

ACNA Meeting Minutes January 25, 2018

The first quarterly meeting of the Allen County Neighborhood Association was held on January 25, 2018 in the Omni Room on the Garden Level of the Citizen Square Building. It was called to order at 6:30 by Joanne Bergman, ACNA Co-Leader. Sixty residents were in attendance.

Joanne thanked the packed room for all who came to the meeting. She introduced Kris Krishnan, Co-Leader of the ACNA and Mike Green, Allen County Public Information Director. Joanne told those in attendance that the group was sponsored by the County Commissioners and that Nelson Peters was ordinarily present for the meetings but not tonight.

Henry Najdeski – Attorney with Barrett McNagny

- Henry informed the audience that he was a lawyer with Joshua Neal at Barrett and was filling in for Josh, who had a scheduling conflict. Henry told the group that he had 21-years' experience as a lawyer dealing with association business.
- Questions:
- If residents owe back dues, can names, addresses or lot numbers be posted on a Facebook page? Henry said there was nothing illegal against this but he highly recommended NOT doing it. Public shaming of a resident does no good for community spirit. Try to work with those who owe dues and if that does not work, file a lien or go to Small Claims Court.
- Questions on usefulness of liens were raised. Henry thought they had to be filed for judgement within three years, but the next speaker of the evening, Allen County Recorder Anita Mather, stated that they had to be filed within one year. Small Claims Court was suggested as a better direction. A resident in attendance stated that after taking residents in their association to Small Claims, the number of delinquent residents went from eighty to two!
- If you are trying to change your By-Laws, do you have to be a Notary? Henry informed the group that By-Laws do not require notarization – covenants do. But even if amending your covenants, you do not have to have a Notary. Henry has in the past simply had a Notary certify that the collected signatures were all valid. This information contradicted previous information presented to the group. Henry stated that he was going to look into the matter further.
- If a dead tree falls on a neighbor's shed, who is responsible for the clean up and repair? Henry stated that the homeowner where the tree is located is responsible.
- Can a neighborhood send a letter to a resident warning them that a dead tree on a property is a safety hazard and if it were to fall, they would be responsible for it? Henry stated that a letter of this type doesn't preclude payment and it really depends on how the letter is written. If the house is in the City, contact Neighborhood Code Enforcement and they will handle the matter.
- An association is governed by a Property Management company. A resident asked for a list of resident names and addresses and the company refused. Are

they required to provide this list? Henry stated that yes, the PMC is required to present the list to a resident upon request.

- Further discussion on liens was held and in a foreclosure situation, a homeowner association would probably not collect back dues as they would be the smallest of the lien holders, and the last on the list.

Diana Chambers – Commercial Signs, Inc.

Diana was present to talk to the attendees on what her company does in regards to entrance signs, street signs and lighting in additions. She handed out a color brochure with some suggested costs and options for entrance signs and street signs, and said that the listed prices were all just ballpark costs as every sign is different and costs vary.

The group was informed - that any decorative signs in an addition are the responsibility of the addition. The standard green reflective street signs are City or County responsibility.

She stated that many of the signs today are not really wood, they only look like wood. Most are high-density foam, which is cheaper, but still gives the look of real wood.

Commercial Signs are not masons – they can be the general contractor for brick or stone signs, but they would have to subcontract that work out to a bricklayer.

The company is using almost exclusively LED lighting, and it comes with a five-year warranty.

- A resident stated that when the State was widening the road in front of their addition, they were paid for the cost to replace their sign. Diana stated it was common practice for this – her company provides quotes on a regular basis for that.
- She was questioned on electrical work for the signs they install, and said that they are not electricians – if the power is within six feet of the sign, they can hook it up to the sign lights, but if it is farther, they subcontract the work to an electrician.

Anita Mather – Allen County Recorder

Anita was at the meeting to discuss what the Recorder's office can do for associations. Anita has worked in the Recorder's office for over twenty years and has been the Recorder for four years. She handed out a document with the office contact information, how to use the website to attain covenants, and how to use the Recorder office for Property Fraud protection. Her presentation began with a PowerPoint – refer to the ACNA site for the digital version of the presentation:

- Covenants – how to find them
- Covenants are filed with the Recorder's office
- Covenants are legal documents and are binding
- Liens – discussion
- Copies of covenants on file date back to 1817
- Why have covenants? To improve the quality of life of those living in an addition.

- The problem with keeping track of covenants was addressed by filing them with the recorder, who maintains them for each County. Realtors are supposed to present the current covenants to the buyer of a property when they sell it. Members of the audience stated that few realtors do – that leads to problems where new residents are not aware of the existence of the covenants and the rules they have to follow.
- Covenants can be amended, but the process can be difficult. The steps to amend should be listed in your covenants.

Questions:

- Can you post the covenants on your own webpage? Anita said that yes, you certainly can.
- A resident stated that a group of neighbors got together and amended the covenants and filed them with the Recorder's office, but didn't follow the required steps. The amended covenants are now on file. Anita said the only way to get them removed is by a judge's order – you will have to sue to get the situation corrected. Anita said there are specific Indiana Codes for how many homes can be in one section of a development. She did not have that Statute information with her.
- She discussed a case in Fort Wayne of a homeowner putting up a shed in violation of the covenants, the association sued and won, the resident then legally changed the covenants to allow sheds, and then put it back up. The case cost the association thousands and thousands of dollars, and in the end, they lost the battle!
- Anita said to call the office if you need help accessing any of the records they have on file. The office staff will assist you.
- Are the City rules or the covenants enforceable? Anita said both are enforceable, and the more restrictive rules take precedence. If you have covenants in place and they forbid something, but even if the City rules allow it, the covenants have the overall power.
- Anita presented information where in four cases in the US, violence in covenant matters occurred and two persons were actually killed in a battle over a driveway and a fence!
- She then discussed Property Fraud – one of the fastest growing issues in the US today. People are fraudulently filing documents and taking property from legal owners!
- The best way to prevent this from happening is to sign up with the Recorder's office for Property Fraud protection. You can sign up and receive either phone or email notification if any property with your name is filed with the Recorder's Office. The service is free to use. Several members in the audience stated that they have already signed up and get notifications often of names similar to theirs being filed. If you receive a notice, contact the Recorder's Office for more information and what to do next.

Panel Discussion – Kris Krishnan, Marvel Embrey, and Alan Ewing

The panel discussion topic was focused on best practices for formulating budgets for associations. Refer to the ACNA site for the digital copy of the presentation. A copy of the Pheasant Run Civic Association proposed budget was also handed out.

The bullet points of the presentation follow:

- Overview
- New or Existing
- Plan and set up for the year
- Monitoring
- Maintenance
- Audit
- Report
- Money in versus money out
- Expenses vary during different times of the year
- Board agrees on process and follows process
- Make budget for entire year – review half way through the year
- Contingency fund for emergencies
 - o Ponds, roads, trees, etc.
- Call on past board members for information
- Size of association matters, number on board, amount of money being dealt with
- Questions:
- A board hires a Property Management company to run the association – does the board have to notify residents of doing this? The board probably should notify residents, but it is not required. The board is acting on the direction of the residents. The power of an association lies with the homeowners – not the management company. If you are not happy with how things are being run, get on the board and affect changes.
- Budget categories:
- Electric bills, landscaping, ponds, snow removal, repairs, maintenance insurance, auditors, postage, banking, office supplies to name a few.
- Activities of the board:
 - o Budget projection
 - o Review / update during the year
 - o Collect dues
 - o Write checks
 - o Maintain records
 - o Compare against history
 - o Money in reserve and saving for big projects
- Is there a set amount that should be held in reserve? There is really no set amount – how much you keep in reserve depends on many variables. Some banks will open a line of credit for an association in case of emergencies. If you don't have enough for a project, you will have to have a special assessment.
- How do you do a special assessment? Your covenants will spell out the steps you need to take. Refer to them.
- Covenants don't say how much dues can be raised each year. Is there a set amount? The consensus among the group was probably around 8% annually for an increase.

- Are the expenses of an association open to the residents? Yes, they should be presented upon request. The board should be transparent and open.
- The president of a board should answer any questions presented. The president does not need to give details – only an overview is required.
- It was suggested to hold a budget meeting twice a year to review the financial status.
- Lack of communication is a problem. Open communication is best.
- Most boards are very frugal. The money being spent is everyone's money.
- Property management companies can be very expensive.
- Marvel – Sample of the Pheasant Run Civic Association proposed budget was given out.
- Budget is done with a spreadsheet, converted to simple format to give to residents.

Open:

Joanne closed the meeting by asking if any of those in attendance would be willing to help with planning and running a meeting. Those in attendance of the ACNA meetings have a lot of knowledge and experience. She asked whether those present would be open to a meeting where the entire time was devoted to group discussions on association topics. -Only a few hands were raised, in favor or against.

The next meeting for 2018 will be April 26th at 6:30 pm in the lower level Omni Room in Citizens Square.

The meeting was closed at 8:00 pm.