

ACNA Meeting Minutes July 26, 2011

The meeting of the Allen County Neighborhood Association was held on July 26, 2011 at 7:00pm in the Omni Room in the Garden Level of the Citizen Square Building. The meeting was called to order at 7:00pm by Dan McCrea, Co-Coordinator. Forty two residents were in attendance.

Dan began the meeting by thanking Marilyn Hormann for presenting Dan with a copy of an article from the Journal-Gazette titled "*Non-Profits no longer tax-exempt*". Dan briefly discussed the article and stated that Nick Jordan would talk in more detail about it later in the evening's presentation.

Bob Eherenman:

Attorney Bob Eherenman was present at the meeting to answer questions from residents in attendance pertaining to Associations.

1. A local subdivision has had repeated damage to a community pool by a resident of the community. Can the cost of repairs be brought to suit to recover the costs?

Bob stated that, yes; they can be brought to suit to recover the costs. He stated that the association should be contacting the police in regards to the damage. File the police reports. If the person responsible is caught, they may be held liable to pay restitution as part of the legal process. If no restitution is ordered, a suit may be brought against the person. They will be responsible to pay, as long as they have the means to pay.

2. The covenants of an association state: A committee can decide which trees in the subdivision may be cut down. Several residents take it upon themselves to cut the trees down. What can be done?

Bob stated the first thing to do is to communicate to the person involved and make sure they are aware of the process. Try to work it out with the person. If they won't comply, a suit may be brought against them to recover the cost (while cutting down the tree, damage was done to the adjoining neighbor's property). This would most likely be a small claims case, where you can file a suit for up to \$6000.

Bob also stated that it is very important to try to work with the resident first. Legal action is the most expensive, least efficient way to settle an argument. He stated that generally only one out ten will not listen to the covenants and won't comply. That is when legal action is required.

3. What are the steps to update covenants?

According to Bob, this will depend on the age of the covenants. Generally a change will require a meeting of the board of the association, a vote must be taken and then the changes can be instituted. (This only can occur if a provision for the changes is provided in the original covenants.) Be certain to take minutes of the meeting.

If there is no provision, the registered owner of each lot must attend the meeting, sign and notarize the changes. Be certain you have the current property owner. Check the deed to make sure who the homeowner is. After 100% of the residents sign, the

covenants may be amended (100% are required unless the original covenants have a provision stating the percentage necessary for amendments). Be certain to file the amended covenants in the County Records office.

4. How do you change By-Laws?

The first step in changing the By-laws is to read the Article of Incorporation. If it states a certain percentage of residents to vote for the changes in the Articles, follow what is stated. Generally, to change the By-Laws, a majority of residents voting for the change is all that is required.

5. If you need 100% of the residents to vote in favor of a change, can you actually get that 100% to vote to lower the required amount from 100%?

According to Bob, yes, you can. But good luck getting all 100% to sign for it!!

6. Secretary of State website:

Bob told the group that there is a lot of information on the Indiana Secretary of State website regarding if an association is incorporated or not. Look under the Business Link and type in the Association name. The Association will either be in there or not. If it is not, every effort needs to be made to get incorporated. Check to see who the Resident Agent of the Association is recorded on the site as the person of contact. Update the record if needed. If after two years the Secretary of State cannot contact the Resident Agent, the association can be dissolved. This is not a good occurrence and must be avoided.

7. Are both the husband and wife required to sign according to the covenants?

If it is spelled out in the covenants, then yes, both are required. Usually it is only one or the other.

8. Can you have a Notary Public available at a meeting to notarize?

Bob stated that yes, you can, but a Notary can't notarize their own signature. If you have a resident who is a Notary present, you will need a second present to notarize that signature.

9. If an outside business has taken over a lot in an association, can you get signatures from the business or LLC?

Yes, you must still get the signature from the property owner, whoever that may be.

10. Any update to the Lien statute?

Bob stated that there have not been any changes to the Statute in the past few years. The rules to file liens remain the same: you must wait for one year to file a lien, must hold it for five years before filing suit. Bob stated that in a lien situation, you have to get in line to collect. Usually the higher amounts will be paid first and the association liens are generally much smaller, so the chances of collecting are not very good. Just because you file a lien, there is no guarantee you will collect on it.

11. If a Management Company has taken over for the board, will they still need to collect signatures for any amendments?

Bob stated that yes, the management company will still need to collect the signatures and have them notarized.

Mike Green:

Mike Green, Public Information Officer for Allen County, gave the members in attendance a “welcome to Citizen’s Square” presentation. Mike had a virtual tour of the facility and explained some of the high points of the new building.

Mike began with an overview of the Garden Level, where the Omni Room is located and where the City Council and the County Council meet.

The First Floor contains the City Clerk, City Utilities Customer Service, City Utilities Development Services, the Department of Planning and the Building Department.

The Second Floor houses the Public Works offices, the County Highway Department, NERC and Engineering.

The Third Floor holds the Surveyor, Community Development, Department of Health and Human Resources for both the City and the County.

The Fourth Floor is the Executive Floor, housing the Mayor, County Commissioners, City Finance and Administration and Purchasing for both the City and the County.

The Fifth Floor is where the Building Manager’s offices are located.

Those offices that remain at the City County Building are:

First floor: Auditor; Recorder; Treasurer and Veteran Services.

Second Floor: County Assessor and Wayne Township Assessor (moving to the 4th floor of Citizen Square in the near future.

Mike told the group that on the county website, www.allencounty.us, on the front page, you will find all of the offices and their locations along with the Suite Number of the office. There are direct links to each office on this site.

Mike also reminded the group that these meetings are available on the “Video on Demand” tab on the website. Resident can watch any of the past meetings from 2010 to present.

Nick Jordan:

Nick Jordan Allen County Chief Deputy Auditor, was present at this months meeting to continue his presentation on Fiscal Responsibility from the April 2011 meeting. Time ran short in April and Nick was unable to finish his presentation. He was invited back to continue. Nick stated that he received many question from the April Meeting and he answered all thirty questions. Before he got to the questions and answers, he discussed the article from the Journal-Gazette.

Nick stated that non-profits are no longer tax exempt. They must file a Form 990N if they are a federal non-profit or an 1120H if not a Federal non-profit. He was asked if an Association is not filing currently, what should they do? Nick stated they should start filing immediately.

Nick has written out the thirty questions, along with the answers. This entire presentation is available on the county website, under the Community/Neighborhood tabs. Since the entire thirty question presentation is available, minutes of the presentation are not included here.

Nick did state that he may be contacted by email at nick.jordan@allencounty.us with any comments or questions on his presentation and he will gladly answer your questions.

Kris Krishnan:

Kris Krishnan, ACNA Co-Coordinator, finished the evening by asking the group about taking the ACNA in a new direction. He asked if it would be beneficial to use the ACNA to try to influence the political process. What if we were to come up with a document on Bond Requirements for Developers? What if the ACNA, working through the County Commissioners, helped develop an ordinance requiring any developer to post a bond to assure completion of any development as approved? This could help alleviate proposals that do not get started or completed. This ordinance would have to be agreed up by the Commissioners. The ACNA is unsure how this would be received.

The meeting was closed at 8:30pm.

The next meeting of the ACNA will be on October 25, 2011 in the Citizen's Square Omni Room, 200 E. Berry, starting at 7:00pm.