TIPPECANOE COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
April 21, 2014

The Tippecanoe County Commissioners met on Monday, April 21 at 10:00 a.m. in the Tippecanoe Room in the County Office Building. Commissioners present were: President John L. Knochel, Vice President Thomas P. Murtaugh, and Commissioner David S. Byers. Also present were Attorney Doug Masson, Attorney Matt Salsbery, Auditor Jennifer Weston, Commissioners' Assistant Frank Cederquist, and Recording Secretary Tillie Hennigar.

President Knochel called the meeting to order and led the Pledge of Allegiance.

APPROVAL OF MINUTES

- Commissioner Murtaugh moved to approve the minutes of the regular meeting held April 7, 2014, second by Commissioner Byers; motion carried.

PRESENTATION OF ACCOUNTS PAYABLE VOUCHERS and PAYROLL CLAIMS

- Commissioner Murtaugh moved to approve the accounts payable vouchers for April 8, 9, 11, 16, 18, and 21, 2014 and payroll vouchers for April 11, 2014 as submitted without exception, second by Commissioner Byers; motion carried.

HIGHWAY – Opal Kuhl
Awarding Bid for 2014 Small Structure Replacement – Tippecanoe County Small Structure No. 10

Highway Executive Director Kuhl recommended acceptance of the bid from Rieth-Riley Construction Co., Inc. in the amount of $189,633 for structure Tipp No. 10 located on 950 North. The bid has been reviewed by the consultant and the Highway staff.

- Commissioner Murtaugh moved to award the bid to Rieth-Riley Construction Co., Inc. for small structure No. 10 in the amount of $189,633 and approve the contract and bid bond, second by Commissioner Byers; motion carried.

Klondike Road Project – LPA Agreement for Construction from INDOT

Director Kuhl presented the LPA Agreement for coordination of the construction phase of the Klondike Road project. Construction doesn't take place until 2016-2017; however, to begin financial procedures, INDOT requests the contract be signed now. The construction of Klondike will result in four lanes from Lindberg to US52 and include a hiking trail and sidewalk.

- Commissioner Murtaugh moved to approve the LPA Agreement for the Klondike Road project as presented, second by Commissioner Byers; motion carried.

2014 Fee Schedule for Professional Services – H. Stewart Kline & Associates, Inc.

Director Kuhl presented the 2014 Fee Schedule for Professional Services from H. Stewart Kline & Associates, stating the service is used when an additional inspection is required outside the scope of a contract. The fee schedule provides hourly rates which have not changed since 2010.

- Commissioner Murtaugh moved to approve the 2014 Fee Schedule for Professional Services with H. Stewart Kline & Associates, Inc. as presented, second by Commissioner Byers; motion carried.

Cumberland Road Project – Change Order #7 from D.J. McQuestion & Sons, Inc.

Director Kuhl presented Change Order #7 from D.J. McQuestion & Sons for the Cumberland Road project in the amount of $1,665.00. The change order includes putting down the thermal plastic markings; the last item to be done. Once completed, retro reflectivity testing will be necessary. The total project cost is $4,463,735.24. The plan is to have the roadway open by the end of the week with ribbon cutting at 11:00 on Friday.

- Commissioner Murtaugh moved to approve Change Order #7 for the Cumberland Road project in the amount of $1,665.00 as presented, second by Commissioner Byers; motion carried.

Bridge #141 Project – Contract Modification #1 – Jack Isom Construction Co., Inc.

Director Kuhl presented Contract Modification #1 from Jack Isom Construction Co., Inc. for the Bridge #141 project in the amount of $21,322.50. The modification will add an equalizer pipe, additional concrete anchors, and additional guard rails; bringing the total contract to $1,958,097.12.

- Commissioner Murtaugh moved to approve modification #1 for the Bridge #141 project in the amount of $21,322.50 as presented, second by Commissioner Byers; motion carried.

Continuation Certificate – Work in the right-of-way from Warren County REMC

Director Kuhl presented a Continuation Certificate and a Bond from Warren County REMC for continued work in the right-of-way.

- Commissioner Murtaugh moved to approve the Continuation Certificate to perform work in the right-of-way from Warren County REMC as presented, second by Commissioner Byers; motion carried.

Application for a Permit to Close or Block a Road – CR 50 S and CR 550 E

Director Kuhl presented a Permit Application from Wyandotte Elementary School requesting approval to close a portion of County Road 50 S and County Road 550 E for a 5K Walk/Run Event on May 16, 2014 from 6:15 p.m. to 7:30 p.m. Barricades and cones will be set up and people will be located at every intersection. Personnel from the school have met with the Sheriff's Department and Mike Parks from Highway. All requirements have been met for a road closure.

- Commissioner Murtaugh moved to approve the closure of County Road 50 S and County Road 550 E for a 5K Walk/Run on May 16, 2014 from 6:15 p.m. to 7:30 p.m., second by Commissioner Byers; motion carried

***GRANTS** – Laurie Wilson*
Permission to Accept Grant

Grant Facilitator Wilson requested permission to accept a grant for the Prosecutor in the amount of $132,660 from the Indiana Family and Social Services Administration for the Adult Protective Services program.

- Commissioner Murtaugh moved to approve permission to accept the grant for the Prosecutor as presented, second by Commissioner Byers; motion carried.

Permission to Apply for Grant

Grant Facilitator Wilson requested permission to apply for a grant for Juvenile Probation in the amount of $5,400 from the Indiana Drug Free Coalition for drug screens to test for synthetic marijuana.

- Commissioner Murtaugh moved to approve permission to apply for a grant for Juvenile Probation as presented, second by Commissioner Byers; motion carried.

Grant Facilitator Wilson requested permission to apply for a grant for Juvenile Alternatives in the amount of $16,979 from the Indiana Department of Corrections. The additional funding will use $12,500 to purchase the Juvenile Justice Jeopardy Game from Strategies for Youth, $1,500 for a contract for Dr. Matt Aalsma from Indiana University to continue training law enforcement on adolescent brain development, and $2,979 to develop intramural basketball teams for youth in non-traditional schools. President Knochel asked what indicated youth in a non-traditional school. Cary Home Director Rebecca Humphrey said it is youth who are not in traditional main stream schools for a full day or their grades are unacceptable to participate in the school athletic clubs. The Lafayette Adult Reading Academy (LARA) has younger participants in their school that would like to start a basketball team and approached the judicial branch of Superior Court 3. LARA has an indoor and outdoor basketball court.

- Commissioner Murtaugh moved to approve permission to apply for the grant for Juvenile Alternatives as presented, second by Commissioner Byers; motion carried.

MOU/Contract

Grant Facilitator Wilson presented a contract for Superior Court 3 with Buck Black Mental Health Services in the amount of $5,000 for substance abuse assessments for a grant from the Drug Free Coalition.

- Commissioner Murtaugh moved to approve the contract between Superior Court 3 and Buck Black Mental Health Services for $5,000 as presented, second by Commissioner Byers; motion carried.

YOUTH SERVICES *– Rebecca Humphrey*
MST Contract Addendum (Travel Reimbursement)

Cary Home Director Humphrey presented an addendum to the Multi Systemic Therapy (MST) contract saying the contract has boosters every quarter and a consultant from MST comes to verify fidelity to the training is being maintained and also does additional training. The past two years, the consultant has been reimbursed mileage and travel at the MST rate; however, the Auditor's office said the reimbursement

should be at the County policy approved rate. The addendum has been reviewed and approved by the County Attorneys and reflects the County approved travel reimbursement rate for MST employees.

- Commissioner Murtaugh moved to approve the MST Contract Addendum regarding travel reimbursement as presented, second by Commissioner Byers; motion carried.

Towing Contract

Director Humphrey said individuals have been parking on Cary Home property, blocking the guests, visitors, and clients from having sufficient parking space. J.R.'s Towing will provide impound signs and signposts stating "Parking for Cary Home Guests and Clients Only" and tow the vehicle upon authorization at the vehicle owners expense. Director Humphrey asked for approval of the agreement with J.R.'s Towing & Recovery.

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

Quotation – Insurance Appraisals for Tippecanoe County Properties

Commissioners' Assistant Frank Cederquist presented a proposal from Buckland & Associates to conduct a certified insurance appraisal of Tippecanoe County properties. Buckland and Associates currently appraise the County Office Building, the Courthouse, and the Sheriff's Department; the proposal will add the Tippecanoe Villa, the Extension Office, the Fairgrounds, the 629 Building, Cary Home, and the Highway Equipment Building. The total estimate is $14,000. Assistant Cederquist recommended contracting for approximately half or $7,200 for the Tippecanoe Villa, the Extension Office, and the 629 Building in 2014 with the remainder to be completed in 2015. The appraisals will benefit the County Inventory Report the Auditor Office is working on. Once the appraisals are completed, they are updated annually. The annual update/reappraisal fee for the three recommended buildings would cost approximately $160.00 a year.

- Commissioner Murtaugh moved to approve the quotation for insurance appraisals for the Villa, Extension Office, and the 629 building as presented, second by Commissioner Byers; motion carried.

Hearing – Proposed ORDINANCE 2014-03-CM Allowing for Certain Off-Road Vehicle and Golf Cart Usage on Tippecanoe County Roads

- Commissioner Murtaugh moved to hear Ordinance 2014-03-CM on first reading, second by Commissioner Byers.

President Knochel invited public comments for or against the Ordinance and asked those speaking to limit their comments to as close to three minutes as possible and to not repeat what has already been said.

Jay Jackson, P.O. Box 665, Brownsburg, IN – Mr. Jackson stated he is the Executive Director for ABATE (American Bikers Aimed Toward Education) of Indiana with offices at 51 N. Baldwin Street in Bargersville, Indiana. He spoke on behalf of ABATE, saying they are in **support of the Ordinance.** While some concerns remain, they believe it could be a good foundation for moving forward. The Indiana General Assembly felt it necessary to provide a process for the County Highway Departments to allow off-road vehicles on the county road systems, outside the city or town limits. Almost half of the counties in the state have implemented such an Ordinance, including three contiguous to Tippecanoe County. The Ordinance isn't precedent setting or anything that hasn't already been implemented in other counties. There has not been major outcry from those who have the Ordinance. While not specifically designed for on-road use, off-road vehicles do not self-destruct within contact of the pavement. Used responsibly, they can be operated in a safe manner. The question that has been brought up is "*if the manufacturer doesn't recommend them for that use, why would they be allowed on the roads?*" Often manufacturers are required to make or avoid certain statements for litigation purposes. Although the off-road vehicles are not specifically designed to be driven on roads, it doesn't mean they can't be operated in a safe fashion if done so responsibly. Farm implements are not intended to be used on roads; however, they make use of roadways and highways on a regular basis; the key is responsibility. There are some redundancies in the Ordinance which are already addressed by statute; they could be addressed by other means. Mr. Jackson said they concur and want to comply as enthusiasts with the State statute and local Ordinances; however, they want to make sure the responsible users are able to recreate and use them in a responsible manner.

President Knochel asked what age would be considered a responsible driver. Mr. Jackson replied there is not a magic age, he knows 30 year olds who don't act responsible and some youth that act extremely responsible. The State law requires a driver's license to operate an off-road vehicle; the earliest age would be 16 years plus 180 days; currently the Ordinance language states 18 years of age is required.

Dante Wells, 3010 Henry Street, Lafayette, IN – Mr. Wells said Indiana Code 14-16-1-30 requires any and all public or private ATVs per state be registered. The money from registration goes into an Off-Road Vehicle Snowmobile Fund, consisting of revenue obtained under this chapter collected from ATVs. The money can only be used for three things: 1) the enforcement and administration of the chapter, 2) constructing and maintaining of off-road vehicle trails, and 3) constructing and maintaining of snowmobile trails. There are no trails in Indiana. The account has almost $600,000 and the only thing it can be used for is the enforcement of the laws. The State obligations have already been met by registering the ATVs and adding the money to the Fund. When you buy license plates for your car, you can drive on the street; when you buy license plates for an ATV, you are in violation if you drive within 20 feet of the street. We own the property to the pavement but DNR says we can't be within 20 feet of the pavement. There are many gray areas. We, as citizens, come to the Commissioners to ask for help; we can't fight the law one-on-one. Mr. Wells continued to say Mr. Knochel said he would appoint a committee, a committee was appointed and the community was supposed to be a part of the committee but wasn't included in the committee or writing the Ordinance. We contacted the Sheriff, the DNR, and Mr. Cederquist but calls and emails were not returned until after the Ordinance was prepared. The Ordinance is written from the law enforcement prospective. There are a few issues like the fines and penalties. For example, if he drives to another house and rolls his 4-wheeler down a hill and breaks his headlight, taillight, and brake light; that would result in three tickets. If he passes the DNR officer on the

way home, he will get three tickets, a lifetime driving suspension, and a $1,000 fine. We don't want to drive down the road and go to the gas station; we want to drive in the ditch to the neighbor's house. If it's necessary to get on the road to cross a bridge, we want to do so and get back in the ditch on the other side. There are several issues to be worked out and he voiced his concern that public input was not a part of the committee. He requested the public be involved to draw up an acceptable Ordinance.

Opal Kuhl, 316 McCutcheon Dr, Lafayette, IN – Highway Director Kuhl stated as someone who has worked in the transportation area for over 25 years, she is strongly **opposed to the proposed Ordinance** allowing off-road vehicles, all-terrain vehicles, and golf carts on County roads. In her profession, the definition of transportation is the safe and efficient movement of people and goods. Safety has always been the first word and the first concept in the definition. Putting vehicles that are not road-worthy on the public roads goes against the concept of striving to make roads safer. Our county has many high volume roads; old State Road 25 and North River Road are now county roads. Haggarty Lane, County Road 800 South, and County Road 900 East are also county roads. These, and many others, carry thousands of cars a day and have speed limits well over 50 miles per hour. Because of the speed and high volume, she doesn't believe that off-road vehicles, all-terrain vehicles, and golf carts can be added to the mix. Several emails have been received in the past few days voicing concern from those who use these vehicles for farming on low volume roads; she understands that use. The Ordinance needs to be rewritten with something separate for golf carts. Passing this Ordinance as it is now written would be a step backwards in traffic safety. Director Kuhl strongly recommends the Ordinance not be passed.

Carl Covely, Jr., 5740 S 800 E, Lafayette, IN – Mr. Covely said he **supports the Ordinance**. Those using off-road vehicles now are using them to run up and down the road to a neighbor's house. When talking about them being dangerous – farming is dangerous. Adding stipulations to eliminate travel on certain roads as suggested by Director Kuhl is a good idea. If the Ordinance doesn't pass, people are still going to run their ATVs and recreational vehicles down the road. He can legally drive his tractor on the road but can't legally drive his neighbor's Rhino a thousand feet down the road to collect yard waste. There is a disconnect to what can and can't be done. He sees no reason why those living in rural townships such as Jackson, Lauramie, and Sheffield shouldn't be allowed to run off-road vehicles on the road.

Sallie Fahey, Executive Director of the Area Plan Commission and the Metropolitan Planning Organization for Transportation Planning read the following letter:

THE Area Plan Commission of TIPPECANOE COUNTY

20 NORTH 3RD STREET
LAFAYETTE, INDIANA 47901-1209

(765) 423-9242
(765) 423-9154 [FAX]
www.tippecanoe.in.gov/apc

SALLIE DELL FAHEY
EXECUTIVE DIRECTOR

April 20, 2014
Ref. No. 2014-116

Board of County Commissioners
County Office Building
20 N. 3rd Street
Lafayette, IN 47901

Dear Commissioners:

At its meeting on April 16, 2014, the Technical Transportation Committee voted unanimously to oppose the pending ordinance allowing golf carts, off-road vehicles and ATVs on Tippecanoe County roads. The INDOT representative abstained; the abstention is counted with the majority vote.

As you know, the Technical Transportation Committee is comprised of local government engineers, transportation planners, law enforcement officials, Purdue University engineers and the public transit manager. The committee's responsibility is to provide professional advice and recommendations in all areas of transportation planning including safety.

The committee asked that I prepare this letter as secretary of the committee to express its concern and convey its vote.

Sincerely,

Sallie Dell Fahey
Secretary
Technical Transportation Committee

Director Fahey referred to the following from the Consumer Product Safety Commission, specifically pointing out the ***Do Not Drive ATVs on Paved Roads*** section.

A Project of the U.S. Consumer Product Safety Commission

RAPID RESPONSE
ATV Safety In The News

Quick Facts For a Safer Ride

Just this week there was a death or serious injury in your community involving an all-terrain vehicle (ATV). As you continue to report about this tragedy, the U.S. Consumer Product Safety Commission (CPSC) encourages you to use this teachable moment to share critical safety information with your audience.

Each year since 2004, nearly 800 Americans have died in ATV-related incidents. Another 140,000 are injured on average each year. Many ATV-related deaths and injuries are preventable, and by providing safety information to riders in the aftermath of this incident, we can work to drive down the number of incidents in your community.

By incorporating safety tips into your story now, such as those to the right, your reporting could help save a life.

Important Facts:

- ATVs are not toys! They are powerful and potentially dangerous vehicles.
- Adult ATVs can travel at more than 60 miles per hour and can weigh nearly a half ton; youth ATVs are made to travel at lower speeds that are more appropriate for children's ages and skills.
- ATVs can easily tip over and roll. The unpredictable nature of off-road conditions makes training and proper use essential.

Do Not Drive ATVs on Paved Roads

ATVs are designed to be driven only on off-road terrain; they should not be driven on paved surfaces. ATVs have solid rear axles and no rear differential, which makes turning on pavement difficult and dangerous; one tire will actually skid when making a turn.

ATVs on paved roads are at risk of hitting or being hit by cars and other vehicles. While passenger vehicles contain safety features designed to protect occupants from collisions, ATVs do not.

If struck by other vehicles, ATV riders can be killed or severely injured.

For these reasons, CPSC recommends never driving on public roads. In addition, some states and local areas prohibit ATVs and other off-road vehicles on public streets and highways.

For more information about ATV safety, state legislation, and national and state data, please visit www.ATVSafety.gov. To speak with a CPSC spokesperson, please call (301) 504-7800.

The letter and the handout were submitted for the record.

President Knochel reviewed the process of putting the Ordinance together saying Commissioners' Assistant Cederquist researched various Ordinances around the state regarding the off-road subject. The various Ordinances were reviewed by several people, including Highway Department Technical Services Coordinator Mike Parks, Sheriff Brown, Conservation Officer Matt Tholen, the County Attorney, Mr. Cederquist, and himself. An Ordinance that best suited Tippecanoe County was selected and revised until there was a consensus among the group.

President Knochel said the emails received in the Commissioner's Office have been 10-15 to 1 against the Ordinance. Those who are in favor of the Ordinance are farmers that use off-road vehicles, such as Gators, to get feed to their livestock and/or seed to the field.

Commissioner Murtaugh stated he has been somewhat vocal in his opposition to the Ordinance. His concern is public safety. Since approximately half of the county roads are at speed limits of 50 mph or higher, with dips and hills, it seems unsafe to have any type of ATV on those roads. The current Ordinance is too broad and he does not support it. His suggestion is to go back to the drawing board and prepare an Ordinance that would work to use the off-road vehicles for agricultural purposes and further limit it to roads with low speed limits.

Commissioner Byers asked if anyone from the Department of Natural Resources (DNR) was in attendance; there was not. He continued to say the DNR appeared to be the problem with the issue and quoted a portion of a letter received from a citizen: *"the Sheriff told our family it is fine to use these ATVs for farm use but the DNR stopped us and told us to get them off of the road"*. Commissioner Byers said he heard the more tickets a DNR Officer writes, the more money they get; they have quotas. If that is a fact, he agreed with Commissioner Murtaugh in that the Ordinance should be voted down and started over. In Indiana, there are 40 of the 92 counties that do not have ATV rules and regulations. Iowa and Illinois have agriculture exemptions that also cover using ATVs on the road for work purposes, utility, and law, among others. There are other avenues to be considered.

Auditor Weston recorded the vote.

Byers	no
Knochel	no
Murtaugh	no

Ordinance 2014-03-CM failed 3-0.

UNFINISHED/NEW BUSINESS – none

REPORTS ON FILE

The following reports will be on file in the Commissioner's Office:

- Treasurer

PUBLIC COMMENT

Carl Covely – Mr. Covely said if the off-road issue is pursued he would like to be on the committee. He rode a snowmobile for years and is very familiar with the State statue. On another issue, he said the State and Federal gas tax revenues are down and neither will raise the gas tax. There are a lot of roads needing maintenance and his proposal is to raise the wheel tax. Wyandotte Road from 900 E to Mulberry is a series of patches. The Highway crew recently completed some patching which is already coming apart; the road is beginning to deteriorate. Roads are a big piece of economic development; executives don't want to drive on bad roads like Sagamore Parkway and Teal Road. Commissioner Byers said if wheel tax was raised to the maximum allowed, the County would gain approximately $400,000.

Dave Heath, Community Corrections Executive Director, said the new K9 vehicle will be sitting outside following the meeting for anyone to view. The K9 dog and his handler will also come in after the meeting.

Sheriff Tracy Brown announced the 9th annual Fish Fry and Car Show for the American Red Cross is on Friday, May 30. He has ticket packs for anyone wanting to help sell tickets.

As there were no additional public comments, Commissioner Murtaugh moved to adjourn.

Meeting adjourned at 10:47 a.m.

BOARD OF COMMISSIONERS OF
THE COUNTY OF TIPPECANOE

John L. Knochel, President

Thomas P. Murtaugh, Vice President

David S. Byers, Member

ATTEST:

Jennifer Weston, Auditor 05/05/2014

Minutes prepared by Tillie Hennigar, Auditor Administrative Assistant