

## **ACNA Meeting Minutes January 29, 2013**

The meeting of the Allen County Neighborhood Association was held on January 29, 2013 at 7:00pm in the Omni Room in the Garden Level of the Citizen Square Building. The meeting was called to order at 7:05pm by Dan McCrea, Co-Coordinator. Nineteen residents were in attendance.

Dan informed the group of a scam that was running in the area and was reported to him by one of the associations in the area. A company going by the name of Corporate Records Service of Speedway, IN was sending letters to associations offering to monitor your association records for you - for a small fee. According to the BBB, this is a scam. The address the company provided does not exist. The resident who provided Dan the information was surprised at how much information that was contained in the letter, but it was all public record information. Dan was letting those in attendance know to beware of the scam.

### **Bob Eherenman - Attorney**

No questions were submitted prior to the meeting so Bob reviewed some of the information that he presented at the October 2012 meeting, specifically about the Planning Commission.

The Planning Commission handles two types of projects: Rezoning and Development Plans. For rezoning issues, the Commission makes a recommendation to the City Council whether a property should or should not be re-zoned. For Development Plans, the Commission checks to see if the set standards of the ordinance are met. If they are, then the Commission must approve it. If a parcel is zoned for business and it meets all of the ordinance standards, then they must approve it, even if neighbors are against it. It is important for residents to be aware which of these issues they are addressing when going in front of the Commission.

For the Board of Zoning, the Commission addresses contingencies, variances, special uses for the city or county. It is very important for residents to have all of the information up front, before appearing at the Commission. The information that is going to be presented can be accessed online or in the Planning Commission office.

### **Questions:**

- Association has ten vacant houses. One has been vacant for over six years and the owner died several years prior. The banks are not moving quickly at all to sell or fix up the house. What can you do? Bob stated that covenants don't usually address this situation so there isn't much that you can do. You can continue to file liens and try small claims court for judgment for upkeep, but there isn't much to force the bank to move any quicker. Check to see if the taxes are paid. If not, then a tax sale might be possible. In the city, Code Enforcement can be called for upkeep issues and in the county, the Building Department might be able to

address if it is deemed to be an unsafe structure. But there isn't much for an association to do to force the bank to act quicker.

- Houses in foreclosure and real estate companies are buying the houses and making them rentals. Can making rentals not allowed be done? Bob said that if there isn't anything about rentals in the covenants, then they can be amended but getting them amended isn't an easy task. Again, depending on what the covenants say about amending them, it might take 75% – 100% of the resident to approve. Making sure the proper persons are contacted is always an issue. Make sure to check with a title search. All of the signatures must be notarized. One member in attendance said “good luck getting them amended if it requires 100%”.
- How can the items in the covenants be enforced? Bob went back to his comment from multiple previous meetings – talk to your neighbor! Most times they do not know they are in violation. Most times they will comply once they are aware. But just sending a letter sets the wrong tone. Try to nip the problem in the bud. If they won't comply, then be certain to document everything. And if all else fails, liens or small claims court are options. Be careful – choose your battles. Is it really worth the cost to fight over it? That is the main question that needs to be asked.

**Anita Mather**  
**Chief Deputy Recorder**

Anita was filling in for John McGauley, who was sick. Anita's presentation was to show residents how to find neighborhood covenants and restrictions, which are on file in the Records office. Anita's PowerPoint presentation was titled “If I only knew”.

- Why do we need covenants?
- Problems with Covenants – if you are not aware or not told about an association having covenants, it is a big issue. If you want to amend your covenants, contact the Records office first for help and tips. They are quite experienced with amendments and are willing to assist.
- Reality Check – it's your right (the cost to fight covenants battles can easily range from \$10,000 - \$25,000!!)
- Case Study – Fort Wayne storage shed fight (Battle raged for many years, cost thousands and thousands of dollars, led to fighting amongst neighbors and when all was said and done, the person who built the storage shed to start it all went around to all of the other residents and voted to completely delete the covenants!!!)
- Communication is the key!
- What can leader do? Promote awareness!
- Allen County Resource Center – has over 8000 documents on file. Covenants MUST be on file in the Records Office or they are not valid!
- Covenants may be viewed online at [www.allencountyrecorder.us/neighborhoods](http://www.allencountyrecorder.us/neighborhoods)
- Please feel free to contact the Records Office for assistance – readily available to help.
- Site map was presented and different navigation steps shown.

Questions: Is there a master list of all of the association names? Anita was not 100% sure but doubted there was one. This type of list would be very difficult to maintain with the amount of records they deal with.

**Pat Fahey**  
**Senior Planner**  
**Department of Planning Services**

Pat was present at the meeting to discuss the progress of the Joint Department of Planning Services project and how this will affect associations. This project is designed to update the current City and County Zoning ordinances. Currently there are separate ordinance for both the City and the County. This project is designed to streamline the process and bring the two ordinances closer in alignment with each other.

Pat explained that the Zoning Ordinances decide on what can happen on a property. It is focused on permitted uses, setbacks, height restrictions and what can be built on the property. Some of the County ordinances date back to the 1960's, while the City ordinances have been recently updated.

The goal of the project is to make the language in both of the ordinances more uniform. Pat stated that they have been working with an outside consultant who has extensive experience in merging multiple ordinances into one.

Pat handed out a flier detailing a meeting being held on January 31, 2013 that was to bring the public an update to the project. He stated that if residents were unable to attend the public meeting, the minutes and all of the information can be viewed in the Planning Services office or online. He stated that a meeting to further go over the project would be held in June or July of 2013.

A question was asked by an audience member: why are they doing this? Pat stated that the main focus was to simplify the process for all involved, both the public and the developers. The project was really designed to take a more common sense approach to the process.

The hope would be to make only one Zoning Commission. Currently there are four: Allen County; Fort Wayne; New Haven and Leo-Cedarville. This merger would not affect the New Haven or Leo-Cedarville Commissions. The hope of the merger would be to make permitted uses, BZA and intended uses similar to each other.

Another question was asked as to how associations are able to keep up with the changes that occur? Pat stated that both the Allen County and Fort Wayne websites post changes as they occur. He suggested either watching the website or calling the DPS. They are there to help and will gladly inform you of any changes.

Pat also warned residents that Zoning Ordinances might allow some things but your covenants might not. It is important to have all of the facts before you move forward on any issue.

**Open Discussion:**

The question was asked: How to get more involvement? Dan stated "that is the million dollar question!" At this time, nobody has a good answer. He told those in attendance that minutes of the past meetings are available online so that you can go back

and view past meetings. There were several new attendees at the meeting and they were unaware of this. Mike Green also told those in attendance that the past meetings can be viewed on the Public Access portion of the Allen County Website.

The meeting was closed at 8:10pm. The next meeting is scheduled for April 23, 2013 at 7:00pm in the Omni Room in the Garden Level of the Citizen Square Building, 200 E. Berry.

**Remaining meeting dates for 2013: July 23; October 22**