

## **ACNA Meeting Minutes January 25, 2011**

The meeting of the Allen County Neighborhood Association was held on January 25, 2011 at 7:00pm in the Omni Room of the City County Building. The meeting was called to order at 7:00pm by Joanne Bergman, Co-Coordinator. 50 residents were in attendance.

Joanne began the meeting with introductions. In attendance were Nelson Peters, County Commissioner; Mike Green, Allen County Public Information Director; Kris Krishnan, Co-coordinator; Dan McCrae, co-coordinator; Rob Green, Secretary; Dee Jackson and Rod Vargo, greeters; Jim Boyer, who is collecting all of the contact information for the ACNA; Betty and Wayne Stewart, who brought the refreshments and Larry Banks, Videographer.

Guests for the evening were Marge White, Northeast Indiana Green Build Coalition; Attorney Carrie Hawk Gutman; Lisa Downey of the Northeastern Management Group and Dave Fiess from the Fort Wayne – Allen County Health Department.

Mike Green provided information on the Video on Demand feature on the Allen County website, where you can go to view the video of tonight's as well as any other past meeting. Mike also stated that this meeting would be broadcast on Public Access TV, channel 25 for Verizon FIOS and channel 55 for Comcast at a date to be decided, probably within a week.

### **Marge White:**

Marge White presented the group with information on the Green Innovation Awards. This is a program through the Green Build Coalition where businesses, associations, small groups and even individuals may apply for the award for tasks that may have been done to help the environment. Some items that might be a reason for getting this award could be the installation of a rain garden, a community effort to solve an environmental problem or many other reasons. Marge distributed a handout with information on obtaining the application form. The form can be found on the Coalition website, at [www.neigbc.org](http://www.neigbc.org). Marge also told the group that this award is open to both city and county residents.

### **Carrie Hawk Gutman:**

Carrie Hawk Gutman is a regular presenter to the ACNA. She is an attorney who along with Bob Eherenman, attend the ACNA meetings to answer legal questions for those in attendance.

Carrie informed the group that the new lien law that went in effect a few years ago is still in effect. This law states that a lien may be filed to make a claim against the property for uncollected funds. The law states that you can't file a lawsuit against the lien for one year and you must re-apply the lien after a five year period.

### **Questions:**

- A homeowner told an association that they don't have to pay their dues because all of the rules in the covenants are not being enforced. Carrie stated that this is an incorrect assumption and case law does not support that theory. If the

- covenants state that dues are required, then the homeowners are obligated to pay, regardless if other items in the covenants are not being enforced.
- What can be done if a house is not built to the standard in the covenants (this case was a house that was moved to a lot in the association). What about houses that are being used as rentals? Carrie stated that it would depend on what it says in the covenants in both cases. Generally, you can use a house in any way that you want, unless the covenants specifically prohibit it (running a business out of a house in an association is one common case). If the covenants don't specifically prohibit rentals, there isn't much that can be done. You may want to try to amend the covenants, but to amend you will need 100% agreement and the owner who is renting can vote no and the amendment won't pass.
  - There were question on pools and fences. Carrie said that Dave Fiess is more of an expert on pools and he would address that issue later in the meeting.
  - Questions on snow removal and cars parked on the streets were asked. How can you enforce no parking for snow removal? How aggressive can the association be on parking? Carrie said that if the covenants specifically state parking requirements, you can enforce them. The way to enforce would be to sue. That may be very difficult since by the time the suit reaches court, the snow would be gone and the vehicle would probably be moved. If there is nothing in the covenants, it is not enforceable. There may be ordinances for the city you are in that may be able to be used. You would have to contact your city to find out. The best advice is to try to work with the residents. Work up front with the residents so that when the time comes, you have a good relationship with them and may be able to reason with them.
  - How can you amend your covenants if you have very limited funds? A resident says to go ahead and sue. What can the association do with limited monies? Carrie stated that it can be very expensive up front to sue. You may be able to collect legal fees if it is spelled out in the covenants. She also stated that cities enforce ordinances and courts enforce covenants. In this case, the original covenant is from 1965 and it may be best to consult with an attorney for an hour or two to look over the covenants to see what their opinion is on the best way to move forward. There is no easy answer to this question.
  - Carrie provided an update from a question from the October 2010 meeting about solar panels and covenant enforcement. She stated that Bob investigated the question about solar panels and there is no legal authority on them at this time. With the green initiatives and going "green", that may change in the future.

**Nelson Peters:**

Nelson Peters, discussed the possibility of merging both the City and County Associations into one group. He urged the attendees to contact the Mayor's Office/Neighborhood Advocates to tell them whether you support the consolidation. He also stated that if a specific issue arises, don't hesitate to call or email the commissioners to ask for their help.

Nelson told the group that Kris and Joanne had been the coordinators of the ACNA for over five years now and are looking for others to step in and take over the leadership role.

Nelson's main purpose of speaking to the group was to discuss the progress on a merger between the city and county neighborhood partnerships. Nelson is looking for feedback on whether to move forward with the merger concept and what would be the best way to accomplish it. He even questions if it is necessary. There is strength in numbers but most of the people attending the ACNA meetings are city residents. What would it take to get more county associations involved? The group was strongly urged to tell Nelson, Mike Green, Joanne or Kris their thoughts on the merger.

Talks have been held with the Mayor and he basically supports the merger but questions if it is really necessary. The city currently controls the agenda for the meetings and many items pertain to the city residents only. Nelson stated that he felt there were not that many issues that would pertain to only the city or the county and for those that do exist, there would be ways to deal with them. He felt that it is better to bring both sides of the group to the table together. He used the cooperation between the Chief of Police and the Sheriff as an example of how the combined groups could benefit from merging.

The floor was opened to questions:

- There are many groups already meaning there are many meetings. There are the President Club, the Quadrant Partnerships and the ACNA. How many groups are really needed? Nelson stated that if these were combined, there would be fewer meetings to attend, making it easier to get more involvement.
- Would a joint group work? Nelson stated that he was thinking of taking the current four quadrant system that currently is only for the city and expanding it to include the entire county. Again, there is strength in numbers. Training and educational items could be available to all instead of only the city.
- Advocates are currently paid for their service. Would there be a backlash if the merger occurred? Would they fear losing their jobs? Nelson felt that it wouldn't be a problem. There are plenty of issues to keep them busy but the added numbers could present a burden to the advocates.
- An audience member stated that the combined efforts of the Autumn Ridge Association (county) and Pine Hills (city) over the past few months were able to solve a rash of burglaries occurring in those areas. The two groups working together with the police and sheriff solved the issue.
- A question was raised about 501C3 issues for homeowners to deal with liabilities. It would help if both city and county were combined. Most of the items are the same in either locale: barking dogs, dues, crime, etc.
- The question was then asked: what are we to do? Nelson stated to contact the neighborhood advocates and tell them you would like to see the merger. The neighborhood advocates can be found on the city website under the neighborhood tab.
- Rod Vargo told the group that the Northwest Partnership wants the merger to occur. He gave out his phone number (416-0986) and told anyone interested in attending the NW Partnership to contact him for information.
- A member stated that not all four quadrants actually have the same issues. The South East Quadrant is mainly older, established subdivisions. Many don't have covenants, collect no dues and often aren't on the same agenda as the ACNA. Although there are divergent issues but in most cases, items are common in both the city and the county, Nelson said.

- A member stated that the combined efforts between the city and county in the NE quadrant were working to address traffic issues on Lake Avenue. Lake may be in the city, but many county residents use it all the time. Positive discussions on roundabouts and traffic patterns were being held to address the road changes.
- It was summed up by one member in attendance: We all live in Allen County. We are neighbors who need to work together to combine our efforts whether in the city or the county. None of us are better or worse than the other.

Kris then took the podium and asked the group to explain their reasons for attending this specific ACNA meeting. One resident stated that he attends approximately twenty eight meetings a year. He attends the partnership meetings, the ACNA meetings, zoning board meetings, etc. in order to gain information, to be aware of what is going on in the different areas.

Joanne stated that many people in attendance have jobs and families and attending twenty eight meetings might be very difficult.

### **Lisa Downy:**

Lisa Downy of the Northeast Management Group was the next presenter. Lisa was at the meeting to give the group updates to legislation that will affect neighborhood associations.

The first item she discussed was Senate Bill 104. This bill is the Barrett Law for Funding for Retention Ponds. If this legislation passes, strict regulations for security around retention ponds would take effect. The Barrett Law would force residents to pay to have guardrails installed to prevent autos from entering ponds, fences to prevent children or pets from falling in and could result in walls or other structures to keep people from harming themselves in retention ponds. Contact your Senator if you feel this bill was not warranted.

The changed Lien Statute was discussed. There are some proposed changes to the Statute. Currently, there is a one year waiting period to file a lawsuit after the lien is filed. This would change to 90-days if the changes pass.

**Note:** It was stated to the group that at the [www.in.gov](http://www.in.gov) site, under the State Section, you can view any proposed changes to legislation.

House Bill 1058 was discussed next. This bill would include associations under the authority of the Attorney General to be able to sue for fraud. Currently this is only allowed at the county level. If a board commits fraud and is found guilty, the AG would have jurisdiction and can sue the board. This bill would take the enforcement from the county level and take it to the state level.

The political sign (Senate Bill 64) issue that was passed last year was discussed. This statute allows for political signs to be posted in an association, regardless of what the covenants say. The size of the signs is regulated and when they can be put up and must be taken down, but other than that, is very vague. The legislature is looking to clarify the statute.

The House Enrolled Act 1071 from 2009 was discussed. This act states that any development formed after 2009 must follow the provisions of this act. Some of the provisions are that a budget must be presented every year, if any unbudgeted expenditure over \$500 is needed, it would require a majority vote to authorize payment and a detailed

roster (including names, addresses, phone numbers and email addresses) must be maintained. Any association formed prior to 2009 can opt in to this act, but the consensus of those in attendance was why would you? This act was discussed in greater detail at the October 2010 ACNA meeting.

**Dave Fiess:**

Dave Fiess from the FW-AC Health Department was on hand to discuss radon. Before he started with his presentation, he informed the group of some rules pertaining to pools. Dave believed that any pool greater than 24" in height requires a fence around it. This includes the newer soft-sided pools. It is best to check with the Allen County Building Department (449-7131) or Zoning Department (449-7607). The Health Department finds that many of these newer pools are not properly maintained and they have to deal with mosquitoes with them. These pools become breeding grounds for mosquitoes.

Dave also stated that if you Google "Indiana Bill Watch" you will find sites to monitor all bills before the current legislature.

January has been designated as the National Radon Action Month. Radon is a naturally occurring gas that is similar to carbon monoxide as it is colorless, odorless and tasteless. Radon exposure is the second leading cause of lung cancer behind smoking cigarettes.

Radon comes from the naturally occurring uranium found in all soils. The uranium decays to radium which further decays to radon gas. Radon gas can enter a home in many ways: through open sump pumps, cracks in walls or basement floors or from slabs under houses. Over time, the radon gas builds up, enters these locations and we are exposed. Allen County has been declared to be a Zone #1 Area – High Risk!

Dave told the group that free radon gas test kits are available from the health department. He brought a box of kits to the meeting and these kits were passed out to those in attendance. He explained how to set up and use the kits, what to do with them after the directions have been followed and what the different results mean.

The kits are set up in a basement or on the first floor in an area where people use the room, preferably in the center of that room. After the set period of time, the test kit is mailed in for results to be generated. If the results come back with a 4 or higher, a second test should be run. If after the second test is run and the results are still above a level 4, a radon gas specialist should be called in to test further. Make certain that any specialist brought in is a certified radon specialist. If their test shows a level 4 or higher, they will then need to set up a passive capture system.

An active mitigation process would then be set up. This would include a fan, blowers and seals around all open areas. Another test would then be conducted to make certain the radon level is below the 4 level.

More information on radon gas can be found at the health department website, [www.allencountyhealth.com](http://www.allencountyhealth.com). Additional test kits can be gotten from the Health Department on the fifth floor of the City-County Building or at the Vector Control office at 2242 Carroll Road. The phone number for questions is 449-7459. These kits are free as long as the supply lasts (kits were given to the health department through a grant)

A question was asked about who has to pay for all the advanced testing and mitigation. Dave responded that the homeowner is responsible. He also stated that many

home buyers are requesting testing prior to a home purchase. The average cost of a mitigation process when needed is \$1200.

**Questions:**

- Is any part of the County worse than any other? Dave stated that all of Allen County is rated a level 4 – high risk, so, no is the answer to the question.
- Should the test be run annually? Dave said it can't hurt as changes to foundations occur over time.
- A resident has two sump pumps in their house. Should the kit be placed in the room where these pumps are at? Dave so no, it is recommended to put the test kit in the center of the room where people use the room the most.
- A resident said they read that granite countertops can emit radon gas. Dave said he has read studies that both agree and disagree with that statement.

Dave stated that residents can contact the health department in the spring to treat ponds for mosquitoes if the pond is found to be a mosquito breeding ground since mosquitoes breed in stagnant water. If you have a large pond with a fountain or good water movement, you probably don't have a mosquito issue.

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**Open Discussion:**

Questions and comments from the group:

- What brings residents to these meetings?
- What do residents feel about consolidation?
- What will you miss if the consolidation occurs?
- What will you gain if the consolidation occurs?
- How can we get others to take over the ACNA leadership? Only one person has come forward to help out in the leadership roll so far.
- The city is very positive on the thoughts of providing training to residents and will probably move forward with the plan.
- The ACNA has been trying to spread out the work load so that it isn't too time consuming. It is not as big a deal to run the ACNA as it was a few years ago.

The meeting was adjourned at 8:30pm.

The next meeting of the ACNA is **Monday April 25, 2011** in the **City Council Chambers** (room 126) at 7:00pm. Note the day and location changes.