TIPPECANOE COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
June 16, 2014

The Tippecanoe County Commissioners met on Monday, June 16 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, 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 June 2, 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 June 2, 5, 6, 12, 13, and 16 and payroll vouchers for June 6, 2014 as submitted without exception, second by Commissioner Byers; motion carried.

HIGHWAY – Opal Kuhl
Accepting Bids for Bridge #42 Replacement Project

Highway Director Kuhl said bids have been received for Bridge #42 on County Road 500 East.

Attorney Masson opened the six bids that were submitted.

BRIDGE #42 - PROJECT BID SUMMARY

Date Bids were opened: June 16, 2014

Notice given on: May 30 and June 6, 2014
In Lafayette Leader — Lafayette (Location)

And on May 30 and June 6, 2014
In Journal & Courier — Lafayette (Location)

A	YATES CONSTRUCTION, INC P.O Box 41, 104 N Lutz, Kentland, IN 47951
B	MORPHEY CONSTRUCTION, INC. 1499 N Sherman Dr, Indianapolis, IN 46201
C	HIS CONSTRUCTORS, INC. 5160 E 66TH St, Suite B, Indianapolis, IN 46220
D	RIETH-RILEY CONSTRUCTION CO., INC. 3425 O'Farrel Rd, Lafayette, IN 47905
E	MILESTONE CONTRACTORS, LP 3301 S 460 E, Lafayette, IN 47905
F	JACK ISOM CONSTRUCTION CO, INC. 622 S State Road 43, Reynolds, IN 47980
G	

DESCRIPTION	BIDDER A	BIDDER B	BIDDER C	BIDDER D	BIDDER E	BIDDER F	BIDDER G
BRIDGE #42 REPLACEMENT CONTRACT	$ 174,520.01	$ 198,598.00	176,850.52	159,088.00	145,540.15	205,361.50	
The proposed work will include removal of the existing structure, placement of a precast concrete box culvert, reinforcing steel, concrete, guardrail, riprap on geotextiles, linear grading, and maintenance of traffic.							

Remarks:

- Commissioner Murtaugh moved to take the bids under advisement, second by Commissioner Byers; motion carried.

Change Order #8, Cumberland Road Project from DJ McQuestion & Sons

Director Kuhl presented Change Order #8 for the Cumberland Road Project in the amount of $6,723.05, bringing the total contract to $4,650,458.29. The change order is for additional lime stabilization necessary for the project. The project is complete and there will be one more change order to balance the quantities.

- Commissioner Murtaugh moved to approve Change Order #8 for the Cumberland Road project as presented, second by Commissioner Byers; motion carried.

Permit to Close or Block

Director Kuhl presented an application request to close a block for a block party on July 4th from 4:00 p.m. until 10:00 p.m. It closes North Commodores Lane in Rainybrook Subdivision.

- Commissioner Murtaugh moved to approve the Permit to Close or Block a Road on July 4th, 2014 for North Commodores Lane from Warfside Parkway to Flagship Lane as presented, second by Commissioner Byers; motion carried.

Continuation Certificate for Frontier North, Inc. in the amount of $5,000

Director Kuhl presented a Continuation Certificate for Frontier North in the amount of $5,000 to do work in the public right-of-way.

- Commissioner Murtaugh moved to approve the Continuation Certificate for Frontier North as presented, second by Commissioner Byers; motion carried.

AREA PLAN – Sallie Fahey
Subdivision Variance–RE0063–Meadowgate Estates Subdivision, Section 4 (Rural Estate-Preliminary Plat: A variance to permit a cul-de-sac length of 1,020 feet for the new rural estate road off of Shooting Star Lane, instead of the 800 feet maximum (USO 5.3-2-a)

Area Plan Director Fahey said the request is to lengthen the proposed cul-de-sac of Section 4 of Meadowgate Estates Subdivision. Two aerial photos were presented to the Commissioners of the development under consideration for a subdivision. The request is to have the cul-de-sac length be 1020 feet instead of the maximum 800 feet. Area Plan staff does not see that the request would present any problems. The Commissioner's vote will be a recommendation to the Plan Commission when voting on the variance and the subdivision.

- Commissioner Murtaugh moved to approve the subdivision variance RE0063 for Meadowgate Estates Subdivision as presented, second by Commissioner Byers; motion carried.

GRANTS – Laurie Wilson
Permission to Apply for Grant:

Grant Facilitator Wilson requested permission to apply for a grant for CASA in the amount of $22,768 from the Indiana Criminal Justice Institute (ICJI). The grant is a continuation for salary and benefits for

the CASA program. There is a cash match of $1,092 for travel and in-kind match of $4,600; the same as last year.

- Commissioner Murtaugh moved to approve permission to apply for a grant for CASA in the amount of $22, 768 from ICJI as presented, second by Commissioner Byers; motion carried.

HUMAN RESOURCES *– Shirley Mennen*
Castlight Agreement

President Knochel said the Castlight Agreement has been withdrawn from the agenda.

APPOINTMENT OF MAINTENANCE DIRECTOR

President Knochel announced that Maintenance Director Mike Haan would be stepping down but remains on the Maintenance staff. Tony Dildine has been the Jail Maintenance Director for 16 years and will replace Mike Haan effective next week. Tony thanked the Commissioners for the opportunity. Commissioner Murtaugh thanked Mike for the great job he has done.

- Commissioner Byers moved to approve the appointment of Tony Dildine as the new Maintenance Director, second by Commissioner Murtaugh; motion carried.

AGREEMENT WITH D.A. DODD FOR HVAC PREVENTATIVE MAINTENANCE (Courthouse, County Office Building, and Sheriff's Department)

Commissioners' Assistant Cederquist said the agreement is a renewal for the HVAC preventative maintenance of the Courthouse, the County Office Building, and the Sheriff's Department. The cost is $31,930 per year and split between the Sheriff's Department and the Maintenance Department.

- Commissioner Murtaugh moved to approve the agreement with D.A. Dodd for HVAC preventative maintenance as presented, second by Commissioner Byers; motion carried.

NEW BUSINESS

President Knochel said the Commissioners were asked to approve an Ordinance. Attorney Masson read ORDINANCE 2014-08-CM in full.

ORDINANCE NO. 2014- 08 -CM
AMENDING TIPPECANOE COUNTY CODE
ADDING NEW CHAPTER 162
PROHIBITION OF QUARRIES IN RESIDENTIAL AREAS

BE IT ORDAINED by the Board of Commissioners of Tippecanoe County, Indiana, that the Tippecanoe County Code be amended to add a new Chapter 162 reading as follows:

PROHIBITION OF QUARRIES IN RESIDENTIAL AREAS

§ 162.01 TITLE.

This Chapter shall be known as "Prohibition of Quarries in Residential Areas"

§ 162.02 PURPOSE.

Whereas, quarrying and the processing of mineral resources should give due regard to (1) the protection of the health, safety and general welfare of the people, (2) the prevention of stream pollution, water, air and land pollution; and (3) the prevention of negative impact to the County's water supply and other injurious effects to persons, property, and natural resources; and

Whereas, the Board of Commissioners finds that, for the protection of the public health, safety and welfare of the citizens of Tippecanoe County and to mitigate the negative impacts of quarrying on those citizens who reside adjacent to or near such operations, it is reasonable and necessary to regulate quarrying as provided in this Ordinance.

§ 162.03 APPLICABILITY

A. The provisions of this Chapter govern the construction and operation of quarries in Tippecanoe County.

B. As used in this Chapter, "quarry" refers to a site where the area on or beneath land is used in activity related to the extraction, removal, or recovery of dimension stone or crushed and broken granite, crushed and broken limestone, or other crushed and broken stone from natural deposits and includes those activities classified under Standard Industrial Classification (SIC) codes 1411, 1422, 1423, and 1429. The term does not refer to such activity where limited to the extraction, removal, or recovery of sand or gravel.

C. A person is prohibited from constructing, operating, or locating a quarry in Tippecanoe County after June 16, 2014 without having fully complied with the provisions of this Chapter.

D. This Chapter is intended to supplement regulations imposed by other legal authority. Nothing in this Chapter is intended to preempt other applicable federal, state and local laws and regulations. Nor is anything intended to interfere with, abrogate, or annul any other ordinance, rule, or regulation, statute or other provision of law. In the event that any provision of these regulations imposes restrictions different from any other ordinance, rule, regulation, statute, or provision of law, the provisions that are more restrictive or that imposes higher standards shall govern.

§ 162.04 QUARRIES PROHIBITED IN RESIDENTIAL AREAS

A. A person shall not construct or operate a quarry in the County if one hundred (100) or more residential homes are located within a two (2) mile radius of the quarry. This provision shall not apply to quarries in operation prior to June 16, 2014.

B. If a quarry complied with subsection (A) when construction on the quarry began, construction and operations may continue even if additional residential homes are subsequently added within the two (2) mile radius. However, if construction or operation ceases for one (1) year or more, then construction or operation may not resume unless the quarry complies with the requirements of subsection (A).

C. Prior to beginning construction of a quarry or resuming construction or operation of a quarry, the person intending to construct or operate a quarry shall file a certification with the Board of Commissioners indicating that the construction does not violate subsection (A).

D. For purposes of subsection(B), the date construction begins shall be regarded as the later of: 1) the date actual substantial work begins on constructing the quarry; or 2) the date a certification is filed under subsection (C).

§ 162.05 STOP ORDER AND INJUNCTIVE RELIEF.

A. Whenever work is being done contrary to the provisions of this Chapter, the Board of Commissioners may order the work stopped by notice in writing, served on any person engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Board of Commissioners to proceed with the work. All persons aggrieved by a stop order issued by the Board of Commissioners under this subsection shall have the right to have the order reviewed by the Board. The petition for review must be filed within 30 days of the order. Any decision of the Board of County Commissioners pursuant to such a review petition may be appealed in accordance with IC 32-2-2-27.

B. A person with an interest in real property within a two mile radius of the quarry may apply to the Circuit or a Superior Court of Tippecanoe County for injunctive relief under this Chapter. The Board of Commissioners may also apply for injunctive relief. Injunctive relief may be pursued under this subsection regardless of whether a stop order has been issued under subsection (A).

§ 162.06 VIOLATIONS.

It shall be unlawful for any person, firm or corporation, whether as owner, lessee, sub-lessee, or occupant, to construct or operate a quarry or cause or permit the same to be done, contrary to or in violation of the provisions of this Chapter.

§ 162.07 PENALTY

In addition to the availability of injunctive relief, a person who violates this Chapter shall be subject to a fine not exceeding $2,500. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

§ 162.08 SEVERABILITY

The provisions of this ordinance are severable, and the invalidity of any section, subdivision, paragraph, or other part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

This Ordinance shall be in full force and effect immediately upon its passage and signing except that, in addition, any provisions deemed to be a penalty or forfeiture under IC 36-2-4-8(b) shall be subsequently and independently in full force and effect following publication as required by law.

- Commissioner Murtaugh moved to hear Ordinance 2014-08-CM, second by Commissioner Byers.

President Knochel invited public comment opposed to the Ordinance. There were none.

President Knochel invited public comment in favor of the Ordinance.

Nate Hofmann – 7701 Rolling Hill Dr, Lafayette – Mr. Hoffman asked for approval to exceed the three minute time limit as his presentation will take approximately ten minutes. President Knochel gave his approval. Mr. Hoffman thanked the Commissioners for their time and listening to the citizens of Tippecanoe County.

He provided a PowerPoint presentation showing what the proposed quarry property looks like today versus what it could look like if the quarry becomes reality. There are 153 residential homes within one mile of the proposed quarry property; totaling approximately 400 people. Local residents have gone door-to-door to interview the 153 residents, 120 surveys have been collected; six declined to participate. Of the 120 collected, all were opposed to the quarry. The four major issues of concern were: 1) water related; 2) safety; 3) health; and 4) economic.

Mr. Hoffman continued to say the residents of Americus are requesting a measure of protection for residential homeowners be reinstated as it used to be in Tippecanoe County. They are requesting a buffer zone with no mineral extraction operations permitted within a two mile circle containing 100 residences or more. These numbers do not prohibit quarrying but allows quarrying in the more sparsely populated or primarily agrarian areas of the county.

In conclusion, Mr. Hoffman stated that no industry should have the right to operate at the expense of those who call the area home – either in dollars, health, or safety. "Our hope is the Commissioners will help the people of Americus protect the community we have worked so hard to build."

President Knochel invited additional public comment from those in favor of the Ordinance. There were none.

Commissioner Byers asked APC Director Fahey if a county-wide map was acquired to see how regulated it would be throughout the county if the Ordinance passes. Director Fahey said that had not been done

but she will produce one. Commissioner Byers said if the ordinance passes on first reading as is and the maps are available by the next meeting, the buffer could be changed. Attorney Masson said the ordinance could be modified at the second reading. President Knochel asked for clarification on the PowerPoint map showing the location of homes.

Allen Hofmann – 4740 Masons Ridge Rd, Lafayette – Mr. Hofmann provided an explanation of the homes in respect to the quarry location on a map presented to the Commissioners, stating that everything on the map is within a two mile radius of the quarry. Mr. Hofmann also presented a GIS map (obtained from MITS) of an area on State Road 28 between Romney and Lafayette. The area was chosen because of the low population; there are 38 residents within the two mile radius. Other areas were not researched.

Commissioner Byers said he does not want it assumed that quarries are banned from the county. President Knochel asked to show the water table drawdown slide again and explain the distances. Slide number 5 was redisplayed and Mr. Hofmann said Sugar Creek is approximately two miles from the road and the drawdown is at four feet; the closer you get, the worse it draws down. The homes in Americus have wells that are 20 – 30 feet deep.

Attorney Masson said the current reading makes a distinction between sand and aggregate, which are permitted, and stone quarrying, which would not be. Mr. Hofmann said there are 12 or 13 aggregate dealerships in operation in the county. Aggregate dealerships don't come with dewatering plans, blasting, or the ramifications a stone quarry would bring. They do not have the environmental or residential impact.

Commissioner Murtaugh thanked Nate and Allen Hofmann and their group for the constructive and civil discussions over the past year; the input and dialog is appreciated.

Auditor Weston recorded the vote.

Byers	Aye
Knochel	Aye
Murtaugh	Aye

Ordinance 2014-08-CM passed 3-0 on first reading.

The second reading for Ordinance 2014-08-CM will be on July 7th, 2014.

Commissioner Byers said the July 21st Commissioner's meeting conflicts with the GE ground breaking.

- Commissioner Murtaugh moved to change the date of the July meeting to Tuesday, July 22 at 10:00 a.m. in the Tippecanoe Room, second by Commissioner Byers; motion carried.

UNFINISHED BUSINESS

In regards to the salary recommendation, Auditor Weston said she is working under the assumption that the 3% goes on the market level of the pay grids. The State mandated positions such as Probation and Public Defender are not included in the 3%. Probation has a 2% increase on their chart but she has not looked into the Public Defender's chart.

REPORTS ON FILE

President Knochel said the following reports will be on file in the Commissioner's Office:

- Clerk
- Treasurer
- Crystal Creek Board Kennel
- Circuit Court
- Public Library

PUBLIC COMMENT

Roberta Crabtree from the County Extension Office introduced and welcomed Jo Nichols as the new 4-H Extension Educator.

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

Meeting adjourned at 10:45 a.m.

BOARD OF COMMISSIONERS OF
THE COUNTY OF TIPPECANOE

John L. Knochel, President

Thomas P. Murtaugh, Vice President

absent
David S. Byers, Member

ATTEST:

Jennifer Weston, Auditor 07/07/2014

Minutes prepared by Tillie Hennigar, Auditor Administrative Assistant