

ACNA Meeting Minutes July 25, 2017

The third quarterly meeting of the Allen County Neighborhood Association was held on July 25, 2017 in the Omni Room on the Garden Level of the Citizen Square Building. It was called to order at 7:00pm by Kris Krishnan, ACNA Co-Leader. 42 residents were in attendance.

Kris informed the group that Dan McCrea and Joanne Bergman were unavailable to attend the meeting so he was going to moderate for the evening.

The Fort Wayne City Council members stopped into the meeting. Their City Council meeting just ended. The Council member all introduced themselves to the group and briefly spoke a few words. They all thanked the ACNA members in attendance for the hard work that is done for each neighborhood association. The Council members in attendance were Tom Freistroffer; Geoff Paddock; Tom Didier; Glynn Hines; Paul Ensley; Jason Arp; Michael Barranda; Russ Jehl and Clerk Lana Keesling.

Kris next had those in attendance introduce themselves and state what association they were representing.

Kris also asked the group to strongly consider taking on a more active role in the ACNA. The group is continuing to look for more people willing to help coordinate the group meetings.

Bob Eherenman - Attorney

- Bob introduced himself to the group, briefly talked about past discussions he had with the group and informed the attendees that the October meeting was dedicated entirely to legal questions and answers.
- From the pre-submitted questions, Bob answered the following:
- Indiana Statute 32-25.5-3-3(g) states that residents have a legal right to inspect any board meeting minutes from their association. The Statute exists but no remedy was provided residents in case a board refuses to open the minutes. There are no guidelines in what to do in case the minutes are not presented. Bob stated that your By-Laws should spell out what exactly your meeting minutes should contain and when they will be provided. If your By-Laws clearly state a procedure and you follow that procedure, there can be no issues. The last scenario if you are unable to get the minutes is to seek legal remedy but this is the last thing you really want to do. It is the most expensive and least effective path to follow.
- Who is responsible for animal carcasses on common property? If they are on association property, responsibility falls on association.
- Who is responsible for common areas around retention ponds? Usually there is an easement around the pond for maintenance work. The County Surveyor is responsible for all drainage ponds. Residents can't block access nor restrict access to the easement.
- Architectural guidelines cannot contradict Covenants – no matter what. The Covenants should spell out who has authority to adopt the guidelines. Be very

- specific when writing these guidelines. Don't leave gray areas. You can supplement in them but don't over-reach your authority. Boards should look to see what authority the covenants state.
- How can an association re-establish non-profit standing? Bob stated that if you are asking this question, your standing has probably lapsed. Check the Indiana Secretary of State to see your standing. If you have lost your standing, have not been filing tax returns, etc. it is probably best to just reform your status. You will need to consult an Accountant and seek legal advice. The necessary forms to file are available on the Secretary of State website.
 - Title companies are asking for copies of association insurance. Can you state why? Bob said he was not really sure why they would want it – maybe it had something to do with the type of loan being sought. You do not have to provide it if you don't want to.
 - If a Board sends out notices and are disobeyed continuously, what remedy do you have? Bob stated that you can always take a resident to Small Claims Court for legal remedy. Associations must hire legal representation though.
 - Can an association inform the Credit Bureau of a resident being behind in dues? Bob stated that he polled several other Attorneys in his office and they all agree – DO NOT do this. There are Federal laws protecting residents and you could be opening your association up to serious consequences.
 - Who controls the Right of Way in an addition? Bob stated that in the City it is City controlled and in the County it is the Highway Department.
 - Are signs required around ponds? Bob said that they are probably not technically required but for liability concerns, you should have postings around the pond. How many are required? No set amount – you should have at least one. Ask your insurance company to be certain.
 - Open questions: Who has the power to adopt guidelines? Check your Covenants.
 - Can you collect legal fees for past due residents? Again, check to see what your Covenants state. Can you charge late fees? Check your Covenants and if not spelled out, then the answer is no.
 - Association has seven parks. Can they be combined and ruled under just one set of rules? Bob said that yes, you can combine them into one set.
 - Is a State permit required for a play set on common areas? Bob said he was not sure if you needed one or not.

Jeff Sorg – Allen County Surveyor

Jeff presented the group with a brief background: he has 38 years experience, was the Surveyor previously, worked for the County Highway Department for a number of years and was elected back to the Surveyor office last November.

The Surveyor office is responsible for: 1) Section Corners in the County and 2) Drainage (Part of the Allen County Drainage Board). The office is responsible for all regulated drains. A regulated drain is one that drains into a river, stream or ditch. Prior to 1965, there were no one set of rules for drainage – it was different in all Counties. In 1965, the Indiana Drainage Code was established and a single set of rules was adopted

with control of these going to each County. This Code provided the easement to all regulated drains.

Jeff's office can be reached at 260-449-7625. Do not hesitate to call with any questions on drainage. His office can tell you what you can and can't do to the pond. They will also tell you if the funding is in place to perform maintenance. If the funding is in place, the cost is 100% paid for. This money comes from the fees that are assessed to all residents.

The Surveyor office is responsible for reviewing all new Developer plans prior to any building. The Surveyor usually receives detailed Engineering drawings from the Developer and reviews where all run off water is going to go. The office looks to make sure that there is not going to be any negative impact to surrounding properties. The Surveyor office is in place to protect residents.

Questions:

- Where do associations fall in regards to repairs? Drainage problems have been reported for multiple years and no action has taken place. Jeff stated that it all depends on a case by case basis. That isn't much of an answer but it is the fact. The resident asking the question was recently annexed into the City. Jeff told them that they are now under City control – his office is not involved now. Call 311 – over and over if necessary. After annexation, the County loses all jurisdictions.
- An easement has settled after many years. The water is now ponding. Can the Surveyor fix the easement? This resident was also inside the City. Jeff told the group to contact Ann Marie at the Storm Water Utility. He works with her on a regular basis – she is very knowledgeable and open to helping residents out.
- Does the County clean out pond drains? Jeff told the group that they do not clean drains – this is the responsibility of the association in most cases unless there are structural issues with the drain.
- A resident built a bridge over an easement. A contractor left the dirt and silt that was removed on the property and now this is messing up the flow. Jeff said that the silt removed must be removed from the land.
- Three sump pumps discharge into a swale. The swale is plugged so that water does not recede. What can be done? Not all residents are on board to repair. Jeff said that you may have to sue for legal remedy. You will need court action to get it fixed.

Kent Castleman – Executive Director with the Fort Wayne Trails

Kent presented each attendee a 2017 Trail Map showing existing, under construction and proposed trails in Fort Wayne.

Kent informed the group that the City and County are working together to improve trails throughout Allen County and surrounding counties. Together, more trails can be developed and constructed. The current plan is for an 81-mile trail running from Bluffton to Pokagon Park.

In Allen County, trails are owned by the municipalities that the trail runs through, once they are built. This is how trails are controlled in Indiana.

Prior to 2011, there were three separate trail groups working on the trail. In 2011, all three merged into one and the Fort Wayne Trail Authority was formed. A unified vision was formed.

Trail Updates:

- Pufferbelly Trail: this trail is being connected from the Life Bridge Church and runs north to Peyton Park. They are working with Hometown currently to run this trail all the way to Gump Rd. Funding is in place for this and a nature trail should be completed by the end of 2017. It will be several years before all of this trail will be paved. FW Trails is working with the property owners to the north of Gump for property rights to continue moving northward. There are plans to connect it from Wallen to Washington Center but the funding is not available at the present time.
- DuPont Rd – heavy traffic – how will the trail cross the road? Kent informed the group that a part of the widening of DuPont is the construction of a tunnel under the road.
- Are there trails planned with the Bass Rd construction? Kent said that yes, there are but this project is being drawn out until 2023 so the trails are a ways off at this time.
- Are other Counties involved in this trail? Kent said that they are, both to the north and the south. Allen County is the only county with the unified group – FW Trails. The other Counties are all working separately. FW Trails is trying to help these Counties merge into one group like FW Trails.
- The railroad overpass on Wells was taken down. Are there plans for this? Kent said that yes, the trail will be replaced as part of the State St. project.
- How far south does the trail run in Stueben County? Kent stated that he was not certain at this point.
- Is there a trail planned for the Tillman – Six Mile Creek? Kent said there are discussions on this but there is no funding at this time.
- Who is responsible for private sidewalks that join the trails? Kent stated that the associations are responsible for signage leading into and out of the public trails. Private property signs should be posted – there are liability issues to be concerned with.

David and Berniece Wilkins – National Association of Parliamentarians

David and Berniece were present at the meeting to discuss the proper techniques for running an association Board Meeting and to discuss the Roberts Rules of Order. David and Berniece belong to a Fort Wayne chapter of Parliamentarians that meets the third Monday of the month at the Allen County main branch library. Their meetings run from 6:30 – 8:00pm. Anybody can attend to see if they are interested in joining. The main focus of the group is to study the Roberts Rules.

There were two handouts for this presentation: Good Meeting Basics and Agenda / By Laws.

Association meeting need to have a preset agenda. All items for discussion should be on the agenda. It is a good idea to have blocked out times for each item also. This can help control long winded speakers. Only items on the posted agenda should be

discussed. The handout on agendas was reviewed. A good meeting will follow the set agenda and try to not deviate from it. If a topic is brought up that is not on the agenda, order should be called and the meeting brought back to the set agenda. Unscheduled topics can be discussed during the New Business section. The agenda format should be adopted by the board members. Once adopted, it becomes official and the Roberts Rules will then apply.

The duties of the President of an association were discussed. The President can't make motions at a general meeting. The President can make motions at a Board Meeting. The President needs to keep the meeting focused on the agenda items. The President can also keep items to a set time if that time frame is documented.

David presented the current version of the Roberts Rules. The very thick book contains every subject for a meeting and detailed instructions on how to follow them. It is very detailed. A more user-friendly version is the Roberts Rules for Dummies. This book is printed in plain English – it is easy to read and easy to understand. David strongly suggested purchasing this version for reference.

The question was asked – what should be in the meeting minutes? Both David and Berniece stated that the only items for the minutes are what were done, not what was said. Record motions, not any debate. When further questioned on this, both were adamant – do not record the debate surrounding the item. Only record the actions taken. No questions should be allowed until a motion is made also.

The question was then asked if a synopsis of the meeting can be recorded and kept with the minutes. They agreed that this is perfectly acceptable. The recorder just needs to be certain that the actions are in the minutes.

How long should meeting minutes be kept? Berniece stated that for historical reference, they should be kept for life. With current technology, the minutes can be stored on a flash drive or a computer. Hard copies are not required.

Meeting minutes are legal records. They need to be treated as such and kept available for possible legal actions. That is also a reason to keep them brief and to the point – and record any and all actions taken.

The Secretary can assist the President at meetings. This is perfectly acceptable. For a meeting to be official, both the President and the Secretary need to be present.

Open:

The final meeting for 2017 will be October 24th at 7:00pm in the lower level Omni Room in Citizens Square. This is the meeting where the entire agenda is devoted to legal questions and answers.

A question was asked about getting speed bumps in an addition. The group suggested the Allen County Highway Department but didn't express much hope for them installing them. There are many negatives with them.

Kris asked the group to please think of new ideas for future meetings. Comments from those who attend ACNA meetings are really preferred. He also told those in attendance that they can email questions ahead of the October meeting and they will be given to the lawyers so they can have time to prepare answers.

The meeting was closed at 8:35pm.