

ACNA Meeting Minutes July 26, 2016

The third quarterly meeting of the Allen County Neighborhood Association was held on July 26, 2016 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. Twenty-four residents were in attendance.

Dan began by introducing Nelson Peters, Allen County Commissioner, who is the sponsor of the ACNA. Dan then asked those attending the meeting to state their name, association, board position (if applicable) and if they were a City or County group.

Carrie Gutman - Attorney:

- When enforcing your covenants, which rules should the board pursue? Carrie: The board has a fiduciary responsibility to enforce all of the rules in the covenants. It is important to enforce the rules and if there are specific questions on how to enforce, seek legal advice.
- What if the board is not doing their job? Carrie: Individuals may be able to take over the duties if the board is not following the covenants. The other option would be to replace the board. Check your individual covenants to see the necessary steps that would need to be taken.
- What happens if the board has not enforced covenants in the past? Can these covenants be enforced going forward? Carrie: Most covenants follow a general boilerplate and there is wording in them that addresses this. Generally, just because they were not enforced in the past, they can be enforced moving forward. Look in your covenants for a non-waver provision and this should state that they can be enforced regardless of past non-action.
- Covenants state no fences but these rules were not enforced. Can the board enforce future fences? Carrie: The first step is to check the records from your Architectural Committee to see if the requests were made and granted. If the request was made and denied and the fence was erected anyway, action against the homeowner would have to have been made within a reasonable time. If no action was taken, the request is deemed approved. There may even be Statute of Limitations in effect. Future fences can be denied per covenant rules.
- What is the typical average cost for a release for Injunctive Relief? Carrie: There is no real average as all cases are a little different. If you file for Injunctive Relief it is done in Allen Superior Court. The average cost to file a claim is \$150-\$200. The cases are usually billed on an hourly basis and it will depend on how much fighting is done by either side. Also, many covenants have a clause in them that if the board wins the claim, they are entitled to recover legal fees. Check your covenants first so you know going into a claim where you stand on your rights.
- Covenants say “no fences” but then a resident puts up a pool. Can they then put up a fence? Carrie: A fence isn’t the only way to protect a pool – a lockable cover is another way. Dan interjected that in Indiana, there is a Statute that says

- fences around pools must be 5' tall. An association can't prevent a resident from putting a fence up around their pool but it must follow Indiana Code.
- Are fences required around retention ponds? Carrie: No requirement for ponds.
 - Resident was told that you can't collect past dues after three years. Is this true? Carrie: No, there is no time limit for collecting. You may have to file a lien and there are time restrictions on liens due to a recently past Statute. If you file a lien, you can't seek remedy for one year after filing and must seek relief within five years. An association can go to Small Claims Court over dues at any time. Remember – an association must be represented by an Attorney in Small Claims Court.
 - Is there a central registry regarding legislation pertaining to associations? Carrie: None that she is aware of.
 - Can associations limit political signs? Carrie: Recent Statute prevents associations from preventing political signs. There are specific rules for how long before and after the election signs are permitted. Any restrictions on the size of signs? Carrie: No limit she is aware of. You could be getting into a Freedom of Speech issue if you try to limit the size. It was interjected that in the City, you are not allowed to put signs in the right-of-way.
 - How to enforce rules pertaining to a nature preserve? Carrie: no known regulations but check with the County to see if they have any. Further discussion – how is the area deemed a nature preserve? Wording is per association terminology only. Two trains of thought: decide on the board discretion and budget or possibly contact the Purdue Extension for assistance.
 - Covenants expire this year. What steps need to be taken? Carrie: Contact a lawyer. There is no easy way around this and proper legal representation is imperative.
 - Fences / pools: what if the covenants limit fences to four feet in height? Statute requires five feet. Have to follow state Statute. How long does a resident have to erect a fence around a planned pool? Carrie: No real time frame that she is aware of.
 - Who is responsible for trees in the right-of-way? Carrie: the City is responsible and you can call 311 if you have specific issues to address. Audience member stated that the City is on a rotating eight-year plan to trim trees in the right-of-way.

Ruthie Hall – United Way of Allen County

Ruthie began her presentation with what the United Way does in regards to neighborhood associations:

- Handout: United Way Community Conversation FAQ's (used for this discussion)
- Hold group conversations – looking at strengths, weaknesses, challenges and aspirations for groups. United Way goes out and talks to different organizations. The goal of these talks is to look for overachieving themes.
- They have talked to over 200 people so far. There have been common themes in these talks.

- Handout: refer to handout for what the United Way is trying to do.
- Associations interested in hosting a Conversation Meeting? These meetings have been held with church groups, work groups and community groups.
- Where does the United Way fit in?
- Meeting are generally 90 minutes long
- Questions: What topics are discussed? Is poverty one of them? Ruthie: Yes, poverty in our area has been discussed at many of the meetings to date.
- Are controversial topics discussed? Jurisdiction issues? Ruthie: There has been some feedback on the leadership in our community. United Way does not typically deal with these issues but are certainly open to facilitate meetings focused on them.
- Contact info: Ruthie Hall; 260-469-4002 or ruthie.hall@uwacin.org
- Dan interjected that he had been involved in one of the conversation meetings and found it very beneficial. Education was a topic at the meeting he attended. Most of these meetings are held at the library but they are open to holding them anywhere suggested. Looking for groups of eight to fifteen people. Larger groups can be split up.

**David Fiess – Director of Vector Control & Environmental Services
Allen County Department of Health**

Presentation on mosquito and pest control this summer in Allen County. David has been a past presenter to the ACNA. This was his third visit to the group.

- Vector control – not nuisance control. After spring rains, mosquitoes are a nuisance issue. That is not what the Health Department is concerned with. The current budget is very tight and there really isn't money for nuisance spraying
- Vector control is more focused on mosquitoes that spread disease.
- Mosquitoes carrying the Zika virus have been found in Allen County but they are not very prevalent.
- There are over 40 species of mosquito in Allen County
- Zika is a virus that can be spread from human-to-human contact whereas bird flu is spread by bird-mosquito-human contact.
- Mosquitoes breed in standing, stagnant water. To keep the mosquito population down, get rid of these sources. Bird bath (change water weekly); tires, unused pools, clogged gutters, plant water bases are all sources where mosquito breed. Large retention ponds are not where mosquitoes breed.
- It is easier to kill 1000 larvae by simply dumping stagnant water than spraying.
- Code Enforcement: Health Department now has enforcement power to address mosquito hazards. Violators are given three warnings prior to a hearing where fines may be administered. Most people address the issue right away.
- Tire recyclers have been very positive so far in preventing water from pooling in tires. Most are either storing tires inside or covering them.
- West Nile Virus is transmitted from bird to mosquito to humans and is most prevalent from mid August through September.
- West Nile, Zika, Encephalitis are all diseases the Health Department is concerned with.

- Zika Virus mosquitoes: small numbers have been found in Indiana but this type of mosquito can't live through Indiana winters. Mostly southern states and countries to the south are where the bigger concerns are focused.
- If you are traveling south of the border, use a good mosquito repellent.
- 80% of those bitten by Zika mosquitoes do not show symptoms.
- Planning to have a family? Be very cautious in Zika areas. This is a real threat.
- The virus is transmitted from mother to baby. It is transmitted by human to human contact and can be sexually transmitted. This is a very different virus.
- One case in Utah where a person died from Zika and the disease was transmitted to the son, by either saliva or blood contact.
- As of Friday: 1400 cases of travel associated Zika virus. Of those, 400 have been pregnant women. Fifteen of these 400 were by sexual transmission. There have been 13 cases in Indiana to date.
- In Florida, there have been two cases of Zika by mosquito transmission. The virus is here. Authorities are taking this very seriously.
- Handouts: Ticks and Disease in Indiana; Bug Off – how to take the bite out of mosquitoes; How do I choose an insect repellent?
- Banks are actively addressing foreclosed homes with pools and stagnant water.
- Questions:
- How often to change the water in a bird bath? David: Weekly
- \$700000 has been allocated to the State for Zika Virus issues. Allen County received \$3400 for Zika issues. Allen County not readily concerned over Zika at this point so the money was used to replace broken equipment used for dealing with West Nile Virus mosquitoes.
- How long is the Zika Virus active? David: the virus is active within approximately ten days. According to the CDC: women exposed to Zika should wait eight weeks before trying to become pregnant. Men should wait six months!
- Symptoms of Zika? David: fever, muscle pain, rash – the same as other mosquito virus'. Doctors need to be updated on your travel and exposure to be aware of possible Zika.
- Lab tests are run if Zika is suspected.

Bernie Beier – Director of Allen County Homeland Security

- Presentation on Homeland Security and Preparedness, tools and opportunities
- Are you in a safe neighborhood? Is your neighborhood safe? You decide. And what exactly is safe? Safe from what? Fire, terrorism, natural disasters?
- Local Homeland Security is active on social media but only has a few “likes” so far.
- Neighborhood leaders are usually the first point of contact in emergencies
- Be prepared but prepared for what? It really all depends on what you are preparing for!
- Everyone needs to take individual responsibility for their level of preparation.
- Homeland is there to provide leadership if called upon. Bernie will be glad to come and address association meetings.
- Handouts: Multiple handouts on back table – take extras and pass around.

- CERT (Community Emergency Response Teams):
- A national program for emergency preparation
- In a disaster, first responders may not be able to assist you for some time. CERT training is a buffer between the first responders and people involved in a disaster. They can assist with issues until the First Responders arrive.
- CERT: learn basic emergency preparation; basic communication; basic first aid and basic search and rescue techniques.
- Over 200 people have been CERT trained in Allen County but there has not been any type of real disaster so many leave the program.
- Focus now is to bring the program back. Try to become an activist for the program. Be involved.
- Homeland has all the resources needed for after a disaster but not the outgoing dialog to pull it all together.
- CERT consists of thirty hours of training
- Members become subject matter experts.
- Bernie wants to become a liaison between Homeland and residents.
- General Preparedness Awareness.
- Questions:
- Is there a cost to join? Bernie: no cost to the individual. The cost of the program is covered by either the State or Federal government.
- Members receive backpacks with emergency supplies.
- Allen County has plenty of backpacks available.
- Extra handouts on back table – take and pass out!

Open:

- Association has not held a meeting for five years. Nobody knows who is on the board. Nobody knows where dues money has gone. No reports given, no financial statements. Where do you go from here? Dan informed these residents that taxes must be filed every year or the association is no longer recognized as an association (after two years of non filing). Check with the Secretary of State to see if your association is listed.
- A meeting was planned for this association next week. It was suggested to review the covenants and by-laws before the meeting. It might be time for the residents to contact a lawyer. Attend the meeting, take record of what transpires, try to get on the Board. If you get on the board, you will probably be granted access to the records you seek. Association information is public to all residents. The board can't withhold them. This situation is very severe and legal action might be required.
- Go to: 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. A lot of good information can be found here.

The meeting was closed at 8:25pm. The next meeting is scheduled for **October 25th** at 7:00pm in the Omni Room on the Garden Level of the Citizen Square Building, 200 E. Berry St. This meeting is dedicated entirely to legal matters and questions.