

July 12, 2012

The Ellettsville, Indiana Plan Commission met in regular session on Thursday, July 12, 2012, in the Fire Department Training and Conference Room located at 5080 West State Road 46. Dan Swafford called the meeting to order at 6:00 p.m. Phillip Rogers led the Pledge of Allegiance.

Roll Call: Members present were: Dan Swafford, President; Terry Baker, Vice President; Don Calvert, Phillip Rogers, Russ Ryle, and Sandra Hash. Phillip Smith was absent. Connie Griffin, Director of Planning, and Rick Coppock, Bynum Fanyo and Associates, Town Engineer, were also present.

Approval of the Minutes – June 7, 2012

Dan Swafford entertained a motion for approval of the June 7, 2012 minutes. Don Calvert so moved. Russ Ryle seconded. Motion carried.

New Business

First Assembly of God Development Plan Amendment State Road 46

Connie Griffin, Director of Planning, advised there is not a petitioner from the church present. She's uncertain if there is confusion about the time of Plan Commission as compared to the Town Council meeting. She can go ahead and give a couple of updates. Before them are maps of the project area and what the slope area currently looks like, a receipt in the amount of \$100 for the fee to petition for the plan amendment, petition letter, some other information previously sent by email, the development plan and some information Rick Coppock provided on stabilization of slope areas. Rick Coppock will talk to them about the usage of rip rap with a fabric cloth on a steeper slope area. It is something that is used regularly to stabilize an area.

Rick Coppock, Bynum Fanyo Utilities, Town Engineer, can't add a whole lot to what Connie said. The area they're talking about is a slope that is kind of in the corner. Originally, that part of the slope was to be stabilized with a turf reinforcing matt which has grass that grows back up through it. Obviously, with dry conditions and heat it is not going to be happening. What they have proposed to do is to use rip rap with a filter cloth underneath. It hasn't taken the seed yet and they want to go ahead and get a permanent fix in there to prevent any erosion during heavy rains and those types of events. It is a common practice to use rip rap with filter fabric underneath it. It is used widely every where and is in the Indiana Manual on Erosion Control Best Management Practices. The preferred recommended method of placing rip rap is to have filter fabric underneath it.

Dan Swafford asked exactly which area it is on the photograph. Are they coming around the back side or just where it is bare? Mr. Coppock replied he thinks it's pretty much where it's bare on the slope area. Phillip Rogers commented it's directly behind the dump truck. Mr. Coppock said yes, that's his understanding of it. Ms. Griffin stated she thinks they're also looking for the area on the other side that faces the wall area and wraps around a little bit like he just asked. Dan Swafford stated his only concern is after the project continues or if something else goes on. Is there any plan to eventually take this back out and try to re-establish grass or is this going to be a permanent solution? Mr. Coppock responded they don't know anything about that. Ms. Griffin commented they don't know without the petitioner being present. They may have to table this in case they come in late but this is just to get the discussion started. Mr. Swafford commented he is having a little concern with the aesthetics of the view being a main focal point as you go down the main highway.

Phillip Rogers said what bothers him with rip rap are the weeds that will come through it. Just like the other places that have rip rap along the highway they look like garbage. It is hard to get the weeds out. You can spray them.

Sandra Hash commented when they put in the new highway the State put in rip rap across from Smithville Telephone, there is a house on the west side that is so grown up you can't even see the house from the road. Mr. Rogers said that is a good example. He doesn't think the rip rap is the way to go. Mr. Swafford said he can see a temporary

fix because of the drought conditions. His concern is the same as everyone else. It's going to be a very visible place and maybe it should just be a temporary fix. Ms. Hash stated she can't imagine them putting rip rap in and then taking it out. Mr. Rogers said there's also the added cost of putting it in. It's not going to be cheap. Mr. Swafford asked Mr. Coppock if there was anything else he can think of. Mr. Coppock replied if we get cooler weather where they can start growing some grass they could put batting down and get grass growing through it. The matting holds the grass in until it gets established. It's designed for steep slopes.

Russ Ryle asked Rick Coppock if it would be possible to lay matting on it to hold the slope until grass is established. Mr. Coppock responded you could. A lot of times the matting with high heat will tend to deteriorate over the summer. He doesn't know if that it is a big problem right now. Mr. Ryle stated in early June there was a 2" rain before the drought. Was there significant erosion from a 2" rain on that hill? Connie Griffin answered prior to stabilizing there were quite a few rills because there was such a down pour. They were shown photographs where it was cut out in certain places. They have repaired all of that. There has not been any rain. So, they haven't inspected during a rain event. The way the inlets are protected it appears, in their opinion, it has stabilized. Mr. Coppock stated it's not really leaving the site. It's all staying in the site because a lot of it is picked up in the detention sediment pond. Mr. Ryle commented he was just looking at the risk of doing nothing for awhile versus the risk of doing something that may be less than aesthetically optimum. If what he's hearing from both Ms. Griffin and Mr. Coppock is the risk of letting it set there for awhile in its current state is somewhat minimal. Mr. Coppock stated nothing is really going to change between now and cooler weather when they can get something growing in there.

Dan Swafford asked if the church petition is because of the Town Council's imposing fines on establishing the growth. Ms. Griffin replied she thinks they're just trying everything they can to satisfy the Town Codes. This was one option they felt they should present to the Plan Commission. Her last letter was to give them until October 22, 2012, to start establishing growth. This means they would technically start in September when the weather starts changing. This was pretty much what they had decided which was to not waste any more water in an attempt to get vegetation established. Mr. Swafford said this is another point he wants to bring up. He noticed it was the Town's water being used and they weren't metered. Mr. Coppock replied you can put meters on hose and construction meters which attach to the fire hydrants. Mr. Swafford asked if someone could check and see if they have a meter. He doesn't like seeing the rip rap because later it will look horrible. That's going to be a very visual spot as you come down the highway. The building is not going to be blocking it. Mr. Coppock said the building will probably block it from the highway. There is a drive between the retaining wall on the east side and the building. There's probably 40' in between there. Mr. Swafford asked if they were to grant this, what codes are there about keeping trees and things out of it. Mr. Coppock said there would only be the weed ordinance.

Sandra Hash thinks since there's no one present to represent the church they should table it and tell them the Plan Commission's opinion. The Plan Commission is willing to wait because there isn't an erosion problem right now. In the fall it will be wetter and there will be time to grow some vegetation. Why don't we table this until we hear from the church and let them hear we prefer not to have rip rap? Mr. Swafford said he would agree to this point. The concern he has is if the Town Council is moving toward fining or upholding the vegetation growing. He does not want the Plan Commission to hinder that.

Russ Ryle asked if it would be appropriate for the Plan Commission to table any action on this request. Could the Plan Commission recommend to Town Council that based on the existing letter giving them until October 23, 2012, they wait at least another month to re-evaluate the situation before any further conversation on fines or enforcement is undertaken? Mr. Swafford replied they can always make the recommendation but that

doesn't mean the Town Council will take it. Mr. Ryle commented to table it tonight, if we get rain the grass would take off and it would be a mute point. Ms. Hash commented she thinks it would be more cost effective for them. As long as they know the Plan Commission is willing to wait on it.

Dan Swafford entertained a motion to table the petition from the First Assembly of God to modify their plan to add rip rap until the next Plan Commission meeting. Russ Ryle made a motion to table the petition from the First Assembly of God to modify their plan to add rip rap until the next Plan Commission meeting in hopes they will be able to present additional information to the Plan Commission and they will see what they're blessed with in the way of rain and grass growth. In the meantime, he respectfully request that no fines be assessed against the First Assembly of God for the lack of grass. Clearly, they have made an excellent effort to try to grow it. Terry Baker seconded. Roll Call Vote: Dan Swafford – yes; Terry Baker – yes; Don Calvert – yes; Phillip Rogers – yes; Russ Ryle - yes and Sandra Hash – yes. Motion carried 6-0.

Robert Lowers Town of Ellettsville Municipal Code Discussion 93.17

Connie Griffin, Director of Planning, explained this is the location at 1119 Main Street and is the Lucy Jacobs Trust property. The resident is Robert Lowers. Information submitted from Robert Lowers has been provided. A chronology of photographs from the project site as well as a listing of the letters have been provided. It is Mr. Lowers request to speak to the Plan Commission. The property owner, Marion Jacobs, is present.

Robert Lowers lives at 1119 Main Street in Ellettsville. He did send off research on some of the things he might be talking about. Once upon a Saturday, on the way to the farmers market, he got behind a car that had a bumper sticker that said co-exist. He parked two cars down from where he was. At the market, he saw him shopping for produce. He spoke up and said they're all organic. He smiled at him and said yes and locally grown. They walked and talked and had a unusual enlightenment in their friendship. Finally, he said to him it was very nice to meet you. He responded yes indeed, it's been a true blessing from God. He quickly looked at him as if he had seen a ghost. He asked what the matter is. As he walked away, he said he didn't believe in God. He told him to stop that didn't matter to him. He said it does to him and he walked away. His thoughts were wow; it's too bad they just couldn't co-exist. They both had the desire to help people to find their health and wealth through natural living.

He is at this meeting to exercise his civil rights of Freedom of Speech and to declare Ellettsville Code 93.17 is in violation of Indiana Code 36-7-10.1-3 that allows any Indiana municipal or county government to have an ordinance of overgrown weeds and rank vegetation. He wants to further reveal that the execution of this code in this Town is completely bias. He would like to also make public that Ellettsville has a Town ordinance, number 152.012, called Permitted Uses of Land, that not only allows wildlife gardens, habitats and preserves but it also demonstrates in the writing of that code their value and the need to the public welfare. However, it's exclusive to the Town only. For the record, and the public needs to know, the Planning Department and two or more members of the Plan Commission refuse to recognize any such manner of this wildlife garden or its value. He has multiple letters as Connie had stated from the Planning Department calling his wildlife garden a nuisance and a detriment to public health despite what is written in the Town Code.

As far as who is responsible for the 1119 Main Street property, according to Indiana Code for tenants and landlords which states, *"Unless there is a community ruling over that property of specific responsibility then the contract is the lease governed over that contract and of that resident."* His lease states that he is responsible for the yard maintenance at 1119 Main Street. Therefore, by law making him the intellectual property owner of his garden. Only in America do they call gardens yards. As stated earlier, Ellettsville Town Code 93.17 is in violation with I.C. 36-7-10.1-3. Being that you must provide a list or a set of definitions of what they are considering a weed or rank vegetation according to the code. He stands there with his civil rights as an American in front of this Town Council meeting, the head of the Planning Department, those who are present and listening and anybody in front of the Journal that may be reading from this particular moment. He is claiming citizens' arrest. He is telling them

not to cite another violation under §93-17 until they are in compliance with the State of Indiana Code 36-7-10.1-3 for tall vegetation. While they're revising that particular code he suggests that it is rewritten so that it can be judged fairly and not so heavily opinionated. His suggestions for §93.17 are to be directed toward what its intentions were and that is to be able to charge for the mowing of abandoned properties and to enforce property land maintenance. The State code and which it stands now will suffice for those two purposes but it is completely arbitrary. Nonetheless, 90% of these violations of tall grass in the State of Indiana are from houses that are in foreclosure which has enough evidence of such.

For those like himself who have a specific purpose for their garden and that space that's in their yard, under this code, it is an injustice as it stands. Currently, these special cases only need someone who likes what they're doing to allow the garden to exist which is a reality here in Ellettsville because there are plenty. Or, as in his case to be stopped because a member is offended or dislikes him. It can be easily fixed by §152.012 by just adding the jurisdiction to the Town limits. Just think, they both want good public health, a safe environment, great smells and sounds and peace at the place where they live. Just because they have different beliefs and might believe in different gods doesn't mean that they cannot co-exist. If they were to co-exist and work together on this issue they would immediately stop a public nuisance. That is, whether he has a yard or a garden to maintain. After all, they live in the United States not the divided states. He has four questions:

1. Does anyone feed birds? Phillip Rogers answered he does. Mr. Lowers stated he's possibly feeding them thistle because that is a popular bird feed.
2. Why do they think he's here? Mr. Swafford explained this isn't a question and answer time. They're there to listen to his discussion and he can present it anyway he wants to. He can ask any question he wants but they're not obligated to answer anything at this time. Mr. Lowers said fair enough. Mr. Lowers asked if anyone had any comments to him.

Don Calvert stated as he was looking at the photographs he was wondering what kind of plants concrete blocks, batteries, paint cans and stove pipes are. He saw those in the photographs around his house. He doesn't consider those plants. Mr. Lowers replied he is not in violation of those things. If he is in violation of those things then he should be cited. Mr. Calvert asked if he is not in violation of those things. Mr. Lowers answered he has not been cited by the Town of Ellettsville or the Planning Commission on either one of those issues. Connie Griffin commented he was cited in earlier letters. Current letters refer to vegetation. They are now in discussion about the storage of the excess materials and the chair and couch on the front porch. Mr. Lowers stated he feels free to answer the questions. He does recycle and he does gather things up to take them off to the recycling center. Unfortunately, he has to go to Bloomington now so it's inconvenient. He and Marion were just having a discussion that he would like for him to tidy the place up and he told him he would. They can look forward to those things being gone. Mr. Calvert stated the only thing that concerns him is the first letter went out in 2002. Ms. Hash stated she thought it was 2008. Mr. Lowers stated he thought the first letter was before Connie got on board. Mr. Swafford said the first letter was in 2008. Ms. Griffin said the first letter was on September 16, 2008, while Frank Nierzwicki was still the Director of Planning and he had her work on some code enforcement issues. Ms. Hash asked if there were some issues while Mr. Nierzwicki was employed by the Town about an addition on the back side of the building. Ms. Griffin said that is a question. Mr. Swafford asked Mr. Lowers if he was the person who added the addition on the back of the building. Mr. Lowers responded yes, he did the repairs from the tornado. The tornado knocked the back of the blocks out and they added a deck and they had a permit for that. Mr. Swafford asked if he had applied for a building permit. Mr. Lowers replied yes he did. Mr. Swafford asked if there is a copy of it on file. Ms. Griffin replied the Building Department has no history of any permits being issued. Mr. Lowers stated this was before it was brought over to Ellettsville. This was back when the tornado went through. Mr. Ryle said that was in 2002. Mr. Swafford asked Ms. Griffin if she had checked with Bloomington. Ms. Griffin replied, yes and when you look at the 2005 image it was not present on the Monroe County GIS

but yet it does show up after 2005 which is when Monroe County Building Department took over the Town's contractual services for doing inspections. Ms. Swafford asked Mr. Lowers when the deck was built. Mr. Lowers answered the major tornado they were talking about in 2002 came a year or two before. There was another tornado that went through and didn't do near the damage, picked the house up, shifted it and knocked the back side of the house off on the foundation. The foundation was all dug up and Frank Nierzwicki was in there and did come by and do a site inspection. This was all done by the Monroe County Planning Department. Ellettsville was not in charge of that at that particular time. Mr. Swafford asked if he had copies of that. Mr. Lowers replied he wasn't prepared for those kind of things at this meeting. This is a solely different issue and they can get those things. The thing they're avoiding is the fact that the Town of Ellettsville is violating the State of Indiana code. He gave them copies of that code and nobody wants to discuss what he is there to discuss. They want to discuss other things. He is here to discuss those things that he actually was requested to give them and the information he wanted to discuss. This has been an issue that has been going on for some time now. He has actually met with Connie on multiple occasions and she and a few of the board members told him yes, they're all about wildlife gardens. So, he met her requirements after two or three visits and they still ordered him to mow it down. Ms. Griffin explained in one of the letters she suggested that he submit a site plan to the Plan Commission so that they could review a listing of the vegetation he wanted to establish. The Planning Department did not receive that information.

Sandra Hash asked Mr. Lowers if he could pinpoint what portion of I.C. 36-7-10.1-3 he feels they're violating. Mr. Lowers replied yes, he can. It is Section 3(a), *"The legislative body of the municipal[ity] or county may by ordinance require the owner[s] of [real] property located within the municipal[ity] or the unincorporated area of the county to cut and remove weeds and [other] rank vegetation growing on the property. As use dint his chapter, 'weeds and other rank vegetation' does not include agricultural crops, such as hay and pasture. (b) An ordinance adopted [under] subsection (a) must specify the following . . . (2) The definitions of weeds and rank vegetation."* It states *"it must specify the following."* Ms. Hash asked if he feels their ordinance does not. Mr. Lowers interrupted her question and stated he has asked multiple times. He talked to Frank, talked to Connie and to her asking what they consider a weed. He's told it is something growing up. He asked what they're calling rank vegetation and is told his garden is. There are no guidelines as to what is a weed and what is rank vegetation. Therefore, this code is actually enforcing things that are in violation in the State of Indiana. It states *"must specify the following, number 2."*

Dan Swafford explained if he kept reading under I.C. 36-7-10-1-3, it does specify they can put a height. Mr. Lower said they have that and its 9". Mr. Swafford stated the weeds look quite a bit over 9". Mr. Lower asked what a weed is. Mr. Swafford replied the vegetation does look over 9". Mr. Lower said it's a garden. Mr. Swafford asked if he's saying the vegetation is over 9". Mr. Lower responded his garden does not follow under the particular ordinance because he doesn't have any way to guideline the garden. They have no definition. Mr. Swafford asked if a garden is vegetation. Mr. Lowers replied that's correct. Mr. Swafford asked him if it's higher than 9". Mr. Lowers told him he's looking at the Queen Anne's Lace that's on a stake. Ms. Hash asked if it's grass. Mr. Lowers replied there's very little grass anywhere in Ellettsville. Ms. Hash asked if it's weeds. Mr. Lowers asked if she didn't get his letter. A weed is nothing more than something that is growing where it shouldn't be growing. A weed does not get cut down it gets pulled out by the roots. He pulls out by the roots all of the time. He's not there to try to be any kind of thing. He's there to just go ahead and have his rights in being able to provide natural wildlife. What he had three years ago before the first cutting down was way better. It's all cut down now. Every bit of it's been cut down. After he got the phone call the other day, he told him he was going to have to have his garden passed by the board. They failed it the last time. He just went in there and cut it all down including the shrubs in the particular area they're talking about. Ms. Hash showed Mr. Lowers a photograph and asked if he cut down everything that is standing. Mr. Lowers asked what she wants cut. Ms. Hash said he stated he had cut the shrubs and she's wondering if they're shrubs, grass or weeds. Mr. Lowers replied he sees trees and a box that has Goldenrod growing around it and some Virginia Creeper. Goldenrod is a natural herb that is highly medicinal. It's got a very fragrant flower. Ms. Hash asked if it could also be considered a weed. Mr. Lowers

responded if it is grown in a place that it is not suppose to be growing. Ms. Hash said there's no use debating this. Mr. Lowers stated grass is a crop. It's the same as corn. Where do they want to go with this? Ms. Hash said she was just asking him questions.

Dan Swafford asked if there were any other commissioners that had any questions or comments.

Dan Calvert said he thinks the key word is co-exist. He is concerned with his neighbors. Are they having a problem with the appearance of his property? Mr. Lowers said not that he's aware of. Not to the left, not to the right, not the one across the street and not the one on the other side. He doesn't know who. He knows that one board member is one of the complainers. He's got a board member on this board that he knows for a fact is actually very, very displeased with his place. Mr. Calvert asked if he was not living there now. Mr. Lowers said he is. Mr. Swafford asked how long he has lived there. Mr. Lowers said he has lived there since 2002.

Russ Ryle asked Dan Swafford how do they define garden. In most gardens in this state a tomato, whether it's staked or not, is greater than 9". This is a bit of a rhetorical question. His point is Town code doesn't really define much of anything. Mr. Swafford said he agrees with him. He thinks they do need to look at the code a little closer. Some of the points being made here are being played with and should not be considered in the code. Mr. Ryle understands his feelings and has to agree with some of them. His whole reason for speaking up was the code needs to be revised. If it's any consolation this isn't the only part of the code that needs to be looked at. Ms. Hash stated at the same time, she doesn't think this would fit into the garden definition. Mr. Ryle doesn't know if it would fit into a garden definition. He's just saying the fact is they don't have a definition. Mr. Swafford said they do have preservation of property values. Ms. Griffin stated under land uses and residential uses, whenever you devalue property by maintaining property that's considered a public nuisance, have received complaints and have the potential to devalue property values that becomes a zoning violation under land use. Mr. Ryle asked if the issue here is land usage and not whether goldenrod is a weed. Ms. Griffin replied that's correct. Mr. Lowers said under land uses, §150.012 specifically states, "*The Municipal Public District is intend[ed] to establish standards and criteria to permit or protect recreational areas having unique or irreplaceable natural resources which are vital elements for a safe . . . environment . . .*" Later it says, "*Natural conditions are vital for either unique vegetative ecosystems, aquatic or wildlife habitats; and . . . Nature preserve.*" This is all acceptable for the Town of Ellettsville. Mr. Ryle said yes, but in a residential zone? Mr. Lowers replied right down the street from him he sees the nature preserve the Town of Ellettsville has. He drives by whenever the guys are out there spraying pesticides which is against the rules for a natural preserve and it sprays all over his car. It is right across the street from the water department at Jack's Defeat Creek. All the way up to where the "Y" splits on Main Street and where Main Street becomes Main Street, all along that stretch has exactly the same things growing and it's all natural. Except the Town sprays it and they don't spray it very well. Mr. Swafford asked Mr. Lowers to keep to the point, they're getting off track. Ms. Hash reminded him their rules say a speaker has five minutes to make their presentation. Mr. Swafford told Mr. Lowers unless he wants to come to a close, he thinks they're done. He knows there are letters going out and if anyone in the Plan Commission would like to make a motion to retract these letters they're welcome to. Otherwise, he suggests if he gets no where with this, he moves it to the Town Council. Ms. Hash told Mr. Lowers they haven't treated him differently than any other residential property that has over 9" of height on their grass. They haven't isolated or treated him differently. Mr. Swafford asked Ms. Griffin if the letters have gone out. Ms. Griffin replied yes. Mr. Swafford asked when she mailed the letters. Ms. Griffin answered the last letters went out on July 11, 2012. Mr. Swafford asked how many days Mr. Lowers has to comply. Ms. Griffin responded it's stated in the letters. Ms. Hash stated when Mr. Lowers was at the podium he stated he mowed down the shrubs and everything. Ms. Griffin stated the July 10, 2012, letter was sent out to the property owner, Marion Jacobs. On July 9, 2012, there was a letter sent by certified mail to Mr. Lowers. Mr. Swafford asked when the compliance date is. Ms. Griffin answered within ten days. Mr. Swafford asked if they were within ten days of the next Town Council meeting. Ms. Hash said the next Town Council meeting is July 23, 2012.

Marion Jacobs said he didn't know he really had a dog in this fight, only in a round about way since the land is in his wife's name. He doesn't know what they're talking about letters going out. They had a memo dropped by the post office today that they were going to try and deliver a letter. He assumed it was in regard to tonight. Ms. Griffin said it was a certified letter about the code violations. Mr. Jacobs asked if it was about tonight's meeting. Ms. Griffin explained it was about the code violations and they made phone calls as well as asking Mr. Lowers to contact him about attending this meeting. Mr. Jacobs said he got the phone call or otherwise he had no idea any of this rhubarb was going on. He thought this thing was settled about two years ago. He told them some time ago he raises "hell" with Bob all the time about wanting to try and keep it cleaned up. He's gotten to the point there's no need to try and fight this issue of garden, yards and so forth. He realizes what most people call a weed is not according to other people. The City of Bloomington is encountering the same situation. He's at this meeting to try to find out what's going on. Mr. Swafford said he thinks the actual violation states that he has ten days to clean it up or the Street Department will come in and bill the landowner or tenant. Ms. Hash explained any vegetation over 9" should be removed in her opinion. This does not apply to trees or shrubs. Mr. Jacobs said there are trees there but to him they're bushes. Ms. Hash reiterated not trees or shrubs, just grass and weeds over 9" should be brought down. Mr. Jacobs asked what they're going to do about the state property. Ms. Griffin replied they've called INDOT on three occasions to come in and mow that part of their right-of-way so that there would be a clear definition of what is not Mr. Lowers responsibility. Mr. Swafford commented on the right-of-way position if they do not respond soon, the Town should go in and mow it.

Sandra Hash advised the last property the Street Department cleaned was mowed it and trimmed. Trimming would include going around the power box and the edges of the stone. As far as right-of-ways, she has lived in Kelly Heights at 870 Chandler Drive for 35 years and the Town of Ellettsville owns 25' from the center of the road on both sides. She put her mailbox in that right-of-way, she has some peonies in that right-of-way and she mows that right-of-way just like it's her yard. The Town could come along any time like they did in Ridge Springs and they can put a sidewalk there and remove anything she has there because it is their easement. Even though the State of Indiana has an easement portion does not totally relinquish the property owner of preserving it. She understands rip rap is very difficult. Could you imagine if she hadn't mowed that 8' strip of her yard for 35 years because she said it's really a Town easement? She's seen it more and more along S.R. 46. There is a property owner in Kelly Heights that has quit mowing. She knows they're thinking the state bought that from them and so it is their responsibility. The homeowner should take the initiative. She's sure the electrical box is in the state right-of-way. The sidewalk in front of it is probably state right-of-way. It is still the homeowners' responsibility to maintain those easements.

Robert Lowers said he disagrees because that is not an easement. It is a definite property line. They own the property where the weeds are growing now, out where the rip rap is. Ms. Hash said that may be the case with the other properties. Mr. Ryle said there is a definite issue on right of entry. It's one thing to have an easement on your property that gives somebody else a right of entry and a right to do things, but it is still your property and you're responsible for it. It is his understanding if they own the property and the state comes in and buys "x" feet off the front of the property to improve a road you don't have an easement they bought the property. So there is also a legal issue of the right to go on somebody else's property and do something to it. It's a state responsibility if, in fact, they bought the property. So where are the property lines? All they're talking about on this property or any others that which the state does not own. Ms. Hash stated one of the aials had some property lines in it.

Dan Swafford asked Connie Griffin if she would read the new code. Ms. Griffin explained it's not the full code. It's basically what was passed on July 1, 2012, of this year. It is House Bill 1072. This new code allows for municipalities to send one certified letter at the first year to a property that violates the tall vegetation codes and it serves as a blanket enforcement letter for the full year. If someone becomes non-compliant they have the ability to go in and cut the property and maintain it. It saves the municipalities sending multiple certified letters as the Town has been doing. This new code will be discussed at Town Council. She has already drafted some

new language to go into the code. The Town Attorney has the code and a public hearing notice has already been released. Mr. Swafford asked what the I.C. number is on the new code. Ms. Griffin answered she doesn't have it. It's a house bill that just recently passed.

Robert Lowers asked about the requirement of the definition of a weed or rank vegetation. It's a state code. Until they have that they really don't have any jurisdiction over it. The rules can be enforced as long as they abide by the compliance. They're asking him to abide by the compliance of their rules. The Town's rules don't abide by the state rules. He wants to co-exist. All he wants to do is to be able to enjoy the nature that is in the little small area that he was told he could do. This would have stopped two years ago if he wasn't told "I'm all about wildlife gardens, I want one myself and I have one myself." He's had board members say that they were interested in wildlife gardens. He's not turning his property into a wildlife garden. What was in the first video with all the Queen Anne's Lace and poison ivy is on the state's property. Do they want him to get in and tear it down? He is trying to maintain the property they're asking him to maintain. He admits he has some things around there that don't belong and he can promise he will immediately remove it and get the place tidy. He is asking the Plan Commission to accept the fact that he wants a wildlife garden some where on his property. He wants the Plan Commission to recognize it is vital to the community. For some reason it just keeps getting brought up over, over and over. Why doesn't the Plan Commission just say he's never going to have it and cut it down? He'll cut it down and it will be all over. He kept being led along like it was going to be accepted. Ms. Hash stated it isn't, they haven't and so they have to use what they have now. Mr. Lower said they don't have anything. Ms. Hash replied they have the terms "weed" and "rank vegetation". Mr. Lower said right with no definition.

Dan Swafford asked if any other commissioners had anything that had not been brought up yet. Mr. Rogers said he doesn't have a wildlife garden and doesn't have a garden at all. He has some flowers. He feeds different species of birds, squirrels, raccoons and possums and he mows his front yard. They get fed in his front yard. To him, he doesn't need all of that stuff to take care of wildlife. Wildlife will take care of itself. To him, the wildlife in Mr. Lowers' area has to cross two of the most busy highways there is. The chances of them getting across there doesn't look too good to him. He doesn't think Mr. Lowers needs all the extra growth. A flower to one person is a weed to another. Goldenrod may have other purposes but it is still a weed. You don't see it growing in people's yards. Mr. Ryle stated wildlife is not exclusive to animals. It includes bees, butterflies, hoverflies and praying mantis and they're all wildlife.

The meeting was adjourned for a five minute recess.

Dan Swafford called the meeting back to order.

Rick Coppock, Bynum Fanyo Utilities, Town Engineer, clarified there is a water meter at the end of the 5" hose on the First Assembly of God property. It manifolds off the end of that hose to all other hoses.

First Assembly of God Development Plan Amendment State Road 46

A member from the First Assembly of God is now present so Russ Ryle made a motion to withdraw his previous motion on the First Assembly of God off the table and bring it back to discussion. Don Calvert seconded. Motion carried.

Connie Griffin, Director of Planning, summarized the earlier discussion on the First Assembly of God Development Plan. Basically, they looked at the fact that using rip rap is a means of stabilizing steep slope areas. It is approved under the Town ordinances. There is some concern about weeds growing in the rip rap as well as some visual appearance. They had discussed the fact there has not been a lot of rain but yet they feel the site is very stable. The inlets are protected and anything that runs off will be caught in the detention pond. So, this isn't the key decision. There was a discussion on giving the church more time as well as the Town to think about the addition of rip rap.

Dan Swafford advised the Plan Commission had a question on where the rip rap was going to go.

Justin White, First Assembly of God, outlined the area where they intend to put rip rap on a photograph of the project. However, it did not show the entire project area. It will be 8,300 square feet. They want to put a cloth blanket down and then the rip rap on top because they've noticed some erosion from rain water. The other reason for using the rip rap was for manageability of maintenance and because of the steep incline they would have to almost weed eat the whole thing if it was grass. They put in a request for stone for maintenance and erosion control.

Sandra Hash asked if he has seen the rip rap across from Smithville Telephone, in front of a brick house, the state put in. You can no longer see the brick house because of all of the weeds growing in the rip rap. Mr. White replied he thinks the blanket would help with part of that and he discussed it with Rick Coppock. They will still have to weed eat it if it grows up between the rocks.

Russ Ryle asked what the useful life of the blanket is. Would the rocks have to be pulled off to put a new blanket? He has some brown landscape cloth and he's sure it's as sound as his blanket material that's been down for 10 to 12 years. Mr. White replied he's uncertain because he's not laid the blanket before. It would probably be a question for Mr. Coppock or somebody that's more experienced with it. Mr. Ryle asked, with all things being equal, if there was a good rain and they had grass growing, would he rather have grass up there. Mr. White answered they would still have to weed eat it to mow it. There's no way to get a mower on the hill. Mr. Ryle asked Rick Coppock if it is a 50° slope. Mr. Coppock answered probably some where close to that. It may be close to 35° or 40°. Mr. Ryle said the question is will the long term be better off if it was grass? Would it be easier to maintain it? Mr. White responded he thinks it would take less maintenance with the rock. Every two to three weeks they're going to have to weed eat it. They're going to have to have two to three guys to weed eat it and it will take several hours. If the rock is there, it won't be as frequent.

Dan Swafford stated he was curious in the beginning if this was all done because of the Town imposing the fines and they were trying to establish the vegetation. This is when he brought up the fact he doesn't like rip rap. He would rather see grass and a nice slope. He does understand what they're saying. This is why they asked if it is mainly because of the fines or because they're wanting to change a design. Mr. White replied it was basically a maintenance issue because the church has been trying to keep everything up on the property. This was his main concern. There is grass growing on the top but hardly any on the slope. They have planted it twice. Although, they've planted it twice they didn't blow it with straw because they weren't sure what they're going to do with it. The other issue is the cost of replanting.

Russ Ryle asked if the soil is bare dirt cut back or is there top soil. Mr. White replied before they planted the last seed they actually scraped top soil over the eroded area from a pile in the center of the property. Then they planted over the top of that. He's not real sure if it has taken to grass at this point. Mr. Swafford ask him to clarify once more where they're going to put the rip rap. Mr. White showed the area on the photograph which did not show the entire area. Mr. Ryle confirmed the area on the photograph.

Sandra Hash asked since there's not any rain right now, do they feel strong enough about the rip rap to not at least wait until fall and see if they can get grass to grow on it. Mr. White replied, in his own opinion, he doesn't think it's going to be manageable with grass on it. The only option is rock or some other type of cover. They can't stand on the hill to manage it so there's only a couple of other options.

Terry Baker asked what the possibility is of putting a retention wall across it instead of rip rap. Mr. White answered he could take it to their board as an option. It will cost a lot more than putting the rock on it. Mr. Swafford commented the aesthetic view would look a lot nicer if a wall was built even after the church is built. Mr. White stated originally there was to be a garage built there but they've decided not to. That's the reason the slope is so much of an incline. The garage in the original plans is not going to be put there.

Dan Swafford said this is under new business unless the church is in some kind of hurry. Mr. White could talk to the church about the wall and bring it back to the next Plan Commission meeting and they can vote on it. Mr. White said that would be fine.

Planning Department Updates

Statistics and Monthly Tracking Reports

Sandra Hash asked if she wanted the tracking reports in the minutes. Ms. Griffin replied she can send them to her in a digital format.

Connie Griffin, Director of Planning, presented the statistics for June as follows:

Tabulated Summary-June 2012

Director of Planning, Connie Griffin	189 total calls
<i>Monthly Summary-Planning Department</i>	June
Incoming Calls Street Department-Planning picks up	12
Incoming Calls Planning Department	101
Outgoing Calls	76
Request For Information	9
Day Meetings	11
Night Meetings	3
Meeting Time Totals	15.65
Connie Griffin	Avg. 162.625
WORK HOURS AND PERCENTAGE OF TIME SPENT	June
Planning/MPO/Parks	115
Main Street/Community Work/Grants	10
Stormwater	0
Code Revision, Code Enforcement	23.25
Total Hours Worked- doesn't include PTO, Sick, Holiday	148.25
Monthly Percentage of Time	
Planning	78%
Main Street/Community Work/Grants	7%
Stormwater	0%
Code Revision, Code Enforcement	16%
Overall Percentage of Time-Year-To-Date	100.00%

Denise Line

WORK HOURS AND PERCENTAGE OF TIME SPENT	June
Planning	14.5
ADA	52.5
Total Hours Worked- doesn't include PTO, Sick, Holiday	67
Monthly Percentage of Time	
Planning	22%
ADA	78%
Overall Percentage of Time-Year-To-Date	100%

Code Enforcement Officer

WORK HOURS AND PERCENTAGE OF TIME SPENT	June
Code Violation Hours- Inspection Time	42
Hours- Desk Time CE paper work	62
Total Hours Worked- doesn't include PTO, Sick, Holiday	104
Monthly Percentage of Time	
Code Violation Hours- Inspection Time	40%
Hours- Desk Time CE paper work	60%
Overall Percentage of Time-Year-To-Date	100%

Remodels or Repairs Building Permit Tracking Sheet- June 2012

Industrial 1	
Industrial 2	
Commercial 3	
Commercial 2	
Commercial 1	
Residential PUD	
Residential 3	
Residential 2	
Residential 1	1
PUD	
TOTAL	1
New Construction Building Permit Tracking Sheet 2012	
Industrial 1	
Industrial 2	
Commercial 3	
Commercial 2	
Commercial 1	
Residential PUD	
Residential 3	
Residential 2	
Residential 1	
PUD	
TOTAL	0
Review Fees Collected Tracking Sheet	
Remodels	\$25.00
New Construction	\$0.00
TOTAL	\$25.00
Building Permit Contractual Services/Reimbursements	
Permits	
Permanent Signs	\$350.00
Temporary Sign Permits	\$100.00
Driveway Permits	\$0.00
Demolition Permits	\$0.00
Grading Permits	\$0.00
Pool Permits	\$0.00
TOTAL	\$450.00
Development Review Fees Collected:	
Rezone fees:	\$0.00
Development review fees:	\$0.00
Subdivision fees, preliminary and final review:	\$0.00
PUD application fees:	\$0.00
Misc. fees:	\$0.00
TOTAL	\$0.00

Sandra Hash asked the other commissioners how they felt about the statistical reports being submitted in writing. If it is sent digitally, it can be included in the minutes rather than being read every time. The commissioners concurred they would prefer it to be sent in writing rather than read at the meetings. Don Calvert suggested a few paper copies could be provided at every meeting. Russ Ryle commented Sandra Hash gives the Town Council very detailed financial data but for the purpose of the meeting gives a short summary of fund balances. Would Connie be included to give them several key factors on a monthly basis? Such as building permits, month and year to date, and number of complaints, month and year to date, and comparative figures for previous years. Let the rest stand digitally unless there is a question. He would also like to see the number of open complaint files so they can be tracked so they know whether they're losing or gaining on the number of issues. Mr. Swafford said it could be submitted digitally to all commissioners and if there is a question it can be asked at the end of the

meeting. Mr. Ryle commented that's an option. His thought was people who watch the meeting and if they had to trend information it might be useful. All he is asking for is how Ellettsville is trending. Mr. Swafford told Ms. Griffin she has all of their suggestions, she can make her own decision and bring it to them.

Adjournment

Terry Baker made a motion to adjourn. Russ Ryle seconded. Dan Swafford adjourned the meeting at 7:28 p.m.

Dan Swafford, President

Terry Baker, Vice President

Sandra Hash, Secretary

Don Calvert

Phillip Rogers

Phillip Smith

Russ Ryle