



## **Saint Paul's Liberty Lutheran Church**

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ZLR Public Comment from Saint Paul's Liberty Church

March 26, 2019

As members of St. Paul's Liberty Lutheran Church in Deerfield, we would like to share our strong concerns about two matters related to the Township of Deerfield's approval process related to the Oak Park Quarry CUP #02449 that is set to come before you on April 9.

Our first concern relates to potential violations of the process. There were actions that occurred prior to the public hearing that may have resulted in an unfair and biased decision before the public hearing. It is our understanding that a public hearing of this nature, is to be treated as a quasi-judicial hearing where all parties are entitled to a fair, unbiased opportunity to share evidence to the board members and that all evidence submitted at the hearing must be considered carefully. Emails sent from town board members indicate that this CUP was distributed last September and board members were already in agreement to approve it four months prior to the public hearing being held. The public hearing is a meeting in which we should have expected to have our evidence considered rather than have town board members announce that they had been working on helping to write the conditions in the CUP which they subsequently approved on March 11. What then, is the purpose of a public hearing if the decision by the governing body has already taken place?

Our second concern is specific to the comments that were made by Deerfield township board members at the March 11 board meeting about the county ZLR board members and ZLR office staff specific to the blasting conditions in the CUP. Comments specific to your lack of knowledge about blasting and your lack of desire to know about blasting. Comments that indicate that the only way you, the county will accept the CUP is if it will allow the quarry owner to exceed the blasting ordinances 1 out of every 10 times, repeatable up to three times in twelve month period. No one from the county was present at the March 11 meeting to verify if these comments were true so the audience was left to assume this is the case. We would strongly suggest that you take time to visit the WDEE public television station website and watch the Town of Deerfield public hearing dated January 14 and the township board meeting dated March 11. Both meetings are lengthy so if you are short on time, we have provided transcript from the portion of the March 11 meeting starting at approximately 2:51 until 3:01 in the tape in which multiple statements are made about what the county board members would allegedly be willing to approve in the CUP related to allowing 1 out of 10 blasts to exceed the township ordinances along with statements made by various ZLR staff. Does the county stand behind these statements made at that meeting knowing these comments gave the board confidence in approving the permit with few additional conditions?

The township approved another 10 year CUP for a quarry owner that did not adhere to their first CUP which just expired. This process and the decisions that are being made have a significant long-term impact on our church and the surrounding cemetery. We would urge you to review the documents we shared with you during the public hearing in February and also take some time to view the televised town board meetings related to this matter. We deserve to have our voices heard in this process as we work tirelessly to protect our 168 year old church sitting a few hundred yards away from this quarry. We need your help. Thank you.

Sincerely,  
Todd Birkrem (Council President)  
Michelle Jensen (Council Member)  
Roxann Engelstad (Council Consultant)  
Pastor Holly Slater

## WDEE Public Television Recording of the Township of Deerfield Board Meeting

Quarry Vote - 3/11/2019

<http://www.986.wdee.org/index.php/archived-videos/township-deerfield-board-meetings>

### Partial Transcript

2:51:23

(Behlke) To allow them 1 out of every 10 they can blast above that limit and then you can do it 1, you can blast again above the limit again in 12 months, and then you can blast again above that a third time in 12 months and if they do that again we just slap them on the wrist and we restart the schedule. I think that's so open ended, ah, it has no parameters on controlling what would happen above our established ordinance and you've been so adamant about the established ordinance Bill, ordinance, I don't understand why you would allow them to blast above it 1 out of 10 times.

(Roelofs) I can explain that.

(Behlke) Please do, because to me if they exceed that limit it should be suspended immediately.

(Roelofs) Okay, first of all this was intended as a backstop not as a primary control. We have more control over the quarry with our blasting ordinance than this. **When I brought this up to the county first, they had objections to it because it tied their hands, it made them do, um, things that they weren't real comfortable with doing because they don't understand blasting, they didn't want to have to understand blasting. So in order to make it acceptable to them, it was changed to what it says here.** It's still better than nothing. It's far better than nothing. The other paragraph you objected to is something that our lawyer, Dan Evans, said we should put in there because it gives, ah, a due process to the quarry rather than them having no recourse, you know, should something happen. So those are the, the reasons that it ended up the way it is and **I spent time with Pam Andros and Jeff in a room together talking about this until we could get to a point where he would agree. Pam said that she was quite sure that Roger Lane would go along with it as it was written** so it took that to get to this point and if you want to make this more, if you want to tighten this up more, I think what you are going to end up with is the county saying we don't want any part of that, this is like you're, you're, you know, putting us in a position we don't want to be in. So that's why it ended up like this and, you know, I think it would be a mistake to try to make it tighter because the county is not going to like it. And then it will just go away. And to me this is one of the most important things we've got in here. So, you know, I hear what you're saying and I agree it would be nice if we could have it, um, have it tighter, but I just, you know, I did everything I could, um, to get this acceptable. So, you know, I think we're better off taking this than adding stuff that will end up having it thrown out by the county.

2:54:57

2:56:27

(Roelofs) **All I can tell you is that that is what the county would accept because they, they don't want to their hands tied by this. But it does give them a tool that they can use if they look at what's happening and say ok, that's really out of bounds, they can do something about it other than revoke the whole CUP.** It, it adds a tool for them to use. Now their tools are not as good as the tools that we have but it just adds another layer to the control. No, it's not perfect. I grant you that, um, **but it's what I could get them to agree to and they don't, you know, they don't have to agree to things that they have to act on and, and they were reluctant, ah, because they don't know about blasting. They don't know what the terms mean. They don't want to know what**

***the terms mean. They want us to deal with that so, but they were willing to put this much in there that, that they would take responsibility for it.*** So, you know, I, I, don't see the reason for making it, um, you know after the work I've done with them to get to this point and then say ok well that's not good enough, we're going to make it this that and the other thing and send it back to the county, they're just going to throw it out.

**2:58:02**

**2:59:00**

(Kelly) Am I not correct that even though that's in there that we can still take the blasting license away after one.

(Roelofs) Oh, yeah, absolutely. It's just an extra thing.

(Behlke) Then why have it in there?

(Kelly) ***He said it's for the county.***

(audience member Roxann Engelstad) Point of clarification.

(Brattlie) Yeah, Roxann.

(Engelstad) So, so maybe, I think everybody here is concerned about this 1 out of 10. Maybe you can explain something because we've just listened to you tonight Bill explain why you needed to put the ordinances, that the current ordinances, in the CUP in case local control is taken away so but this doesn't match our local ordinance.

(Roelofs) No, it's slightly more lenient.

(Engelstad) It is more lenient, so my understanding is that you can't, again, maybe you can clarify this, but my understanding is that you can't supersede an ordinance with something more lenient. You can make it more strict on a condition in a CUP or you can supplement with other restrictions but you can't make it more lenient. So maybe you could clarify if 1 out of 10 blasts can go above 0.2 or this 0.15, what level can it be?

(Roelofs) I'm not sure what you're asking.

(Engelstad) So, so if I blast 9 times and they're all under, they're all above 14 hertz and they're all under 0.2 inches per second and then the number 10 time I decided I'm going to blast away, how high can I blast?

(Roelofs) Well, just like under our ordinances you can have one blast that's not good.

(Engelstad) Not, our ordinances, so this is according to your, um, what you've written, this is specific to St. Paul's Liberty Lutheran Church?

(Roelofs) Yes.

(Engelstad) Right?

(Roelofs) Yes.

(Engelstad) According to your ordinance 2016 number, um, 5, um number 3 and number 5, there is not 1 out of 10 free blasts.

(Roelofs) *Right, and again, it's because the county did not want to have their hands tied. They wanted to have a little space.*