

ACNA Meeting Minutes July 28, 2022

The third 2022 quarterly meeting of the Allen County Neighborhood Association was held on July 28, 2022 in the Omni Room on the Garden Level of the Citizen Square Building. It was called to order at 6:30 by Dean Embrey, ACNA Co-Leader. Thirty-three residents were in attendance.

Dean began by introducing his wife Marvel as the Co-coordinator of the ACNA. Dean informed the group that Mike Green, the Public Information Office for Allen County had retired at the end of June and a replacement in that position is still pending. Dean also introduced Rob Green, secretary of the ACNA and stated that the meeting minutes for each meeting are available on the Allen County Neighborhood Association website. Dean announced that the October 2022 meeting would be completely dedicated to the legal question presented to the ACNA volunteer attorneys.

Lindsey Tipton; Attorney

- Questions:
- What is the difference between common area and limited common areas?
Common area are areas where the entire community can use and access the area, for pathways, trails, etc. Limited common areas refer to condo developments and are private areas inside a building, like the interior hallways of each condo building or quadrant.
- Parking on the streets – resident parking a large pickup truck on the street in front of a home. Can that be restricted? Depending on what the actual wording of your covenants say, most pickup trucks are not deemed unconventional vehicles and are usually allowed.
- Development has 400 residential houses and 33 villas with two separate boards and covenants. The housing portion has all of the meetings and records available to the residents. The villa section will not hold open meetings, pass out any records to residents or respond to general questions from the residents. Is this legal? No, the must allow open meeting and pass on all pertinent info to the residents. What can be done if they will not comply? Follow the By-laws for scheduling a meeting; any resident can call a special meeting. If at least 10% of the residents attend this meeting, they can force the current board out, create a new board and take over all of the board duties.
- Can an association dispose of common areas? Yes, but it requires 95% of the residents to agree unless the convents specifically state differently.
- Association created and passed a new set of covenants. How can they enforce these covenants? Is there any outside agency or department that can help enforce them? There is an Indiana Statute specifically for HOA's and the rules for enforcement are in this statute. They are legal and binding. There are no outside agencies that will help enforce them. If you can't get residents to comply, try having your attorney draft and send a letter. If that is not successful, you will have to sue for remedy.
- Resident is running a landscape business from his home. Is this allowed and who would you contact to address this situation? This will depend on what your covenants says regarding home-based businesses. If they do not say anything

- specifically about them, then they are allowed to run the business. If there are issues with the way the business is being run as far as parking, material on the property, etc., then contact the Zoning Board for assistance.
- A board is not holding any in-person meetings, only via Zoom. Is this legal? Can in-person meetings be forced? Generally, as long as the meeting is properly announced and is being conducted where the people in the meeting can see and hear each other, then it is legal. COVID changed everything as far as Zoom-type meetings. The laws were changed after it and now remote meetings are generally allowed.
 - A board is not conducting any open meetings, only ones with a select few residents. Who can help correct this? If the residents are conducting meetings and handling financial transactions for the association but not openly, the Attorney General office should be contacted. Again, if a board is not holding public access meetings, the other residents can schedule a special meeting and with the correct number of residents, they can oust the current board and create a new one.
 - Can late fees be collected if they are not spelled out in the covenants? Probably not.
 - Are there term limits for a board? Generally, the By-Laws do have term limits, but in most cases, very few residents are interested in the board, so the same residents seem to be on the board over and over.
 - Covenants are on file in the Records office.
 - Have the rules for modifying covenants changed, generally related to notarized signature? Yes, the Statute was modified and corrected the multiple notarized signature issue.
 - Can Zoom meetings be added to the covenants? If you hold Zoom meetings, how do you collect signatures if you want to change the covenants? The current covenants should tell you what is needed to change them. The State Statute allows Zoom meetings, but proof of notification for these meetings must be kept.

Panel Discussion:

- Marvel Embrey; Pheasant Run (County): 194 homes; 40+ years as officer
- Jim Ray; Riverbend Bluffs (County): 260 homes; 20+ years as officer
- Neal Warner; Deerfield Estates (City): 149 homes; dues \$40 / year; own zero property
- Shawn Smith; Countryside Estates (City); 130 homes; president position usually a lifetime appointment!
- Four residents have volunteered to act as a panel for the meeting to pass on ideas and methods that they have used in their associations. The panel members are only passing on what they have done – this is not legal representation, and you should contact your own attorney with your specific questions and issues. What has worked for these panel members might not work for your association.
- Chain link – vs. – wood fences. When covenants were written, those were really the only two options. Now, there are plastic, vinyl and composite materials available. Other than chain link, most others are allowed to be installed. If residents connect fences between yards, who is responsible for the grass and landscaping. Generally connecting fences is not allowed. In the City, there are set rules for fences. Fences are generally not supposed to be put in an easement

- and if you do put one in it, you are risking having the Utility coming out and remove it.
- Street parking – in the city, the car must be moved every 24-hours. The City parking enforcement will chalk your tire, check back in 24-hours and if it has not been moved, issue a ticket. This actually happened to Lindsey Tipton. The question was raised that how does the parking control really know if the car moved or not in that period? Could the mark just end up in the same spot? The County does not monitor street parking and your covenants controls it.
 - Are there term limits for how long a member can remain on the board? Yes, but generally there are few people who want to deal with this, so the same people are on the board year after year.
 - How many people attended your last Annual Meeting? Interesting: 0 (other than the board); 10 (nine of them were the board); 1 (plus the board) and 3 (plus the board).
 - Can you change your By-laws if it says you need 30% of the residents in attendance but nobody actually attends? You will have to read what your current By-law says and act accordingly. Might require legal opinions.
 - Street parking: Why complain if a car is parked for more than 24-hours? Many responses to this question with very strong feelings as to why. Tight spaces, blocked driveways, large vehicles, home-based business and many vehicles, etc.
 - Association has no sidewalk, and each house has a drainage ditch. Street parking ends up on the lawn or if in the street, two cars can't get through. Fire trucks could not get through to respond to an emergency. Try to petition to have parking on only one side of the street. You need 51% of the residents to agree to it.
 - Association covenants says no street parking, but a judge ruled that you can park on the street for up to 24-hours.
 - Tall grass is monitored, and fines are issued. What about flower beds that are not maintained? Can you force residents to address this? None of the panel has ever heard of any enforcement on flower beds.
 - Any suggestions on muskrats and ponds? Resident stated that you are not allowed to trap and relocate. Discussion as to whether this is true or not. Suggested to contact the DNR and discuss the muskrat issue with them.
 - Suggestion made about flower beds and having local youth tend to them for volunteer hours? Agreement that yes, that would work. Requires communication!
 - How much cooperation do you get from the local government agencies? The North Barn in the county is very proactive to any requests. Calling 311 in the city is very iffy on what action you will get. The Board of Health has been very responsive for some residents and not for others. Condemned houses were emptied, and the residents moved back in. Neighborhood Code Enforcement told a resident it could be 4-5 years before action could be taken.
 - Be the bigger person – be a good neighbor.
 - Possibly use a local grant for muskrat removal. Grants are usually very specific, so you need to see what grants are out there. In the city, contact your specific quadrant to see what grants they have. Check the city website for each quadrant and when / where the meetings are held.

- How do you get a map of the area property lines? All in agreement that the local GIS service has very good mapping. www.acimap.us. Different tabs, many views, very detailed.
- Discuss storm drains and storm drain art. Keep the drains clear – heavy rains will lead to localized flooding.
- How well does the 311- service work for each member? For leaf removal, within 2-3 days after calling. Streetlights – 3-4 days. You can report issues online and be anonymous. The new trash service with GFL was briefly discussed. Some minor damage occurred and waiting to see how it will be addressed.
- How many associations use hard-copy newsletters? Most in attendance use them.
- How many associations post a directory? Most in attendance give them out. Discussion on privacy and if a resident does not want their info public or refuses to give the information.
- One resident uses a meet-and-greet for new residents and gets their information from them at that time.
- Does anyone have software to track your directory? Some use their website, others use spreadsheets. No specific software known.
- Resident said that the State Code says you can't have a directory posted. The State HOA Statute actually stated you MUST have one!
- Panel member discussed websites and how they have different levels set up. Anyone can access to get basic info. Residents have different level for more info. Board members have total access. Questions on the web developer – contact them to get that info.
- Can you force residents to have homeowner insurance if they have their mortgage paid? Covenant state you must have insurance but some who have paid off their mortgage cancel insurance. None of the panel have ever heard of this. Contact your attorney.
- Newsletters: hard copy, distribute to all, email, website, FaceBook? All different ways to get them out. All different frequency of distribution. Costly to mail all of them, cost for stamps, printing, envelopes. Try to use email. Only send to those who ask. One member has a team to hand deliver them. Some used Mail Chimp in the past but this seems to have ended.
- One panel member uses Cheddarup.com for electronic dues collections. Works very well for this association.
- One association regularly files liens. Dues that might be \$150 end up two or three times more after legal and court costs are added. Other member regularly uses Small Claims Court.
- One association has a community pool and for those who do not pay their dues, their pool gate access code is revoked until they pay.
- Resident in SW Fort Wayne stated that 311 has been very helpful for them.
- One resident has a welcoming committee to meet new homeowners. They present a newsletter, covenants, by-laws and helpful hints when a new person moves in.
- One association held an ice cream social and it was a great way to get residents together.
- How many board members does everyone have? Varying amount, depends on how lucky they are to get people willing to be part of it.
- Any association present use a management company? Only one person in attendance uses one. It is very costly. Some have had one in the past, but it didn't

solve all of the problems. One person felt a management company makes dealing with issues easier – issues are not taken personally when it comes from an outsider. No general consensus on that statement.

Open:

Dean stated that the meeting had to end at 8:00 PM. The October meeting will be devoted entirely to legal Q&A with the attorneys. The room is available for further discussions until 8:30 PM.

Dean asked the group if the idea of a panel discussion like tonight's format was a positive and if the ACNA should consider one again in 2023. The audience was in agreement – yes!

Dean closed the meeting at 8:00 PM.

The next meeting will be October 27, 2022 at 6:30 pm in the lower-level Omni Room in Citizens Square. Again, this is the meeting devoted to legal Q&A for the entire meeting.