests in Metamora Township

The Amendments, and all of the Township discussion related to them, have also overlooked a very important fact: Levy and the Township remain parties to ongoing litigation related to the denial of Levy's rezoning application of a portion of the so-called "Boy Scouts Property."¹ The Township is advised that the litigation is active and considers its application to rezone the Boy Scouts Property to be pending (albeit presently confined within the jurisdiction of the Circuit Court). Levy expects the Township to comply with the direction from the Michigan Court of Appeals holding which overturned the dismissal and confirmed Levy's right to proceed with the litigation. In the interim, none of the Amendments should apply to either Levy or the Boy Scouts Properties. The application to rezone the Boy Scouts Property was submitted long before the Amendments were contemplated and that application remains the subject of ongoing litigation. Indeed, the MLPA's proposed Master Plan Amendments directly reference the Boy Scout's 2005 application as a driving force for the Amendments.

¹ See Edward G. Levy Company v Metamora Township, Lower Circuit Court, Case No. 06-037612-02

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If approved, the Amendments (and any zoning ordinance modifications) would also essentially eliminate Levy's existing right to mine (as a special land use) the parcel known as the "Guy Property." If the Amendments (and zoning ordinance modifications) are bypassed, the special land use rights would be revoked, the property would be rezoned (as discussed in detail above) and Levy would be required to attempt to zone the property back and obtain a special land use permit in order to mine it. The problems and issues inherent in re-zoning to Gravel Overlay District are also discussed in detail above.

In addition to the failures to comply with PA 113, violations of law prohibiting exclusionary zoning and failure to comply with proper administrative processes, the Township should be aware of other potential infringements that could trigger legal rights. For example, the elimination/revocation of a permitted use (such as mining even if only by special land use) can amount to a taking of property which would require compensation. Michigan law makes clear that a government action which interferes with a land-owner's distinct investment-backed expectations (among other factors) can be treated as a taking. In this particular case, the damages that could arise from such a taking could be extraordinary. In addition, the imposition of the Amendments (and amendments to the zoning ordinance), under these circumstances could form the basis for claims under Michigan's due process clause, the equal protection clause and/or additional claims based on Michigan and Federal constitutions including damages under 42 USC 1983 for the violation of federal constitutional rights. The specific circumstances and conduct that form the basis for any such claims might also justify claims for financial damages from the Township. We obviously hope to avoid all claims of any kind and would prefer to focus on ways the parties can work together.

**The Amendments Should be Modified to Conform to Applicable Laws
and to Balance the Interests of the Stakeholders**

At the end of the day, Levy genuinely hopes to avoid litigation (and any conflict for that matter) with the Township and/or the MLPA. At the same time, the Amendments threaten Levy's business interests and legal rights. The Township should resolve input from mining professionals and make modifications to the Amendments (and any ordinances that carry them out) that would conform them to applicable laws and also balance the interests of the stakeholders.

As discussed, Levy is comfortable reaching out to MLPA leaders and other stakeholders in an attempt to establish consensus as to certain modifications to the Amendments. We look forward to undertaking these efforts and will do so in good faith and with the best intentions. At the same time, we are well aware of the MLPA's stated goals, the approach it has taken to date (which previously excluded mining interests), its erroneous interpretation of applicable law and the strident positions taken in its Memo. Given the circumstances, we would be surprised if the MLPA changes course proves to be sensitive to mining interests or the requirements of applicable law. Nonetheless, we genuinely hope we can find common ground on certain issues

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that lead to reasonable modifications to the Amendments that resolve our differences. We look forward to the next steps in the process and will keep you informed as it moves forward.

If these efforts prove futile, the Township is reminded that it must still consider the impact of its decisions on all of the landowners in the Township, the requirements of applicable law and Levy's specific legal rights. We expect the Township to give appropriate weight to the credible information that is being (or will be) provided by mining professionals and to make its determinations accordingly. We hope we can reach consensus on these matters with all of the stakeholders, but even if that is not possible, we trust that the Township will address the deficiencies in the current form of the Amendments and develop modifications that would balance the interests of the stakeholders and comply with applicable law.

Once again, we appreciate your time and participation in our recent meeting. We also appreciate your consideration and attention to the thoughts and positions set forth herein. We trust that this information will be provided to the Township and included in the record. As always, please do not hesitate to contact us with any questions.

Sincerely,

HONIGSMAN MILLER SCHWARTZ AND COHN LLP


J. Patrick Lennoy

cc: L. Steven Weiner
Susan K. Friedlander.

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Following the movement of the Resolution by Trustee Derderian and the support of the Resolution by Trustee Bedford, attorney Lennon was recognized from the floor to allow him to state his formal objection the Resolution presented.

Supervisor Business:
Nothing at this time.

Adjourn:
0102-15

Motion by Derderian, supported by Bedford to adjourn Metamora Township Board Meeting at 7:26 p.m. Motion carried, all voting aye.

Jennie Dagher, Clerk
Recording Secretary

Dave Best, Supervisor

CC: All Board Members
Persons requesting same

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Township of _____

Clerk _____

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The People's Press, Inc., Flint, Michigan

Metamora Township Board Meeting

Sign up sheet

December 14, 2015

Please Print

NAME	COMPANY	ADDRESS
Dave (Ady) Fire/County	3648	Metamora Lake Dr Metamora
GEORGE NASH	3488	METAMORA RD METAMORA
Pgt Lennon Hongman	350 E Mich Ave	Kalamazoo MI
Sarah Somes Levy	51445 W. 12 Mile Rd.	Wixom, MI
Wes WICKHAM	2517 CLARK ROAD	Lapeer
Ben FALBAUM	LEVY	
Bob Doyle	201 Depot	Ann Arbor 48104
OLIVE BEGERD		Metamora
Kathy Jacob	145 W SUTTER RD,	Metamora
MIKE JACOB	145 W SUTTON RD,	METAMORA
DENIS GILWAERT	4600 GARDNER,	METAMORA
Sarah Champion	2250 Dryden Rd	"
Rob Champion	"	"
ANDREW BRANDERS	1600 E. DRYDEN RD.	
David Horington	2145 Hendrie	
Linda Egeland	11 East High Street	Metamora
Ed Stone	4267 Gardner Rd	metamora

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Metamora Township Board Meeting

Sign up sheet

December 14, 2015

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NAME	COMPANY	ADDRESS
Phil Boring		412656 Lakeview MET.
Bob Bityk		4687 Blood Rd
Gretchen Bityk		4687 Blood Rd
LINDA BLAIR		217 STOCK ROAD 48455
CRAIG Sizemore		3386 metamora Rd
Emery & Christina Clark		3809 Wilber Rd.
Don Blair		217 Stock Rd
Deborah Spokeld		2890 Wilber. 48455
Wendy MOORE		2399 OLDS
David Mallett		M.T.P.D.
Keith Kanasty		500 Hawk High Hill
Shane Bertles		3879 Sullivan
Mike Novak		477 Shalimar Rdg
Kathleen Whitman		3897 N. Oak
Peter Gilkes		2851 Casey
LORI BLAKER		4590 Barber

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Sign up sheet

Please Print

ADDRESS

Lucy Coole Dougherty Johnson
David Eddy 3409 Metamora Rd
Rae Warner
Robert Kahler 4111 Glend Rd.
Arona Porro 365 Stock Rd
Jane Schade 1466 Sutton Metamora

EXHIBIT D
MLPA NEWSLETTER



Dear Friend of Metamora,

As you may know by now, in order to start an enormous mining operation in Metamora, the Levy Company and the Boy Scouts have sought conditional rezoning, a Special Land Use permit, and a soil removal permit. In short, the Boy Scouts and Levy propose:

- * 496 acres will be excavated from a 724 acre site
- * 30 year project lifetime (approximate)
- * 100 trucks in and 100 trucks out a day on Dryden Rd, 5 days a week, and perhaps 50 trucks in and 50 out Saturdays
- * 406 acres of woodland removed
- * All within 1500 to 2000 feet of a Superfund contamination site still undergoing remediation.

See dbaraproject.com. To fight this mine, we have retained Chris Bzdok of Olson, Bzdok & Howard, www.envlaw.com. Chris has been named a best lawyer in America and a Michigan Super Lawyer both in environmental law; has served as Mayor of Traverse City; and an Adjunct Professor of Law at Michigan State University College of Law. Chris has the needed experience with sand and gravel projects to help us navigate the long path to success. ***And make no mistake, Chris and the MLPA believe we can defeat this proposal.***

Winning will take time and it will take effort. We ask you to help us. Talk to your neighbors; talk to those who visit; help them understand that a mine of this size destroys towns — and fundamentally alters the families, businesses, and lives within them. We will keep you up to speed on what's happening and what you can do to help. We need you to help gather interest and ideas in the fight. Most importantly, there will be two critical points in the process where community participation is of paramount importance.

- The first will be a public hearing — yet to be scheduled — at which the Township will hear arguments for and against the proposal. Anyone and everyone should show up to let the Township know that you oppose this mine. We need 100s of people!!
- The second would be a vote on a referendum *if* the Township votes for the mine. Again, we would need 100s of people.

In the meantime the Planning Commission meets the second Wednesday of every month and the Township Board meets the second Monday of every month. You certainly can attend these meetings; we will do our best to keep you up to speed on developments along the way.

In the week after Levy submitted its proposal, MLPA renewed its request to the Township Board (which had been approved by the Planning Commission in 2013) (1) to strengthen the Master Plan by describing the impact of increased mining on other Township planning goals and (2) to incorporate the standards of a recent law, Public Act 113, into the zoning ordinance to be used when deciding a request for mining or a request for a Special Land Use permit. The Levy Company submitted objections to MLPA's request.

In response, the Township Board adopted a four month moratorium on all requests seeking approval of gravel mining in Metamora Township, determining it was of "critical importance to public health, safety, and welfare of the Township and its residents to study its ordinances with the view of determining whether amendment of the Township Zoning Ordinance with regard to gravel mining is necessary or appropriate."

We will not sit still during these four months. The MLPA is already identifying experts in geology, groundwater pollution, traffic safety, and property values to make clear at the public hearing that "very serious consequences" (the applicable legal standard) would result from this mine. It might seem obvious that the Town would be entirely decimated by this mining operation — for decades — before being able to start thinking about recovery or reclamation, but Levy will argue that no significant harm will be done and that the Boy Scouts and the Township will benefit. A Levy Company representative has already asked to speak with MLPA leadership to provide the Company's perspective. We need to make clear to Levy, to the Township and eventually to a Court if litigation ensues, how incredible Levy's claims are.

There is much work ahead of us. We ask you to consider making a donation to the MLPA. To fight this will require money to hire experts, to pay counsel, to drive any needed ballot referendums, to study the Levy proposal so we can convince the Township and eventually a Court that the mine presents "very serious consequences" to the Township — to you and to your neighbor. Please send your tax deductible donations to: MLPA, P.O. Box 203, Metamora, MI 48455

We have a wonderful town. Please help us fight for it.

Sincerely yours,

The MLPA Board

P.S. In the December 16 Lapeer County Press, pg. 4A under "Sound Off", the paper asks "Tell us what you think: the Boy Scouts stands to make a substantial profit if the mining of D Bar A is allowed. How do you feel about that?" Call or write and tell them!

Metamora Land Preservation Alliance is a 501(c)(3) non-profit organization. Your contribution is tax deductible as provided by law.

EXHIBIT E

COUNTY PRESS "OPPOSITION GROWS" ARTICLE



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2015-12-27 / News

Opposition grows against gravel mine application in Metamora Twp.

BY JEFF HOGAN

810-452-2640 •

jhogan@mihomepaper.com

METAMORA — Opposition and concern among local officials, residents and business owners continues to grow regarding announced plans to mine gravel on the D-Bar-A Boy Scout Ranch that would result in dozens of gravel haulers every day passing through the normally quiet village of Metamora.

On Monday, the Metamora Village Council unanimously approved a resolution to support the four-month moratorium on gravel mining adopted by the Metamora Township Board at a Dec. 14 meeting. The temporary ban was passed by township officials at the recommendation of their legal counsel, who sought additional time to mount an opposition tactic to an application by the Levy Company that seeks to mine gravel from a 500-acre section of the sprawling Boy Scout Ranch.

The Levy Company and its subsidiary, American Aggregates, have filed an application for a 30-year lease on the property to mine gravel used in road construction and cement and asphalt production. Access to the property is proposed to be limited to one driveway on the north side of Dryden Road, located approximately 900 feet west of Ribble Road.

"That kind of volume of heavy trucks all day would have serious effects on downtown Metamora. It's a big concern, for sure," said Metamora Village Clerk Tina Sauve. "We really have no say, because the property is in Metamora Township, but we wanted to show support for the township's position because we're all in this together."

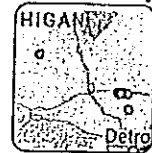
Probably nobody has more at stake than Victor Dzenowagis, who, along with his wife, Linda Egeland, has spent three years and more than \$3 million to renovate and reopen the historic White Horse Inn that includes a massive outdoor deck only feet from Dryden Road.

Dzenowagis attended Monday's meeting at the village offices, located directly across the street from the White Horse on High Street (Dryden Road) that would see heavy truck traffic if the permit application is approved, as sought by the Boy Scouts of America and American Aggregates.

"This will destroy this community," said Dzenowagis. "Metamora will become a place not to go to. It's more than me and the businesses down here, but it will affect the entire community. The whole horse-country quaintness. It's a way of life that will go by the wayside if this is allowed to go through."

He remains hopeful that the legal experts Metamora Township has retained will be able to demonstrate the very serious consequences the mining application will have on the community, and thereby halt the permit process.

Where's the story?



9 Points Mentioned

The southeast section of the D-Bar-A Ranch property targeted for gravel mining is currently zoned A-1 (Agriculture) and allows for gravel mining, unless it can be demonstrated that the activity would have very serious consequences.

"It's the village that would be affected the most," said Dzenowagis. "The trucks would be passing within 10 to 12 feet of the White Horse, Mike Nolan's law offices and the Salt Box. These are old buildings that are going to be rattled by they say as many as 100 gravel trucks a day."

Wes Wickham, chairman of the Metamora Area Chamber of Commerce's Board of Directors, expects the chamber to take up the issue when it meets in January. "It's something we'll definitely be talking about. It has a lot of people worked up, and understandably," Wickham said.

The Dryden Road truck route would also carry gravel trains through the village of Dryden on their way to Rochester Road and M-53 and points south.

Dzenowagis, who is a Dryden Township resident, plans to attend the next Dryden Township meeting set for 7 p.m. Jan. 12 and ask the board to approve a resolution similar to those adopted by Metamora Township and the Village of Metamora.

Dryden Township Supervisor Tina Papineau expects the gravel mine application issue to impact their community as well. "I heard there may be some people coming to talk about it," she commented.

Berl Falbaum, a media relations spokesperson who attended the Dec. 14 meeting with Levy legal counsel, commented, "We intend to be at all the public meetings. We will work with the community ... We have always been a good corporate neighbor. We look forward to working with officials as we go forward."

The Metamora Township board and its planning commission will hold a joint meeting open to the public at 7 p.m. Jan. 11 at the township hall. Officials and area residents will hear an update by township attorney Mike Nolan and Gerry Fisher, a leading voice in Michigan on legal matters related to gravel mining.

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