TIPPECANOE COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
April 6, 2009

The Tippecanoe County Commissioners met on Monday, April 6, 2009 at 10:00 a. m. in the Tippecanoe Room in the County Office Building. Commissioners present were: President John L. Knochel, Vice President David S. Byers, and Member Thomas P. Murtaugh. Also present were: Attorney Dave Luhman, Auditor Jennifer Weston, Commissioner's Assistant Frank Cederquist, and Secretary Jennifer Prange.

Commissioner Knochel called the meeting to order and led the pledge of allegiance.

APPROVAL OF MINUTES

- Commissioner Byers moved to approve minutes from the March 16, 2009 meeting, second by Commissioner Murtaugh; motion carried.

PRESENTATION OF ACCOUNTS PAYABLE VOUCHERS

Commissioner's Assistant Frank Cederquist recommended approval of accounts payable vouchers for March 19, 20, 26, 27, 30, April 2, 3, 5, 2009 with no exceptions.

- Commissioner Murtaugh moved to approve the accounts payable vouchers as presented, second by Commissioner Byers; motion carried.

HIGHWAY – Opal Kuhl

Director Kuhl recommended approval of the Indiana Department of Transportation (INDOT)/LPA Agreement for Bridge #153 located on 900 East. The agreement formalizes the joint project with INDOT; the county will be responsible for 20% of the funds needed for the project.

- Commissioner Byers moved to approve the agreement with INDOT and Purdue University, second by Commissioner Murtaugh; motion carried.

Grants of right-of-way were recommended for approval for the South River Road Project from US 231 to the fort on the following parcels:

Parcel 54 & 54A – Gerald & Sharon Coates
Parcel 51 & 51A – Gerald & Sharon Coates
Parcel 50 & 50A – Amy Jordan
Parcel 44 & 44A – Norman & Joann Sorenson

- Commissioner Murtaugh moved to approve the permanent and temporary grant of right-of-way be approved as presented, second by Commissioner Byers; motion carried.

A Construction Maintenance Bond from Kreager Brothers Excavating, Inc. was recommended for approval for $5,000.

- Commissioner Byers moved to approve the Construction Maintenance Bond as presented, second by Commissioner Murtaugh.

Addendum #4 for the Tyler Road Reconstruction (HES) Project was recommended for approval in the amount of $12,850 with HE-BFS.

- Commissioner Murtaugh moved to approve Addendum # 4 as presented, second by Commissioner Byers; motion carried.

REZONE Z-2393 – CHERRY CREEK VENTURES, LLC (A & R1 TO RE) ORDINANCE 2009-04-CM

March 18, 2009
Ref. No.: 09-074

Tippecanoe County Commissioners
20 North 3rd Street
Lafayette, IN 47901

CERTIFICATION

RE: **Z-2393—CHERRY CREEK VENTURES, LLC (A & R1 to RE):** Petitioner is requesting a rezoning in order to develop a rural estate subdivision on acres with lots located at Tippecanoe 19 (SE) 24-4. *CONTINUED FROM THE FEBRUARY APC MEETING IN ORDER FOR STAFF TO SEEK CLARIFICATION FROM APC LEGAL COUNSEL REGARDING THE AVAILABILITY OF SANITARY SEWER TO THIS SITE.*

Dear Commissioners:

As Secretary to the Area Plan Commission of Tippecanoe County, I do hereby certify that at a public hearing held on March 18, 2009 the Area Plan Commission of Tippecanoe County voted: 10 yes to 1 no to determine that the sanitary sewer service from the nearest sanitary sewer having unused capacity to the proposed RE rezone site is physically impeded by a stream, ravine or similar barrier.

The Commission then voted 10 yes - 1 no on the motion to rezone the subject real estate from A & R1 to RE. Therefore, the Area Plan Commission of Tippecanoe County recommends to the Tippecanoe County Commissioners that the proposed rezoning ordinance be APPROVED for the property described in the attachment.

Public Notice has been given that this petition will be heard before the Tippecanoe County Commissioners at their April 6, 2009 regular meeting. Petitioners or their representatives must appear to present their case.
Sincerely,

/s/Sallie Dell Fahey
Executive Director

Dan Teder, with Reiling Teder and Shrier, spoke on behalf of the petitioner. The petitioner is requesting a rezone of 15 acres of R-1 and 1 acre of A to RE. Mr. Teder added there is an additional 15 acres in the flood plain which will remain a tree preservation area. During the rezone hearings the Area Plan staff and attorney determined a stream located on the property is an impediment. If an impediment exist on the property, the land can be zoned a rural estate. Mr. Teder stated American Suburban Utilities is objecting to the ruling by Area Plan regarding the impediment. In his opinion, Mr. Teder believes American Suburban Utilities has options available for extending a sewer in the area. He claims American Suburban Utilities is planning for the future growth in the area and is petitioning for a sewer system to simplify future growth. Mr. Teder implied American Suburban Utility has never considered the homeowner in the process of installing a sewer. He suggested the commissioner's vote in favor of the rezone and let American Suburban Utilities decide in the future on how to extend the sewer system.

Pat Cunningham with Vester and Associates stated the developers intend to build 11 rural estate properties with wooded areas. Previous developers had planned to develop 40 new properties at which time American Suburban Utilities intended to add sanitary sewer. Mr. Cunningham explained American Suburban Utility would have to dig a sewer deeper than the standard sewer, which would ultimately affect the buyers of the property. The easement requested by American Suburban Utility would destroy the wooded area of the property which the developers are trying to maintain. He suggested the proposed plan for the property does not include sanitary sewer; if a sewer is allowed the property will lose the rural estate zoning.

Ned Koning – 125 West 650 North, West Lafayette, stated his property is located near the proposed rezone. He has worked with Mr. Hockema to help obtain a rural estate zoning to deter developers from adding high-density housing. Mr. Koning confirmed if the easement is granted to American Suburban Utility, the esthetic value of the property will be impacted. He encouraged the commissioners to approve the rezone.

Andy Gutwein with Bennett, Boehning, and Clary spoke on behalf of American Suburban Utility. He reported sanitary sewer is located within ½ mile of the proposed rezone. Mr. Gutwein suggested crossing the creek would not be an impediment and with the sanitary sewer so close, the proposed housing could benefit. In 2001, American Suburban Utility petitioned IDEM and IURC to amend a certificate of territory authority for the adjacent area. American Suburban Utility then made a master plan for the area to include the proposed rezone area. Mr. Gutwein explained the benefit of adding the sewer system at this time, rather than disrupting homeowners later. Eventually American Suburban Utility will have to go through the proposed home sites for the sanitary sewer to adjoin properties in the area. He suggested a planned development would be a more appropriate zoning because of the sanitary sewer nearby.

Tim Buyer with Atlas Excavating, on behalf of American Suburban Utilities, acknowledged the sewer in this area would be larger and deeper than the typical sewer. He explained American Suburban Utilities has a history of covering additional expenses to dig an oversized or extra deep sewer. Mr. Buyer stated the original plan for this area included a detention pond which was sized for additional development in the area and a flood plain to maintain tree preservation. Mr. Buyer added an R-1 development does not have to have a large number of homes, the R-1 zoning allows for larger lots just as the petitioner has planned.

APC Director Sallie Fahey shared the requirements for the Rural Estate Ordinance. The lack of sanitary sewer is mandatory criteria for rezoning to Rural Estate. It should also have minimum lot sizes, meet density requirements, not have more than 12 lots, shall be wooded or at least not

agricultural production for a number of years, and no sanitary sewer within a ½ mile or unless it is impeded.

Commissioner Murtaugh stated he is struggling with the rezone. At the APC meeting he voted in favor of the rezone; he agreed the creek was an impediment. With the additional information received today, he does not agree that the creek is an impediment.

Commissioner Knochel agrees the creek is an impediment and the petitioners have met the criteria for the rezone.

Commissioner Byers stated the proposed area does meet the criteria for a rural estate but doesn't agree the creek is an impediment. He believes the land should be zoned a rural estate but does not consider the creek an impediment.

Auditor Weston recorded the vote:

Byers	No
Knochel	Yes
Murtaugh	No

Ordinance 2009-04-CM is denied 2-0.

GRANTS – Laurie Wilson

Grant Coordinator Laurie Wilson recommended approval of a $10,000 supplemental grant from the state to purchase supplies and equipment for the Medical Reserve Corps.

- Commissioner Byers moved to approve the Medical Reserve Corps grant as presented, second by Commissioner Murtaugh; motion carried.

Approval was recommended to accept a grant from the Indiana Supreme Court for $40,000 for Family Court mediation services and an information sharing program.

- Commissioner Murtaugh moved to accept the grant for $40,000 from the Indiana Supreme Court, second by Commissioner Byers; motion carried.

PUBLIC DEFENDER – Amy Hutchison

Public Defender Amy Hutchison requested approval to combine two part-time positions into one full-time position. She would like to post the full-time position and if she doesn't find a qualified applicant she would like to maintain the part-time positions.

- Murtaugh moved to approve the position change as presented, second by Commissioner Byers; motion carried.

BUILDING COMMISSION – Ken Brown

Assistant Building Inspector Ken Brown presented information regarding the Robert Wallace property. Mr. Brown reported Mr. Wallace has only complied with a portion of the request by the Building Commission and the commissioners. A new roof and sheeting have been added on the home but they were asked to secure the building and as of today, it remains open. There is a

major safety issue with the floor missing; the owner has not closed the home. Attorney Jay Seeger stated once the home was deemed an unsafe structure the owner had until March 31, 2009 to bring the house in compliance. Building Inspector Ron Highland encouraged the commissioners to proceed quicker before a problem occurs. He added the Building Commission has spent a great deal of time working with the homeowner before it was presented to the commissioners.

- Commissioner Murtaugh made a motion to notify the owner they must secure the home immediately and provide an engineer's report determining if the structure is unsafe at the commissioner's second meeting in May, second by Commissioner Byers; motion carried.

Mr. Brown presented information regarding the Barbara Marvin property. Mr. Brown confirmed he has had no contact with Ms. Marvin since the last meeting. Pictures indicate one property has been demolished. The second property has been partially demolished and has a large amount of debris scattered on the property. Mr. Brown reported the third house also deemed an unsafe structure was purchased at a tax sale and at this point the new owner is unknown.

- Commissioner Murtaugh made a motion to notify the owner to remove debris and bring the homes in compliance and provide a report at the second commissioner's meeting in May; second by Commissioner Byers; motion carried.

ASSESSOR – Samantha Steele

- Commissioner Murtaugh moved to continue the award of the 2011 General Reassessment bid on April 13, 2009 at 10:00 am, second by Commissioner Byers; motion carried.

TRAVEL POLICY AMENDMENT – Frank Cederquist

Commissioner's Assistant Frank Cederquist reported changes made to the Travel Policy.

Page 2 – Mileage Rate: changing the mileage rate for all travel to $. 44 a mile

Page 3 – Meal reimbursement: meal reimbursement for multi-day conference where employee is traveling back and forth daily, reimbursement will include breakfast starting on the second day and continue daily until the last day of the conference, also lunch each day should not to exceed $6, on the final day if travel ends before noon, lunch will not be reimbursed, and dinner will be reimbursed each day not to exceed $13 unless the last day conference ends before 6 p.m. dinner will not be reimbursed. Itemized receipts are required.

- Commissioner Byers moved to approve the travel policy amendments as presented effective today to include travel that occurs today and thereafter, second by Commissioner Murtaugh; motion carried.

EDIT PLAN

Attorney Luhman gave details regarding an amendment to the EDIT plan. Resolution 2009-13-CM amends the plan to include the additional funding for 2009 for prior projects 3, 6, 7, 10, 19, 24, 27, 38, 40, 43, 46, 49, 53, 57 and add two new projects.

Project #62 is for improvements at the Tippecanoe County Highway Garage to bring the garage in compliance with the Phase II Stormwater Plan not to exceed $1,140,000.

Project #63 will provide funding for the Fairground Improvements Project to fund capital improvements at the Tippecanoe County Fairgrounds. This will include design and construction of an exposition hall. In 2009 a maximum of $25,000 can be spent for planning of the project.

- Commissioner Murtaugh moved to approve Resolution 2009-13-CM, second by Commissioner Byers; motion carried.

RECOGNITION OF REBECCA HUMPHREY'S APPOINTMENT TO THE NATIONAL ADVISORY COMMITTEE FOR JUVENILE JUSTICE

Commissioner Murtaugh recognized the appointment of Rebecca Humphrey to the National Advisory Committee for Juvenile Justice. Commissioner Murtaugh said it is an honor for our Youth Services Director to be appointed by the Governor to this committee, which advises the President and Congress on matters related to Juvenile Justice.

APPLICATIONS TO VILLA

- Commissioner Byers moved to approve John Perkins & Kathleen Watkins to the Tippecanoe Villa, second by Commissioner Murtaugh; motion carried.

APPOINTMENTS TO THE COMMON WAGE BOARD

- Commissioner Byers moved to approve Al Parker to the Lab Renovation Wage Board and the Ivy Tech Parking Lot Renovation Wage Board, second by Commissioner Murtaugh; motion carried.

UNFINISHED/NEW BUSINESS

None

REPORTS ON FILE

Mail & Duplicating
Weights & Measures
Treasurer
Parks Board
Crystal Creek Kennels

PUBLIC COMMENT

Aaron Erman – resident on Morningside Lane requested the commissioners investigate the opportunity to raise homes along the river in Tippecanoe County. Currently, FEMA is reimbursing residents for the flood damage. In five years, Mr. Erman has been flooded six times. Residents of Carroll County that live nearby are allowed to raise their properties according to the county guidelines.

Commissioner Byers confirmed he has discussed this subject with the Ordinance Committee and he intends to pursue the matter further in the next month. They will compare the state guidelines with the guidelines in Tippecanoe County.

Michael Daily – resident of Morningside Lane stated he also is requesting the county review the option of raising homes along the river. Flood insurance states in the event of continual flooding the insurance company will maintain a portion of the funds to raise the home. Mr. Daily is petitioning legislators and representatives to pursue this problem and assist residents with raising homes.

Paul Wright – West Point, asked how many jobs have been lost in Tippecanoe County. He asked how many county government jobs have been created by the county. He said the economy is declining and the county spending is not.

Sadie Harper-Scott – asked the commissioner's to continue to review the Juvenile Center project. She said the NAACP will meet at the Emmanuel Church tonight to discuss juvenile services. She asked the commissioners be mindful of parents that travel out-of-town to visit children.

Commissioner Murtaugh offered condolences to Juvenile Probation and the family of Michael Dunlap on their loss.

- Meeting recessed until Monday, April 13, 2009.

- Meeting reconvened on Monday, April 13, 2009 at 10:00 a.m.

REASSESSMENT BID AWARD

County Assessor Samantha Steele requested the commissioners dismiss the irregularities among the three different bids. Assessor Steele stated she can work with any of three companies and she will leave the decision to the commissioners.

Commissioner Knochel noted AssessCo has submitted a bid with an itemized per parcel rate with various other items that may be requested by the assessor. Assessor Steele stated the maximum amount paid to AssessCo would be $1,353,000 if the county decided to choose them as the vendor. Commissioner Knochel is uncomfortable with AssessCo due to their inexperience in trending. Assessor Steele said the members of AssessCo did the General Reassessment when it was performed years ago.

Commissioner Byers stated on the bid specifications there is a statement about "bringing the county out of the dark ages" and if AssessCo were hired, we would be using most of the township assessors and former assessors that haven't worked in assessing for a few years. He is wavering on the idea of hiring AssessCo since there first bid was $75 per parcel and the new bid is $25 per parcel. He doesn't understand how any business could reduce their price so drastically.

Assessor Steele suggested using AssessCo since there bid provides for per parcel work and the employees are former township assessors that are familiar with assessing. She stated using pictometry for the General Reassessment will allow an additional tool to the vendor performing the reassessment.

- Commissioner Murtaugh moved to award the bid to Tyler Technology for the General Reassessment for $1,483,400 on the condition the county council approves the funding and DLGF approves the contract, second by Commissioner Byers; motion carried.

OTHER BUSINESS

Dan Teder with Reiling, Teder, Shrier requested the commissioners reconsider the previous motion made regarding Cherry Venture Estates. He informed the commissioners the attorney and owner for American Suburban Utility will meet with Mr. Teder tomorrow to discuss the rezone. Mr. Teder stated the petitioner is willing to give American Suburban Utility an easement; they will have specific information to present to commissioners at a later date. Mr. Teder stated American Suburban Utility informed him if they have an easement they don't intend to install sewer at this time.

- Commissioner Murtaugh moved to reconsider the motion made at the April 6, 2009 meeting regarding the rezone for Cherry Creek estates, second by Commissioner Byers; motion carried.

- Commissioner Murtaugh moved to amend the motion to deny the rezone and continue the rezone request to May 4, 2009 meeting, second by Commissioner Byers; motion carried.

- Commissioner Byers moved to adjourn.

BOARD OF COMMISSIONERS OF THE COUNTY OF TIPPECANOE

John L. Knochel, President

David S. Byers, Vice President

Thomas P. Murtaugh, Member

ATTEST:

Jennifer Weston, Auditor