

ACNA Meeting Minutes July 23, 2015

The third quarterly meeting of the Allen County Neighborhood Association was held on July 23, 2015 in the Omni Room in the Garden Level of the Citizen Square Building. It was called to order at 7:00pm by Dan McCrea, ACNA Leader. Forty eight residents were in attendance.

Dan began by asking those attending the meeting to state their name, association, board position (if applicable) and if they were City or County groups. Dan also asked for a show of hands that were in favor of moving the 2016 meetings to a 6:30pm start time. Approximately five people raised their hands so the question was dropped.

Carrie Gutman - Attorney:

- Who is responsible if a branch or tree falls? This question was in response to an article by Frank Gray in the local paper. Carrie stated that it depends if the homeowner where the tree is located knew that it was in a dangerous condition and did not take steps to fix it. In that case, the homeowner where the tree is located is responsible. The General Rule of Facts applies in this case and proving negligence might be difficult. If you turn it into your own insurance company, then your provider may choose to sue the tree homeowner. Carrie also stated that associations with common areas should regularly inspect the trees in their areas and have any in need of repair taken care of.
- An association joined Indiana 811 for safe digging. Once they did this, they became a member of it and were charged fees and trip charges for the service. Can they get out of this? Carrie stated that it depends upon how the contract was written. She asked who owns the street lights, the power cables, etc. If they are utility owned, belonging to 811 probably isn't necessary. Contact the Office of Utility Consumer Counselor (888-441-2494) and ask them to look into the matter. Utilities are highly regulated so this matter should be taken up by the experts. Carrie also stated that contacting 811 to see about the situation would be advised.
- How can an association handle collecting dues? Carrie stated that there are two remedies for dues collection: File suit or file a lien. If you file suit, the case will be heard in Small Claims Court. An association cannot represent themselves, so an attorney will need to be hired (check your covenants to see if there is anything in it for collecting attorney fees in legal matters). The second method is to file a lien. New rules state that you can't file a lien for one year after dues are due and you must file to collect before five years are up. A lien is best used if you know that a house will be sold soon. Any outstanding liens must be settled before a house can be sold. Note: Carrie stated that she has heard that several local title companies are refusing to collect on liens for past dues. A suit would then need to be filed.
- Who is responsible for the sidewalks in front of a house? What if there is an injury? Carrie stated that it depends if you live in the City or the County. In the City, sidewalks are city owned. In the county, if the sidewalks are not deeded to the city, the homeowner might be liable.

- How can you vacate a plat to build an addition to a house in the easement? Carrie stated that this would not be vacating a plat – this would be amending covenants. Check to see how it is written in your covenants and follow these steps to amend them. You will need a percentage membership vote equal or greater to what is stated in the covenants and this might be difficult to achieve.
- Carrie reiterated that when dealing with association business, the three legal documents you must consult are:
 1. Articles of Incorporation
 2. Covenants
 3. By-Laws
- How to enforce covenants when people will not comply? Carrie stated that you must file suit for remedy. Be aware that in any suit, the association will need legal representation.
- Who is responsible if a tree falls in the Right of Way? Carrie stated that you must check the plat to see where the Right of Ways is located. Is this a walking easement? If the tree is in an easement, then the utility services might be responsible.
- Past due dues were turned in to a Collection Agency. This agency added fees to the collection. Can the association add these fees on to the homeowner? Carrie stated that she did not know the answer to this question and would have to investigate it further.
- What level of insurance liability coverage should an association maintain? Carrie stated that there should be coverage for the Directors / Officers and general liability for any common areas. She stated that this would be best addressed directly with an insurance agent.
- What can be done about an abandoned house in an association? Carrie stated that this again depends if it is in the City or the County. In the City, it falls under the Property Maintenance Code. The County has a Property Maintenance Code also, but it is separate from the city.

Beth Lock – Board of Commissioners Legislative Affairs Director:

- Beth presented an overview of legislation that pertains to associations in the past legislative session.
- House Bill 1236 – Political activity on a homeowner’s property.
- House Bill 1286 - Condominium and Homeowner Associations.
- HB 1236 states that an association can’t restrict political activity on a homeowner’s property unless it is a gated community or private common property.
- HB 1286 states that the seller of a residence must notify a buyer within ten days of the sale that they will be a member of an association and must provide the new owner a copy of all legal documents pertaining to that association.
- Associations must make all meeting minutes available upon request.
- Associations must maintain all financial documents for two years.
- Associations must give a copy of any communications of issues between an association and that member about another member, if the association initiates the communication. There were many questions on this issue.

- Beth stated that you can view these bills on the State legislative website: www.iga.in.gov. If you search the bill number, look at any information in the bill that is in bold letters. Bold statements are new additions or changes.
- HB 1286 clarifies if you can have a person provide a proxy for voting on association issues. You must provide the name of the resident, address of the resident, name of the person to be the proxy and it must be written, signed and dated. The proxy information must be included in the meeting minutes also.
- If there is a grievance against an association, the Attorney General can file for action. These would include misappropriation of funds, fraud, illegal execution of proxy or violation of association budgets.
- Beth stated that she could be contacted directly at 260-449-7065 if there is any clarification needed.

John Bobilya - Watersong Association President

- John presented a PowerPoint presentation to outline the steps that Watersong Association followed to updating their covenants. The highlights of the PowerPoint follow:
 - Outline
 - Background
 - Forming a Committee
 - Proposing Revisions
 - Generate the Combined Draft
 - Obtain Committee Review / Approval of Draft
 - Obtain Legal Consultation of Reviewed Documents
 - Generating Summary of Substantial Changes
 - Distribute Proposed Changes to Members
 - Obtaining a Vote to Approve Changes
 - Filing Approved Covenants
 - Distribution of Approved Covenants
 - Summary
 - **Questions:**
 - Did they have a Notary for the signatures? Yes, a Board member was a Notary and notarized all signatures.
 - How many people were on the committee? Of the 110 lots, 15-20 people volunteered to be involved.
 - Did they stop collecting signatures once they got the 75% required? No, every household was contacted. The Board member who was the Notary went door-to-door to collect and notarize the signatures.
 - In an older association, the covenants were written before items like outbuildings, solar panels, satellite dishes were common. They may have more difficulty getting the required signatures to change theirs.
 - What did all of this cost? John said the cost to do all this was about \$1000. That included the legal fees, paperwork and supplies.
 - John stated that this was a great learning experience and anything you want to do to improve your association is worth it.

Open:

Kris Krishnan, one of the Coordinators of the ACNA, presented a spreadsheet he compiled titled Allen County Neighborhood Services Opinion Survey. Kris asked all those in attendance to please fill out and mail or email him the completed survey. The information on the survey will be compiled and will be made available for all to use as a guide for recommended contractors by other attendees of the ACNA. Kris also asked that copies of the survey be handed out to others. The more information gathered will be beneficial for all to use as a reference in finding contractors.

Joanne Bergman, one of the ACNA Coordinators, again asked for a show of hands for the meeting to begin at 6:30. Again, very few hands were raised so the issue was dropped.

Mike Green, Public Information Office for Allen County, showed those in attendance where to find all documents that pertain to the ACNA. www.allencounty.us. Click on the Government tab / Community / ACNA. There you will find all handouts from the past meetings, meeting minutes and video recordings of the meetings.

Dan told those in attendance that all association covenants can be viewed on Allen County Recorders website. Click on Search Covenants and type in the association name. All covenants are found on this site

Questions:

- A resident asked what can be done to stop speeding in their association. Dan stated that they hired an off-duty police officer to patrol their subdivision. He also said they borrowed the radar sign from the County and placed it in their addition. This can be borrowed free of charge but must be returned each night. Dan stated that hiring the police office came at a substantial cost.
- Who do you call if trees and shrubs are blocking signs? Dan suggested calling 311, which is a very useful service.
- Finally, Dan introduced Allen County Commissioner Nelson Peters, who is the sponsor for the ACNA. Nelson stated that you can call 311 in the County too. Your call will be sent on to the appropriate department for the County.

The meeting was closed at 8:30pm. The next meeting is scheduled for **October 27th** at 7:00pm in the Omni Room on the Garden Level of the Citizen Square Building, 200 E. Berry St.