

May 27, 2025

Mrs. Amy Liberty
Eureka Township Deputy Clerk
25043 Cedar Ave
Farmington, MN 55024

Dear Mrs. Liberty,

Enclosed is citizen input for the Public Hearing on June 3, 2025 regarding non- resident landowner L Chard & Operator MPM applicant's request for significant revisions to our existing mine ordinance which will negatively impact Eureka Township residents.

I request and understand this will be part of PC June 3rd meeting packet and included in meeting minutes.

Thank you.

Best Regards,



Bill Clancy
Past Chair of the Planning Commission
Resident of Eureka Township
25511 Ipava Ave Lakeville MN 55044

May 23, 2025

RE: FACTS - EUREKA TOWNSHIP MN - EXISTING MINE ORDINANCE

Refer the Text Amendment Application submitted by OMG Midwest dba MPM on behalf of the property owned by Leroy Chard at 5100 235th St W Farmington. Extensive records on file based on meetings held by Eureka Township Planning Commission and / or Town Board shows that:

- 1- **The original / existing mine** that operated previously was the Number One Violator of Township ordinances and generated many citizen complaints when operating. It is still in violation of the agreed upon reclamation in the original IUP, despite many meetings to discuss / identify options, with the Township on record "tell us what you can do if you can not do the original reclamation plan" to no avail.
- 2- **After many years of repeated IUP violations by MPM Operator / Chard Landowner**, and with limited enforcement options, the Planning Commission reviewed for over one year the mining ordinances of many surrounding communities and drafted a new ordinance incorporating best practices. During this same period a neutral third party was creating a recommended Mining Ordinance Model for Dakota County. When compared to the Eureka ordinance implemented it is very similar on major attributes. The applicant's "your ordinances are too restrictive" is a false narrative by individual who never complied with our old more lax ordinances.
- 3- **The expansion** of the mine west of the pipeline generated much concern by citizens regarding negative impact on quality of life and property value as evidenced by citizen letters and attendance at Public Hearing.

Key to expansion is allowing mining extraction and / or processing within 1,000 feet of existing residences. (*Point of Reference- When you take Exit 81 at McStop Hwy 70, before you cross over the bridge to cross Hwy 35 you have traveled over 1,000 feet.*)

The Environmental Assessment Worksheet (EAW) for the additional 55 acres of the 155 acre parcel dated September 2020 had many inconsistencies and errors, reviewed in working sessions with MPM and finally also the authors from Bolten & Menk. They withdrew it and said they would re-submit but never did.

Note- Aside from numerous errors, it was prepared solely by B&M, and not in conjunction with PC per our ordinances. When asked why, B&M representatives publicly stated "because our client who hired us directed us to do so." This is just one of many examples of ignoring our ordinances.

4- **Beware the applicants desire to circumvent the Town Board and our ordinances entirely** by inserting clauses such as “unless there is an agreement between the operator and the landowner to reduce setbacks”. They did this previously at the original mine. An agreement between Landowner and or Operator with a nearby landowner should not legally override Town Board nor local ordinances.

5- **Beware the applicants desire to expand source of Materials brought into Township as well as allow crushing.** The existing mine is played out in terms of gravel per MPM representatives both in and outside of meetings; “basically sand with limited commercial appeal, too small for us”. The real dollar value lies in the west side expansion and gravel extraction. The real use of the existing area would be to process material from the new expanded area, and, re-establish crushing facility of imported materials from outside Township.

Note- This was a major source of noise (safety horns beeping with trucks backing up), operating outside permitted hours / days, and truck traffic previously.

6- **In closing,** Documentation of all of the above is on file / in writing.
It is a massive pile of records that would require extensive time to review by Planning Commission and Town Board to sort through. To be helpful, I have enclosed just a few documents buried in years of Township files. *The Citizens in their letters said it best.*

Thank you for considering this input.



Bill Clancy
Former Chair of Planning Commission
Resident of Eureka Township
25511 Ipava Ave

Enclosures:

Examples of Citizen Letters, 9 letters, 10 pages.

Public Hearing Finding Of Facts June 22, 2021, 2 pages.

Town Board Annual Review ltr draft detailing over three violations in 2021, 2 pages.

B Clancy memo rebutting Feb 2023 MPM statements with violations overview page 2.

Eureka Township
25043 Cedar Ave.
Farmington, MN 55024

6-16-21

ATTN: Raneé Solis

In regards to the possible consideration
of an amendment to mineral
Extraction Performance standards to
remove language which allows for the
waiving of setback requirement
relative to dwellings.

NO we cannot change the setback
closer than 1,000 feet from our homes

I'm over 88 years old and we worked hard
for our home. IT'S also the major part of our savings

We all know it will badly affect our health
and greatly reduce our homes values

IT'S LIKE stealing from us
so that someone else can make
a great profit at our expense.

thank you for understanding

Donald H Holz signed
Donald H. Holz

+ Glenda L Holz signed
Glenda L Holz

Sorry I no
longer have
a typewriter

23787 Essex Ave
Farmington, MN 55024

June 19, 2021

Dear members of the Eureka Township Planning Commission and Supervisors:

This letter is in support of the proposed amendment to the current mining ordinance in Eureka Township to maintain the 1000 foot setback for legal mining operations. This amendment would guarantee that Township landowners can continue to expect the quality of life they currently experience, without the possible intrusion of mining as close as 100 feet from their property. Such intrusion would have myriad negative effects, not the least of which are possible health hazards from noise and dust. Studies have shown property values in similar situations in the state to have dropped precipitously from pre-mining values and that same result would be expected in Eureka Township.

X Decisions of this scope and with such far-reaching ramifications for the Eureka Township citizens should not be made at the discretion of the sitting Township Board members. There is no reason to think that, given one exception to the rule, more would not be expected in the future. No elected governing body should have the power to make these exceptions on its own. Maintaining the 1000 foot setback as an ordinance would be advantageous to all Township residents and would contribute to the health, welfare and property values of those very residents. Surely these considerations for Eureka Township residents should be the primary motivation of the Township Board.

Please enter this letter in favor of enacting the proposed amendment to the current mining ordinance as part of the public record.

Arlene Goter
23775 Essex Avenue
Farmington, Minnesota 55024

Cc: Rane Solis

Clerk@eurekatownship-mn.us

RE: Proposed text amendment to the current Mining Ordinance in Eureka Township
June 16, 2021

To the Eureka Township Supervisors:

We are writing in support of the proposed text amendment to remove the exemption from the current Mining Ordinance that could allow mining closer than 1,000 feet from a residence.

The 1000 ft setback in our mining ordinance is the only protection Eureka residents have from losing our rural lifestyle & property values to unchecked aggregate mining expansion.

I have experienced first-hand the impact of mining on neighboring residents. The noise from equipment and excavating and backing-up beeping is extremely unpleasant and has a big impact on the quality of life, dust gets into homes and can cause lung issues, asthma, and other health problems, shaking can cause damage to pipes and structures. The Township Board should not have the ability to change the 1,000 ft setback distance in the ordinance at its discretion.

The setback in the current ordinance should not be negotiable by any sitting Township Board, no matter how well intentioned they may be. There is too much at stake for the residents of the township.

Please vote for the proposed text amendment and remove the section of the ordinance which allows the Township Board to reduce the 1000' setback at its sole discretion.

Thank you for listening to our concerns,

Atina and Martin Diffley

25498 Highway Ave

More Letters

In Favor

10 @ Steve H

✓

11 @ Voe

✓

12 @ Perry Wade

✓

13 @ L + B Topp

✓

Bill Clancy

From: clerk@eurekatownship-mn.us
Sent: Saturday, June 19, 2021 11:29 AM
To: jrdalarson@frontiernet.net; rwood@eurekatownship-mn.us; Bill Clancy; burkhardtpd@msn.com; chadbergndsu@gmail.com; dburkhardt@eurekatownship-mn.us
Subject: FW: Trevis Residence

-----Original Message-----

From: "Cindy Trevis" <cindyanddj@hotmail.com>

Sent: Saturday, June 19, 2021 11:20am

To: "clerk@eurekatownship-mn.us" <clerk@eurekatownship-mn.us>

Subject: Trevis Residence

To Whom it may concern:

My husband and I live at 5525 235th St W, near the MPM mine.

Because of the history of the gravel pit violations and the possibility of further expansion of mining closer to our home, we have with great anguish and despair decided to begin the process of putting our home up for sale before the inevitable loss of the value of our home. This forced choice of selling our home was not one we ever anticipated or planned, we hoped to live out our lives in our forever home.

Please forward this to the Board of Supervisors and Planning Commissioners.

Thanks,

Cindy Trevis

*Read into record
by Cindy Trevis*

Tom and Laura Ekness
24705 Essex Ave

Tom and I support closing the loophole in the existing ordinance regarding mining in Eureka Township. The current mining on 235 St has impacted our enjoyment of our property. We can hear the backup signals even though we are more than a mile from the source of the noise. We built our home more than 40 years ago to enjoy living in a rural environment away from the noise of town. We spend hundreds of dollars a year on feed for the birds and other critters. The mining of sand and gravel to pave sidewalks and pave roads while we seem to be stuck on a gravel road that will never see blacktop in our lifetime is a bitter pill to swallow. It is my understanding that the Metropolitan Council doesn't have any plan to pave Essex Ave anytime in the near future. I understand that we chose to live on gravel when we bought our property, but if we have to put up with the noise of mining in our area we should reap a reward for doing so. When we see new walking paths being paved along the new Co. Rd. 70 that seems unlikely to be of benefit to anyone currently, it doesn't seem fair that we have had our way of life impacted by the mining noise. The mining is for the financial benefit of a few at the disadvantage of those residents living close by. I have heard of the restoration of the land after the mining is completed. The land isn't restored. You aren't putting the sand and gravel back into the land. The drainage and soil is changed forever. We will also be impacted by increased traffic, and the intersection of Essex and 235th St is for the most part a blind intersection. The noise the dust and the increased traffic isn't worth the project for nearby residents

Tom & Laura Ekness

Bill Clancy

From: clerk@eurekatownship-mn.us
Sent: Sunday, June 20, 2021 7:48 PM
To: jrdalarson@frontiernet.net; rwood@eurekatownship-mn.us; Bill Clancy;
burkhardtpd@msn.com; chadbergndsu@gmail.com; dburkhardt@eurekatownship-mn.us
Subject: FW: Mining ordinance

Follow Up Flag: Follow up
Flag Status: Flagged

-----Original Message-----

From: "David Metzger" <metzusmc@frontier.com>
Sent: Sunday, June 20, 2021 3:28pm
To: clerk@eurekatownship-mn.us
Subject: Mining ordinance

Want to have this message entered as part of the record for Tuesday June 22nd meeting on proposed amendment to ordinance 6, chapter 7, section 1.
We (David and Kelly Metzger) support the proposed text amendment.

Bill Clancy

From: clerk@eurekatownship-mn.us
Sent: Sunday, June 20, 2021 7:48 PM
To: jrdalson@frontiernet.net; rwood@eurekatownship-mn.us; Bill Clancy;
burkhardtpd@msn.com; chadbergndsu@gmail.com; dburkhardt@eurekatownship-mn.us
Subject: FW: Proposed amendment to Ordinance 6 , Chapert7, Section1(M)
Follow Up Flag: Follow up
Flag Status: Flagged

-----Original Message-----

From: "Brian Ahern" <nbahern@gmail.com>
Sent: Sunday, June 20, 2021 5:05pm
To: clerk@eurekatownship-mn.us
Subject: Proposed amendment to Ordinance 6 , Chapert7, Section1(M)

Good Morning,
We would like to have our support for the proposed text amendment entered as part of the record.
Thank you,
Brian Ahern- 6215 235th St W, Farmington, MN 55024
Nancy Ahern -6215 235th St W, Farmington, MN 55024
612-860-1613

Bill Clancy

From: clerk@eurekatownship-mn.us
Sent: Friday, June 18, 2021 10:38 AM
To: jrdalarson@frontiernet.net; rwood@eurekatownship-mn.us; Bill Clancy; burkhardtpd@msn.com; chadbergndsu@gmail.com; dburkhardt@eurekatownship-mn.us
Subject: FW: RE: proposed text amendment (mining activity)

-----Original Message-----

From: "clerk@eurekatownship-mn.us" <clerk@eurekatownship-mn.us>
Sent: Friday, June 18, 2021 10:32am
To: "mjssell@frontiernet.net" <mjssell@frontiernet.net>
Subject: RE: proposed text amendment (mining activity)

Hi Ray and Mary Jo,
I have received your comment, it will be acknowledged at the public hearing and become part of the minutes.

Thank you,

Ranee Solis, Clerk
Eureka Township

-----Original Message-----

From: "mjssell@frontiernet.net" <mjssell@frontiernet.net>
Sent: Friday, June 18, 2021 10:00am
To: "clerk@eurekatownship-mn.us" <clerk@eurekatownship-mn.us>
Subject: proposed text amendment (mining activity)

Hi
Ranee!

Our names are Ray and Mary Jo Sell and we live at 5575 235th Street West Farmington, MN 55024. We want to go on record as supporting the proposed text amendment that would remove the section of the ordinance which allows the Township Board to reduce the 1000' ft setback at its sole discretion (concerning mining activity). We feel that if the Township Board should decide to reduce the 1000' ft setback in this area, it would adversely affect us and nearby property owners. Please enter our message as part of the record. We would greatly appreciate if you would confirm to us that our message has been recorded.

Thank you! Ray and Mary Jo Sell (651-463-8158)

Comment Letter on Text Amendment for Mining Ordinance

I support the proposed text amendment to clarify setbacks for mining of aggregate in the Township. Setbacks and buffers provide habitat and visual and noise screening, the value of which cannot be overstated. The more the public is screened from the unpleasantness of mining, the fewer complaints the Township will receive. Decreasing the set back to 100' would greatly exacerbate the negative impacts that mining already has on surrounding properties including:

- lowering property value
- increasing noise
- increasing vibration
- increasing fugitive dust with impacts on health and crops

I reproduce below a page of an open file report from Washington State on noise levels and setback distance. Note that loaders, crushers, and trucks are still in the "annoying to very annoying, hearing damage" range at 100 feet. It is only after they are set back over 1,000 feet that they reach the sound level of an air conditioner and allow for telephone use.

For safety purposes and to prevent failure of mine sides, setbacks also have to exceed the depth of the mine by *at least* 1.5 time the vertical height of the pit wall.

In addition, I would like to point out that it was never the intent to allow long-term, un-reclaimed pits to exist in the Township. Reclamation would ideally occur in stages as segments of the pit are exhausted or temporarily reclaimed following a dormant period of a few years.

Mine sites were never intended to be permanent locations for activities such as hot mix, asphalt or concrete plants. Those activities, if permitted at all, were to accelerate the depletion of the materials in the pit and allow for even earlier reclamation. That is why there is a limit on how much material can be imported into a pit. That material can also only be mixed with aggregate from the pit. Topsoil, mulch and other organic materials that are imported and stored or sold, unmodified are not allowed. Again, this is to accelerate depletion of the material in the pit and lead to reclamation of the area. That is the end goal; mine it out and then get out.

There are already too many former or dormant mine sites in the township that are improperly reclaimed. They are hazards to humans and wildlife, attract illegal dumping, off-road vehicles, and compromise groundwater quality, not to mention being unsightly.

Carrie Jennings, PhD, Professional Geologist license # 53476
8919 280th St. W
Eureka Township

Figure 3.7. Noise levels and human response for some common noise sources. (Modified from Barksdale, 1991.)

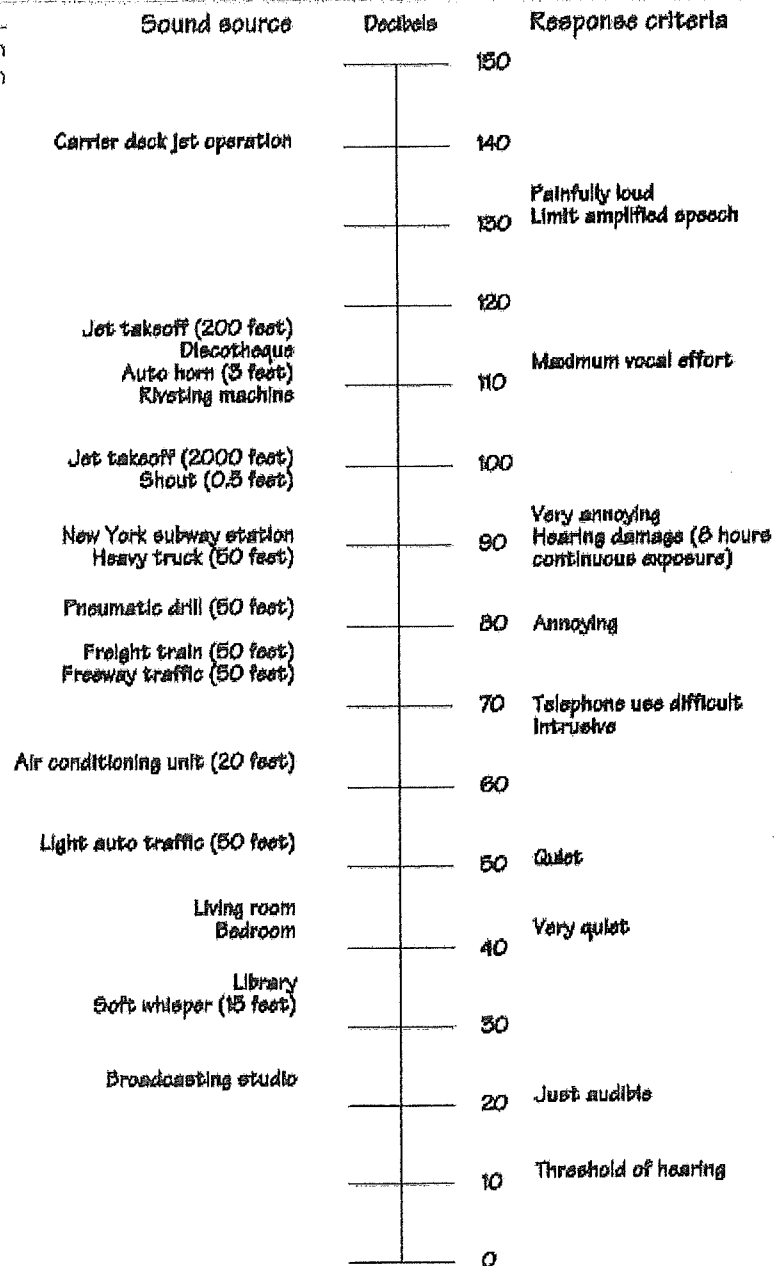


Table 3.1. Summary of noise measurements and projected noise levels in decibels (dBA) for common mining equipment (Barksdale, 1991)

Noise source	Measurements	Projected noise levels		
		1,000 ft	2,000 ft	3,000 ft
Primary and secondary crusher	89 dBA at 100 ft	69.0 dBA	63.0 dBA	59.5 dBA
Hitachi 501 shovel, loading	92 dBA at 50 ft	66.0 dBA	60.0 dBA	56.5 dBA
Euclid R-50 pit truck, loaded	90 dBA at 50 ft	64.0 dBA	58.0 dBA	54.4 dBA
Caterpillar 988 loader	80 dBA at 300 ft	69.5 dBA	63.5 dBA	60.0 dBA

Eureka Township Planning Commission Public Hearing 7pm June 22, 2021- Finding of Facts

Proposed Text Amendment-

Ordinance 6 Mining, Chapter 7, Section 1, Mineral Extraction Performance Standards, removal of language permitting Town Board to reduce 1,000 ft setback from a mine to dwelling.

Proper Public Notice- Given / Published.

Public Participation-

a-Numerous citizens wrote letters prior to the meeting, with many submissions less than one hour prior to Public Hearing. All letters received were read into the record / minutes. Many citizens spoke at the meeting. All citizens (except one speaking for his mining business interest) voiced strong support for the amendment. Citizen reasons will be recapped under "Rationale"

b- Several representatives of mining companies spoke at the meeting, asking Planning Commission not to approve the text amendment. Mining commercial interest will be recapped under "Rationale".

Planning Commission Action-

At the closing of the Public Hearing, the Planning Commission discussed the input received. A motion was made, was seconded, and passed to recommend to the Town Board the text amendment be approved.

Rationale for approval of text amendment-

Public and Planning Commission comments crossed a wide variety of topics-

①- Quality of life- Concerns exist about noise / dust /traffic. Concerns expressed about possible impacts on personal health and crops due to fugitive dust. Concern expressed about possible groundwater quality being compromised. Mining representatives stated that actions can be taken to mitigate concerns (different back up beepers, berms, etc.).

②- Impact on home value- Concerns exist about the negative impact an active mine, which often operate for decades, has on home values. Home values often represent a major portion of citizens financial assets. Operating mines can be unsightly if not properly screened.

Mining representatives referred to former mines that have been developed into beautiful neighborhoods with expensive homes as proof mines do not negatively impact home values over time. Citizens were referring to active mines negatively impacting their home values present day, not decades later upon reclamation completion. Citizens pointed out reclamation actual progress in active mine lags significantly.

- 3- Mine expansion- Mining representatives reiterated the need for aggregate. It appeared all parties agree that pressure for mining will continue / grow in Eureka Township.

Eureka Township is surrounded by four Townships, two of which do not permit multiyear commercial mining, and two which limit to Mining districts. Eureka does not limit mining to a Mining District and allows anywhere. Mining is permitted via a Interim Use Permits. Mining often continues for decades with recent EAW's requesting up to 40 years operational duration.

- * Citizens expressed concerns about "unchecked" aggregate mining expansion. Citizens referred to prior complaints / quality of life issues. Citizens complained of "the financial benefit of a few at the disadvantage of those residents living close by". One household reported they are on the verge of selling their home for fear of mining expansion and impact on their home value "due to anguish and despair." Citizens complained "....there are already too many former or dormant mines site in the township that are improperly reclaimed."

- 4- Town Board Discretionary Power to reduce Setback below 1,000 ft- This is the heart of the issue and text amendment removes that power. Citizens were clear with comments including:

"...not be negotiable by any sitting Township Board.... too much at stake....at its sole discretion."

"...intrusion....no elected governing body should have the power to make these exceptions on its own."

"...closing the loophole."

Citizens expressed concern that granting one reduced setback sets a new precedent ".... that will most likely become a new standard township wide".

- 5- Existing Text Amendment language-

a-The exact origin of the language in question is undocumented. Citizens who served on the original task force developing the language could not explain at what point this language became included in final draft.

b- As an example, the current landowner and resident (Virginia Windschitl) who still lives in the original farmhouse immediately adjacent to the MPM Mine, and, whose family sold the property that today is owned by MPM, commented how important the existing 1000 setback was to them and how they never foresaw it being reduced below 1,000 ft to allow any expansion.

b- The language requires the Town Board to operate under very subjective interpretations of the wording; in its nature allows broad discretion. This creates opportunity for legal challenges to the Township. This creates uncertainty for citizen homeowners in terms of quality of life and home value concerns, as well as potential buyers of homes.

Am7
M B M
K. L. H. W.

[Letter to MPM and MPM mine owner-Leroy Chard or CRH-which ever is the publicly listed owner]

Re: Conclusion of Eureka Town Board 2021 review of Amended Eureka Pit IUP Annual Report, Property ID # 13-01200-011-50

The record before the Town Board of Eureka Township shows that during 2021, the Eureka Pit had more than three violations of its IUP and the Eureka Ordinances. Two of the violations, as identified below, are deemed critical and will be carried over into the pit's record for 2022. The IUP for the Eureka Pit terminates in 2024. The Town Board will give the owner of the Eureka Pit written notice and an opportunity to be heard as provided in Ord. 6, Ch. 8 if the Town Board considers revoking the IUP prior to its established termination date.

Several, but not all, of the violations related to the Eureka Pit are set forth in the Eureka Pit annual review letter submitted by MPM to the Eureka Township Zoning Department, dated January 12, 2022. In that report, MPM incorrectly defines every complaint that it subsequently worked to resolve as something other than a violation. MPM misunderstands the nature of violations under the ordinances. A verified ordinance violation is a violation, regardless of whether MPM later corrects it. It is obviously in everyone's best interests to have violations corrected as soon as possible, but the point is to avoid the violation from occurring in the first place. But when they do occur, they become part of the record of the pit even if later corrected. Furthermore, each day a violation continues beyond the allotted time to repair constitutes a new violation.

Violations

1. MPM improperly stored material in violation of Ord.6, Ch. 7 (L).
2. MPM stored asphalt and concrete at the MPM mine in violation of Ord. 6, Ch. 7, (B). This ordinance violation was only discovered because of consistent citizen attention brought about by years of abuse. On initial questioning by the Town Board, MPM's representative were not candid about whether they were aware, when they dumped the material, that storage of this material—when originating from sources other than Eureka's roads—was an ordinance violation. **The Town Board deems this violation a critical violation.**
3. Reclamation on Phases 2-5 did not happen as specified in the mining and phasing plan. This failure is a violation of Ord. 6, Ch.7 (U). That plan states that "each completed phase will be reclaimed as mining progresses to the next phase." The IUP states that "reclamation shall be completed within nine (9) months of cessation of extraction, as required by Township ordinance." MPM took over the Eureka Pit in 2017. According to statements at the April 12, 2022 Town Board meeting, MPM has only ever mined in the Phase 1 area and stopped mining even that area before 2021. The land in Phases 2-5 should have been reclaimed, at a minimum, in 2018. **The Town Board deems the failure**

to conduct this required reclamation four separate critical violations in each of years 2019, 2020, and 2021.

MPM has also exhibited a continuing lack of candor with respect to reclamation. When the complaint that MPM was not reclaiming as required was first raised at a November meeting of the Board, MPM admitted its complete failure to reclaim any of the area that had been mined, but stated that it would need time to amend its reclamation plan. The Board agreed to give it time to submit such a plan, but, without investigation, could say nothing about whether there was an ongoing violation. Subsequently, [at a January meeting,] MPM said that it could not start reclamation without a revision to the IUP to permit removal of a berm because state law prohibited the importation of topsoil.

At the February mining review meeting, MPM admitted it could point to no such state law. On March 14, 2022, MPM submitted a document entitled "Reclamation Plan for the MPM –Eureka Pit Mine Phases 3,4 and 5." On March 17, 2022, MPM sent a clarifying letter stating that the March 14 document was not a reclamation plan, but rather, a response to the November complaint. There was no "new reclamation plan." MPM would follow the original plan. MPM never needed additional time. During a Board meeting on April 12, 2022, when a Supervisor asked why MPM said it needed time to draft a plan if it was just going to follow the original plan, the representative answered that it could not start reclamation in November when the ground was frozen. In essence, the request for time to submit a plan amounted to nothing more than an unnecessary delay. Making unsupported statements and causing unnecessary delay does allow MPM to escape a finding of ongoing violations every day in 2021 that MPM did not completely reclaim the land in Phases 2, 3, 4, and 5 is a critical violation of the Eureka ordinances and the Eureka Pit IUP.

The items of noncompliance must be corrected as soon as possible. Failure to do so could result in the Town Board undertaking the process to consider the revocation of the IUP. Please note that revoking the IUP would not relieve MPM from its obligation to fully reclaim the property.

[Closing and signature lines for Lu Barfknecht or another Supervisor]

MPM

Eureka Township Public Input Mining Text Amendment MPM letter of Feb 20, 2023

The February 20th letter from Mr. Mark Butler of MPM Minnesota Paving & Materials contained the following key excerpts about Eureka Township Mining ordinance text proposal:

"Placing undue restrictions."

"overt attempt to thwart all mining activities and squarely position the Township to restrict private property rights through government interference and restriction."

"Contribution to environmental degradation for all American Citizens."

"without establishing criteria to support just cause."

"arbitrary"

"Due to Township strong anti-growth and development stance."

Suggests Township should take liability for trespassers on private property."

These statements are not accurate; refer our Comprehensive Plan as well as text itself.

It is significant and ironic to note that MPM letter also challenged changes proposed on two key areas:

- 1- Enforcement- ".....by removing the stepped notice process, the Township is proposing to allow permit revocation without providing the operator any opportunity to correct and real or perceived violation." (Not correct, see text)
- 2- Reclamation- MPM challenges the revised reclamation plan and basically states no change is possible. "MPM understands its current submitted and approve reclamation plan is controlling its current and future mining activities. Additionally, all previous mining activities are controlled by existing Interim use Permit (IUP) and not subject to any proposed mining ordinances. (Not correct)

Let us review the well documented facts related to MPM's Reclamation and Enforcement:

Reclamation-

The development agreement and IUP from inception of this mine in 2007 called for, and still calls for, five phases of mining, with reclamation to commence within 90 days of completion of mining in each phase. This was NOT done despite repeated inquiries from Township. During discussions in recent years MPM representatives provided a long line of changing excuses for this continued failure to reclaim:

- a- "We can not bring in topsoil to conduct reclamation as it is illegal" per Mike Callahan in public meeting. (False)
- b- "We would need to take down the berms to begin reclaim and that is a catch 22 as we would not be in compliance with berming requirements. (Problem inherent in a poor reclamation plan they set up, so Township said "Fine, we understand, we can be flexible, tell us what you want to do to proceed." No action by MPM.)
- c- During the 4-28-23 joint site visit to mine with MPM representatives, following up on site on some initial dirt moving as part of reclamation, I suggested they take down at least portions of the berms to determine if any topsoil. "There is no topsoil in the berms" was the response.

- d- During the 4-28-23 joint site visit to mine with MPM representatives stated desire to submit a new reclamation plan that they could execute and Township expressed willingness to be flexible, even moving pond location to what might work better / easier. Township expressed desire for a reclamation plan MPM could implement. MPM agreed to submit. After several months I inquired status and was told "the drone broke, we will get back to you". No further word from MPM, another season lost.
- e- During the 4-28-23 joint site visit to mine with MPM representatives, I looked down into the deepest hole on the entire site, phase 5, in south rear of pit. Recalling the numerous statements made by several previous MPM representatives on the record in meetings about the existing pit aggregate being virtually exhausted, especially during the recent past review of MPM request to expand the pit due to lack of materials in existing pit, I asked why MPM had not begun any reclamation in phase 5 abandoned hole. The stated reason is the landowner would not agree to allow MPM to reclaim this final phase 5 section as landowner claims more material exists in this hole.
I expressed my surprise that representatives from the largest concrete and aggregate producer in the entire world, CRH of Dublin, could not determine if there was or was not more material in the hole to mine. MPM representative chuckled and said "There is nothing in that hole worth mining" and they would love to exit the pit and their relationship with the landowner. It should be noted that this property remains for sale by the landowner as an active mine. Perhaps the ability to sell land as an active mine might be impacted if all reclamation required by the existing IUP was completed?
- f- The landowner did months later in Fall come to a Town Board meeting and basically state all the problems with conforming to our ordinances in terms of citizen complaints as well as failure to reclaim was the fault of MPM, in his opinion, but no evidence presented.

Enforcement-

- a- The mine, currently operated by MPM, has a long painful history of non-compliance with Township ordinances dating to mine inception in 2007.
- b- MPM has triggered complaints beyond failure to reclaim, including multiple instances of weekend operation, concrete dumping (not from a township road), concerns about the percentage of imported materials versus excavated materials for the Ready-mix cement plant that was in operation, concerns about the Ready-mix cement plant actually being the primary use instead of permitted secondary use, and other issues. In fact in 2021 two violations were deemed "critical violations" under the existing ordinance language, one involving the blatant disregard of local ordinances on June 27th 2021 by dumping many truckloads of asphalt from a private parking lot in Township, that had to be removed.

All interested parties should be advised that MPM's long history of negative impact on citizen's quality of life due to non-conformance to existing ordinance as written was the driver forcing the Township to review our ordinances and improve same. It is something we must do, will do, while utilizing all valid factual input available to craft fair effective new ordinance.

Bill Clancy