MEMO

From: Mikey O'Connor (mike@haven2.com)

To: County Board Zoning Committee

RE: Transparency

Date: February 6th, 2012

I am not a lawyer and this should not be considered legal advice. However I am concerned that deficiencies in the way that information is provided to, and collected from, interested parties in industrial frac sand mine applications are not at the appropriate level to assure that the County is properly protected from legal and financial risk arising from improper notification or consideration of their concerns.

And beyond that, I feel that in this day of the Internet when it is extraordinarily easy and inexpensive to share information very broadly, the County is placing itself firmly in the 20th Century with the quality of it's effort to inform its citizen customers about these applications.

There would appear to be technical deficiencies just in the notification of immediately adjacent property owners to frac sand operations. Mr. Gary Pusateri, the landowner immediately to the east of R&J Rolling Acres stated in the February 2nd, 2012 public hearing that he did not find out about the public hearing through the County notification process, but rather found out about it because he received a mailing that I sent to all property owners on Highways 88, 35 and 37.

But a much more serious concern in my view is that the County is not notifying property owners facing the proposed haul routes for these mines. Since truck traffic originating from these mines will be cumulative (and substantial) it seems to me to be a matter of fairness that the County strive for a higher standard of providing information and raising awareness about these projects.

I was also concerned to find the public meeting to essentially be conducted by a representative of the two respective mining companies rather than members of the Board of Adjustments or the Zoning Administrator. And I was especially disappointed to see the final approval decision was made in 18 minutes at a meeting conducted at the mine site – this a decision on a mine and processing plant that will have profound impact across the whole county for a number of years.

I would like to suggest a number of ways to improve the transparency and accountability of these processes.

- **Publish more (and better) information in advance of the meeting to the web**

    - For example, Chippewa County has a portion of their web site devoted to publishing documentation of frac sand mine permit applications. Sections include;

        - Public Notice of Reclamation Plan
        - Public Hearing Notices
        - Written and Oral Public Comments
        - EOG Permit
        - Proposed Mining and Reclamation Plan
        - Plan Narrative
        - Figures
        - Maps in the plan
        - Property soil borings
        - Soils information
        - DNR permit application
        - Stormwater information
        - WDOT specifications
        - Seed mixtures
        - Annual report of site activities
        - Reclamation and construction inspection plan
        - Stormwater pond bedrock analysis
        - NMM Construction in bedrock, additional information
        - Area well information

- **Avoid making approval decisions at the site**

  In other counties the site visit is conducted the day before a public hearing. I know that technically we are operating correctly when we announce that the public hearing is adjourning and will reconvene at the site, but it gives the strong impression of back-room deals struck outside the light of day by insiders who are just waiting until the pesky public has been left behind. That is not a standard we should allow to continue.

- **Record and publish audio transcriptions of meetings to the web**

  Nothing is more frustrating than trying to piece together the chronology of these decisions from the minutes that are presently being prepared by the staff. Current minutes are essentially a recital of the names of people who speak but do little to capture the points that speakers are trying to make – in marked contrast to the efforts of neighboring counties. Current technology makes it essentially free to publish audio files to the Internet – so let's do that. Zoning staff members already

record the meetings so that they can prepare the minutes (hopefully they are retaining those recordings in case they're needed for more accurate records some time in the future). Please publish those recordings to the Internet in a timely way so that people can get a better sense of what is happening at these meetings.

- **Provide clear and robust mechanisms for public input**

  A number of things are not currently being made clear to participants in public hearings. Thus tensions are raised, time is wasted, comments that are relevant to decisions are either not being heard or are being ignored and time is being wasted on all sides.

  Please announce the "rules of the road" at the beginning of each public hearing. Make it clear that people who have more material than can be summarized in 2 minutes will be allowed to speak once everybody has been heard – this will allow everybody to speak and everybody to make the points that they feel the committees and boards should hear.

  Please announce the "rules of the road" for submitting written testimony at the beginning of each public hearing. Who is the person that should accept the official copy of the written testimony? Can that testimony be submitted in electronic form through email (a big time and paper saving for the county by the way)?