

Council of Neighborhood Associations (CONA)
Monthly Membership Meeting
John R Hooker Room, City Hall, August 20, 2014

Attendees: John Arnold, Gentry estates, Garry Founds, guest presenter, Cynthia Bretheim, Prospect Hill, Darrell Boggess, Park Ridge East, Sandra Clothier, Near West, Deb Hutton, Matlock Hts, Sharon Yarber, Matlock Hts, Pat Jeffries, Sherwood Oaks, Paul Ash, McDoel, Elizabeth Cox-Ash, McDoel, Jon Lawrence, Bryan Park, Jan Sorby, Bryan Park, Sophia Hauserman, Near West, Kathleen Boggess, Park Ridge East, John Kennedy, Spicewood, Georgia Schaich, Green Acres.

The meeting was called to order at 6:01. Jon Lawrence, Chairperson, introduced himself, and introductions were made around the table

Secretary's Report The minutes were reviewed, and a motion to approve was introduced by Kathleen Boggess, with Paul Ash second; the vote to approve was unanimous.

Treasurer's report There were no deposits and no checks written, 30 cents in interest accrued. Deb Hutton asked about the policy regarding Neighborhood Associations keeping money in a CONA account. Elizabeth explained that as long as a neighborhood account has a minimum of 100 dollars, or is actively using the account, Neighborhoods can set up an account through CONA. Each neighborhood account is kept separately. There are some administrative issues; It is a savings account, so when money is withdrawn, it is transferred to the checking account. It was set up for Neighborhood Associations without a bank account, that received grants and needed to have an account to place the money in. Jan Sorby motioned to approve the report, with Deb Hutton seconding; the vote to approve was unanimous.

Neighborhood Covenants, Garry Founds

Garry Founds is a lawyer specializing in land use law, and a partner at Mallor Grodner Law Office; he agreed to discuss questions regarding neighborhood covenants with CONA. (Questions are in Italics and indented)

- *If there is an established HOA set up, with covenants & restrictions, and after some time the HOA dissolves, what happens? Are the covenants & restrictions still valid, and who is responsible for the common areas and common maintenance that had been the responsibility of the HOA?*
- *How are covenants like or unlike easements, in terms of the parallels: they both are passed with each sale of the land and hence create limitations. How they might differ in terms of attempting to free oneself from the choices made in the past by neighbors or by neighborhoods/developers?*
- *Does it really require a 100% agreement of current residents in a neighborhood association in order to put C & Rs back in force?*
- *What happens if a covenant is ignored for a long period of time and then it is challenged?*
- *Can an individual write a covenant with a lifetime limit or can it only be a few years? Can the time limit be extended or renewed?*
- *Have there been any cases of new owners wanting to change the covenant so they can change the zoning on their house?*
- *How long are covenants valid, what does it takes to change them?*
- *Do city ordinances rule over covenants?*

- *Who enforces covenants?*
- *What types of covenants (rules) are not legal now, that were legal years ago?*
- *Where do you find the covenants for a neighborhood?*

Response by Garry Founds- if a covenant is ignored for a long period of time and then is challenged, the ruling is fact sensitive, so, if a violation is ignored, and then there is an attempt to call it to account, the fact that it has been ignored will affect the outcome. So you would have a more difficult time challenging a violation if you ignore that violation for a long time.

As to the length of time the Covenant is in force, it is generally forever, it is regarded as a contract and will continue unless there is a sunset clause in the contract. Covenants can be drafted with time limits, or in a way that would allow a number of people, or percentage of residents, the ability to change them.

As to the City vs. covenants, if city requires a thing, it trumps the covenants, if it is simply allowed by City ordinance, then a covenant will generally prevail.

As to who enforces covenants, anyone in neighborhood can bring a complaint but it is better for the Home Owner's Association (HOA) to bring the claim, rather than an individual homeowner.

Covenants no longer legal now include discriminatory covenants, those covered by the Fair Housing Act, that prohibited certain individuals or families based on race, religion, sex or other unconstitutional forms of discrimination. Age is not an illegal restriction. Such things as cable TV have to be allowed, but the size of satellite dishes can be regulated.

Covenants are not related to zoning, so there is no relationship.

If the covenants in the neighborhood are silent on the issue of changing them, it will require the vote of the entire membership to change them.

Covenants will be found in the recorders office, in the subdivision records, but not in individual deeds.

If an established HOA dissolves, it does not affect the contract; a vote by the full membership is needed to dissolve the covenants.

Question: does it take a 100% agreement to put CNR back in force? The level of approval to put the covenants back in force depends upon the document itself.

CURRENT PLANNING ISSUES

University Courts- It was noted that no one from the University Courts NA was present, to report on the issue. Elizabeth Cox Ash said that 5 out of 6 houses will be saved, being moved to other locations within the existing neighborhood.

Growth Policies Plan- nothing new to report

Certified Tech Park- nothing to report

Education Committee- will be meeting soon, will have a report at next month's meeting.

Technology, Website- Jon informed the group that he and John Grigutus met with the **Serve IT** committee to work out a set of protocols that we thought would be good for us to have on a website. Two or three neighborhoods will be able to

have web setup help. Part of the process of this process involves the students interviewing CONA to determine our website needs: the document of the scope of work is basic and could easily change.

There will be a development of a design and color scheme; this applies only to CONA, each Neighborhood association can use their own logos, but it will be helpful to have some basic components that are similar. Don Granbois noted that the website should connect with the individual neighborhood sites, and that all neighborhood associations should be listed, possibility with a map that could provide a link to each association's site.

Elizabeth made the motion to accept this assistance, and John Kennedy made the second, the vote to approve was unanimous.

New Business

Derelict houses

Sandi Clothier asked for feedback from neighborhoods as to what they found most helpful in dealing with houses in extremely poor condition. The Near West Side NA has several of these houses, some of which are estates and have been unoccupied for years, and so are deteriorating badly.

Jan Sorby suggested that Bloomington Restorations Inc. is a perfect organization to look to for this type of help, they can and have been able to take badly deteriorated homes and fix them up and resell them. Elizabeth Cox Ash added that some houses are deliberately allowed to deteriorate, a kind of demolition by neglect. She suggested that in those cases a person can go to the courthouse and look up the property; if there is a mortgage in place there may be a way to get the bank to force the owner to repair the structure. It has to do with what is required on the house, is there an accelerated clause. Kathleen Boggess added that the City can be called upon when there are other issues with the house, for instance, when a problem arose in her neighborhood with a tree blocking the street view, the City eventually cut it down and put a lien on the property to make sure the money for the work would be repaid. Looking up owners of these properties can be done via the Monroe county GIS site for owners. It was also mentioned that these issues can be brought to the meeting with the Plan Department and Tom Micuda.

Old Business

Referring to the meeting with Mr. Micuda, Jon Lawrence noted that there used to be a committee called the Neighborhood Transportation Safety Plan that has been allowed to fall by the wayside, but that it is something we may want to see reinstated. This is one of the issues we can bring up during the meeting with Planning.

Other issues suggested as good topics for the meeting with Planning included zoning issues, and how those affected by zoning changes will be notified, how neighborhoods can be included in the process, notified, when new proposals come forward, before huge amounts of time and money have been spent by the developer. Also how developments are dealt with when they fail to follow approved plans.

Other Comments

Sandi Clothier noted that the JB Salvage Waste Transfer Station permit has been resubmitted. There will be more to come; Sandi will let everyone know where they can find information and what is at stake in this process.

The Meeting adjourned at 7:23