

ACNA Meeting Minutes April 25, 2012

The meeting of the Allen County Neighborhood Association was held on April 25, 2012 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 six residents were in attendance.

Bob Eherenman Attorney

- Present to answer legal questions pertaining to associations.
- Should a lawyer be used to revise By Laws? Probably not since the By Laws only govern what the Board must do. If items are in both the covenants and the by-laws, then it is more important and a lawyer should be used so that they are fully enforceable.
- Review of three important documents:
 - o Covenants
 - o Articles of Incorporation
 - o By-Laws
- Are liens enforceable and worth using? The new statute allows for liens to be placed for nonpayment of dues whether it is in the covenants or not. Lending institutions would get money first before the association and there usually isn't money left after the mortgage is paid. Liens become useful if the homeowner tries to refinance or sell the house. Most associations are considered in a junior position (90% of the time) and tend to not get any money back.
- Other ways to collect dues: Talk to the resident. Talk! Small Claims Court is the next option but since the association is incorporated, it must be represented by a lawyer and there are costs to that. The final option is to file the lien.
- If the residents want to break up an association and have no covenants, what can they do? The association automatically dissolves if it stops annual filing with the Secretary of State. Just stop filing. What happens to the left over money? That will have to be further investigated.
- How do you find out who owns an abandoned house? If the house isn't foreclosed on, the person listed on the deed of records owns it. Can find out from a Title Company who that is. If property taxes are not paid, then the house goes up for sale at a tax sale.
- If an existing community of 55 and older residents moved in with no amenities and the developer wants to add more houses with amenities, do all of the residents have to pay? In most cases, developments are set up with the future stages in mind, so in most cases, yes, all would have to pay. This would be providing that all the covenants for each section match.
- Can a "No Rentals Allowed" clause be enforced? Yes, nothing in Indiana law prevents it but instead of renting, houses could be sold on Land Contract, which is basically the same thing. What if you sold your house but needed to stay in it for

another month or two until where you are moving is ready and want to just pay rent to the new owner? If the No Rental Clause is in the covenants, then that would not be allowed. Be careful what you wish for!

Cindy Joyner
Deputy Director
Fort Wayne Code Enforcement

- All residents are affected by vacant houses.
- Weeds and grass not being mowed. Call 311 (in the City) and report. Backlog of about 1000 places at the current time, so it will be a while before it is addressed. Photos are taken, grass must be over 9" tall, a placard is posted and then they come back in seven days. If not taken care of, a contractor is awarded the bid to mow. The contractor will take before and after photos so there are no questions after the fact.
- Abandoned houses: holes in roof, gutters falling off, foundation issues: call 311 (in the City). An inspector will be dispatched; if a violation exists they are given 60 days to repair. The house is checked after the 60 days. If the repair is not done, an Order to Repair is issued. A hearing is then held in front of an Administrator and civil penalties can be issued but really they want the money from the penalty to be used to do the repairs. If the repairs are not done in 30 days, a lien is filed, a special assessment is issued and the house may go to a Tax Sale.
- Our commercial and residential ordinances (Chapter 150 and Chapter 152) are both due to sunset July 1, 2012. In July 2009, City Council voted on to enact our first commercial ordinance in the City of Fort Wayne. The community's reaction to our commercial ordinance has been very positive over the past three years. Due to the sunset, we have reviewed both ordinances and made some proposed changes to the current ordinances – the changes are more minor in nature.
- We are in the process of obtaining input from various groups and individuals on our recommendations. So far, everyone we have met with has been very supportive of those recommendations.
- Once a house moves through the tax sale, the penalties assessed might be waived if all of the repairs are made.
- Can abandoned properties be demolished? They can but it is not a quick process, taking over six months to happen. There is a lack of money to demolish even if the property goes through the entire process. This requires going through the entire process, must be affirmed, must go through public bidding and a Council review.

David Fuller
Allen County Building Commissioner

- Covers all new construction in Allen County. Also covers remodels, additions, inspections, licensing of contractors and enforcing State Codes.

- Abandoned homes in unincorporated Allen County are addressed the same as in the City. They are all covered under the Unsafe Building Law.
- The County doesn't have Property Maintenance Codes like the City does.
- The building department responds to all complaints of unsafe actions.
- Allen County Community Development Association. Takes the deeds to get properties off the tax rolls by finding buyers. Many times it is adjacent homeowners who buy the vacant lots.
- Be aware of people trying to take association common areas as vacant lots and selling them back to the association! The building department is working hard to try to not sell these lots to speculators who try this.

Win Moses

State Representative

- Once the Right to Work issue was resolved, the session was very productive. Bills passed:
- Phase out the inheritance tax (try to prevent exodus of seniors to Florida)
- Full day kindergarten
- Banned K2 / Spice (synthetic drugs)
- Cannot oversee family member in political office (nepotism)
- Smoking ban (good start)
- Finished the session five days early, saving thousands of dollars

Tom Wyss

State Senator

- Agree to work together with issues with associations and cities.
- Trying to give more power to City / County to prevent unscrupulous acts
- Support property rights
- Full day kindergarten – found \$230 million so the Daniels Administration paid for it
- Prevent home improvement scams – must wait three days to be sure insurance covers repairs and they must have a presence in Indiana to be able to do the repair
- Neglected properties – notification of violation must only be done once, not multiple times (Bill 1072)
- Statewide 911 program – due to large loss of landlines to cell phones, money for 911 centers was lacking.
- Ban on synthetic drugs

Open Discussion:

- Possible upcoming topics: Neighborhood Watch Programs – what should and shouldn't be done/
- CERT Program – (Certified Emergency Response Team) is intended to provide association members with information about what to do if some emergency

happens within their neighborhood. This training will provide details on what to do before officials arrive to help. Usually the emergency is something related to acts of nature, i.e. tornados, earthquakes, etc., but can also mean acts of terrorism or civil disorder. The training is provided by the Safety Academy. More info to follow.

- Tractor trucks parked in neighborhoods. If on residential property – City Code issue. If on streets, Police Department issue.
- Comment on short sales and foreclosures and banks not doing enough to address. The question was asked how to make them more accountable? Travis Holman is working on this issue.
- There is a huge backlog of foreclosed houses and they are probably only 50% through addressing them. Comment that nobody has paid a price for the crisis and seems to be no moral hazard or accountability.
- How to enforce unsightly garbage and recycle bins? Call 311 (in the City). Solid Waste will address complaints.
- What can neighborhoods do with unsightly houses? Addressing outside of the house is generally ok for neighbors but do not enter. In the County, it would fall under the unsafe building code provisions but it would have to have major maintenance issues for the County to get involved.
- Siding on house falling off a house in the County – what to do? This isn't a safety issue, more of a maintenance issue. These would have to be a case by case analysis. Call the building department with specifics.
- Who handles septic system issues? Address septic issues with the Health Department.
- Who is responsible to clean up easements / utility area? A very gray area and tough to address. The homeowners are responsible for cleaning up easements on their property. If they are not, call 311 and code enforcement will get involved.
- Win Moses gave an overview of the proposed utility rate increase. This is a cause he champions and he gave his history on the topic. Increased utility rates are making Indiana not competitive with neighboring states and other areas of the country.

The meeting was closed at 8:30pm. The next meeting is scheduled for July 24th at 7:00pm in the Omni Room in the Garden Level of the Citizen Square Building, 200 E. Berry at 7:00pm.