

1 NORTH OGDEN CITY MUNICIPAL BUILDING AUTHORITY
2 MEETING MINUTES
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5 April 26, 2011
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8 The Municipal Building Authority of North Ogden convened in a meeting on April 26, 2011 at 9:13pm
9 after the City Council meeting at the City Offices. Notice of time, place and agenda of the meeting was
10 delivered to each member of the Council, posted on the bulletin board at the municipal office and posted
11 to the Utah State Website on April 19, 2011. Notice of the annual meeting schedule was published in the
12 Standard-Examiner on January 1, 2011.
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14 PRESENT: Richard G. Harris President
15 Wade Bigler Board Member
16 Ron Flamm Board Member
17 Carl Turner Board Member
18
19 EXCUSED: Martha Harris Board Member
20 Brent Taylor Board Member
21
22 STAFF: Debbie Cardenas Finance Director/Acting City Manager
23 S. Annette Spendlove City Recorder
24 Julia LaSeure Deputy Recorder
25 Craig Barker Community Development Director
26 Dave Carlson City Attorney
27 Mel Blanchard Public Works Director
28 Dave Nordquist Community Services Director
29 Scott Felter Public Works Maintenance Supervisor
30
31 VISITORS: Melanie Barker
32 Dave Hulme
33
34

35 **DISCUSSION AND/OR ACTION REGARDING AMENDMENTS TO THE CC&RS FOR DEER**
36 **MEADOWS SUBDIVISION.**
37

38 Dave Carlson said this is being brought to the Municipal Building Authority now because there are a
39 number of issues at the Deer Meadows Subdivision that do not comply with the CC&Rs. The Municipal
40 Building Authority (MBA) acted as the developer for that subdivision. He said this is very unique and he
41 has never seen this before. Deer Meadows is a normal subdivision not a PRUD. There is no enforcement
42 authority other than the individual property owners. Typically a committee is put together to handle the
43 enforcement issues. He recommended that we try to get the MBA out of that role. Fortunately the MBA
44 did reserve the authority to unilaterally amend the CC&Rs which is also very unique. This would be the
45 third time the MBA has amended the CC&Rs since it was formed. This amendment would just extract
46 the MBA from any involvement and in its place create an owners' committee. This document is on file.
47 There are a number of vacant lots in this subdivision so there will be a need to set up an owners'
48 committee.
49

50 Board Member Flamm asked if the owners' committee could decide to do away with the CC&Rs. Dave
51 Carlson said that they could repeal them after 25 years. With 100% of the property owners they could do
52 a lot. Most property owners like having CC&Rs because it keeps the property values higher. He said we
53 would need a standard operating procedure in place to deal with building permits that come in for this
54 subdivision.

55
56 Melanie Barker, 2524 Barker Pkwy, said when her in-laws sold the property to the City the City took it on
57 to keep it really nice. She said they want these restrictions to remain and are very concerned with these
58 new lots and people building because none of the home owners have the knowhow to deal with the
59 architectural stuff. She said she feels that this is what the City expected and they need the City to stick to
60 that. She said she can understand the little things like dog runs but as far as the structure of the house she
61 doesn't have the knowledge. She said she wants to make sure that whatever homes are built there will be
62 built under the original requirements.

63
64 Board Member Bigler asked why we want to change this now. President Harris said that the building
65 official is over there enforcing CC&Rs and he shouldn't be. Board Member Bigler said for integrity we
66 have to stick with the deal. He said if that was the original agreement it's not fair to back out now.
67 Debbie Cardenas said there have been some things done there and if we go in and enforce those things we
68 will have to tell them to remove things.

69
70 Dave Carlson, City Attorney, said this may be the only arrangement like this in the world. It gives us
71 responsibility and liability that is not good for a City. This doesn't harm the property owners, it simply
72 puts them in the position that every other subdivision in the Country is in. The City does enforce the
73 zoning ordinance but it is not the role of the City to enforce CC&Rs.

74
75 Board Member Flamm asked if the property owners don't feel comfortable dealing with this could our
76 building department help them out. Dave Carlson said he doesn't think that it would be a problem for the
77 City to provide some expertise. The restrictions really aren't that difficult to interpret or understand.

78
79 Board Member Turner said he has never worked with a City that hasn't helped.

80
81 Dave Carlson said the CC&Rs will be known to anyone that buys property there. He said in a normal
82 case you go and talk to your neighbor to remind them that there are CC&Rs in effect. Most contractors
83 will know that they need to stop right then. If they continue to build in violation you go to the Court and
84 they can order it to be demolished. Mayor Harris said our zoning ordinance allows a certain building
85 height but if there is a set of CC&Rs they trump the City's zoning ordinance.

86
87 Board Member Bigler asked who was responsible for this in the original agreement. President Harris said
88 it was the MBA, which is the City Council, that's the way it's written now. It's also written that the
89 MBA can unilaterally change that.

90
91 Board Member Flamm asked if this would be recorded again. Dave Carlson replied yes.

92
93 Dave Hulme, 513 E 1700 N, asked why the City doesn't enforce the CC&Rs for all of these subdivisions.
94 Dave Carlson said it is illegal for a City to restrict buildings based on the types of things in CC&Rs.
95 Dave Hulme asked if the Home Owners Associations in North Ogden City could register their contact
96 information with the City so they can be kept apprised. Would that be legal? Board Member Turner said
97 there is nothing stopping them now from giving us their contact information. He said it's not that tough,
98 like Dave Carlson and the Mayor said the City doesn't care what brand of fixture you use and that's what
99 the CC&Rs are telling you. The City does not approve specs; this will give that power to the
100 homeowners.

101
102 Board Member Bigler said basically no cities are in this and that makes sense. He asked if Dave Carlson
103 knows how they go about doing it if they don't know about it until the home is being built. Dave Carlson
104 said first of all the banks will be asking questions as soon as they see that there are CC&Rs, they won't be
105 lending any money unless this committee has signed off on it.

106
107 Mayor Harris asked what happens down the road. He said a number of homes were put in and now they
108 are going back and putting in poles that don't comply with the CC&Rs.

109
110 **Board Member Turner moved to table the CC&R discussion on the Deer Meadows Subdivision**
111 **until May 24, 2011. Board Member Flamm seconded the motion.**

112
113 **Voting on the motion:**

114 **Board Member Turner** **yes**
115 **Board Member Flamm** **yes**
116 **Board Member Bigler** **yes**

117
118 **Voting was unanimous. Motion passed.**

119
120 **Board Member Turner moved to adjourn the MBA and reconvene as the City Council. Board**
121 **Member Bigler seconded the motion.**

122
123 **Voting on the motion:**

124 **Board Member Turner** **yes**
125 **Board Member Flamm** **yes**
126 **Board Member Bigler** **yes**

127
128 **Voting was unanimous. Motion passed.**

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132 _____
133 Richard G. Harris, President

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136 _____
137 S. Annette Spendlove, Secretary

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140 _____
141 Date approved