

TOOELE CITY PLANNING COMMISSION

January 10, 2007

Minutes

Place: Tooele City Hall Council Chambers
90 North Main Street

Commission Members Present:

Bob Gowans, Chair
Phillip Montano
John Curwen
Shawn Milne
Gary Searle
Ken Spence
Jerald Sagers
Fran Garcia, did not vote

City Employees Present:

Roger Baker, City Attorney
Richard Jorgensen, Land Use Technician
Rachelle Custer, City Planner
Cary Campbell, Public Works Director
Scott Wardle, Tooele City Councilman
Paul Hansen, Contract City Engineer

Minutes prepared by Andrea Cahoon

The meeting was called to order by Chairman Gowans at 7:00 p.m.

1. Nominate and Elect Planning Commission Chair and Vice Chair for 2007

Presented by Rachelle Custer

Ms. Custer said the Planning Commission bylaws require that a new chair and vice chair be elected at the first meeting of the new year.

Chairman Gowans opened the floor for nominations.

Commissioner Searle nominated Shawn Milne as chair and John Curwen as Vice Chair. Commissioner Sagers seconded the nominations.

Commissioner Searle moved to close the nominations. Commissioner Sagers seconded the motion. All members present voted, "Aye."

Chairman Gowans called for a vote on the nominations. All members present voted to elect Shawn Milne as Chair and John Curwen as Vice Chair except John Curwen who voted against it. Commissioner Gowans invited newly elected Chairman Milne to take his seat as chairman and resume conducting the meeting.

2. Setting Dates, Places, and Times of 2007 Planning Commission Meetings

Presented by Rachelle Custer

Ms. Custer proposed that all of the Tooele City Planning Commission meetings be held at the Tooele City Hall at 7:00 p.m. on the second and fourth Wednesdays of each month, except in November and December when the second meetings would be cancelled for Thanksgiving and Christmas.

Commissioner Searle said that February 14, 2007, may be a problem. He stated he would not be in attendance that night. The other Commissioners did not see a problem with holding a meeting on Valentine's Day. Roger Baker said he agreed with Gary Searle. Commissioner Gowans felt they should let the meeting on the 14th stand at this point and they can cancel it later if they so desire. Councilman Wardle said the Council has a practice of leaving the dates and then canceling the meeting when it gets closer if there is nothing pressing that needs to be taken care of.

Commissioner Gowans moved to adopt the proposed calendar that was presented and is included with these minutes as Exhibit A. Commissioner Sagers seconded the motion. All members present voted, "Aye."

3. PUBLIC HEARING and Motion on Conditional Use Permit for New Beginnings Preschool to be Located at 1366 E Smelter Road, Previously Located at 662 Blueridge Drive, by Crystal Lawrence

Presented by Rachelle Custer

Ms. Custer explained that the New Beginnings Preschool has been in operation for 13 years at 662 Blueridge Drive. The Lawrence family has moved to 1366 E. Smelter Road and would like to continue running the preschool in their new home. The new home has a circular driveway for the drop off and pick up of students which keeps the cars off of the street. She has two classrooms located in the basement of the home for her students. She is going to submit a letter to the City for the file that states that she will not be able to accommodate disabled children. Her hours of operation are Monday through Friday from 8:30 a.m. to 2:00 p.m.

Mr. Campbell said the letter they referred to is not to say she is not able to, but that they are not trained and don't have the qualifications to deal with handicap children.

Ms. Custer informed the Commission that letters were sent to the neighboring property owners to notify them of this application and public hearing.

Commissioner Gowans asked how many teachers they had? Ms. Lawrence said they have four teachers. Commissioner Searle said this Commission has never allowed more than 10 students at a time before. Mr. Baker said the Commission had considered dozens of home day cares, but not home preschools and believed he was thinking of the daycare instances.

Mr. Lawrence said they don't want to be classified as a day care as it is an instructional preschool where classes are for no longer than two hours per class, then the children go home. Commissioner Searle said they have had similar requests and they have never allowed more than ten children in a preschool.

Mr. Campbell said his concern was this is classified as a home occupation business, and part of that definition is that all employees are relatives who reside in the home. Commissioner Milne said the Planning Commission can't exempt anyone from the rules. Mrs. Lawrence said all of the teachers are family. Mr. Campbell asked if they all live in the house? Mrs. Lawrence answered, "No."

Mr. Campbell said the only other instance he recalled of the Commission allowing more children at was a daycare. The State law says that day cares and preschools basically have the same rules. The one he recalled was located by Droubay Road and Oquirrh. The husband and wife were both teaching so they were allowed more students.

Mr. Lawrence said while they were obtaining a two million-dollar insurance policy for their business, they worked with the State, and were told the state requirement is 16. That is what they based their class size on. They currently have between 12-16 students in a class with two teachers. Commissioner Searle asked if they would possibly have 32 kids at the same time? Mr. Lawrence answered, "No, they rotate."

Chairman Milne recalled a woman that came in and argued to have more children in her daycare because it was not profitable if she were allowed less. Mr. Baker thought that instance was for a daycare. He said they needed to go back to look at the City code. He understood that a home occupation business can't have employees. He stated he has not memorized the rules and wanted to look at it.

Commissioner Gowans asked if it would be better to take public comment and then table this item? He felt the home occupation ordinance will be the big issue. Mr. Baker suggested they hold the public hearing that was advertised and noticed. He stated he was not prepared to advise them as to schools in the home. Commissioner Searle said he also wanted to consider the number of individuals allowed so it is nonintrusive to the neighbors. Mr. Baker apologized for not having any answer for them tonight.

Commissioner Montano said when they considered another home daycare there was a problem with the hours of operation with early drop offs and late pick ups. He stated that this was the first time they had a list of who was sent notification within the 200-foot radius of the proposed use. There was one gentleman who came to address the issue from those notifications. Commissioner Montano noted that the applicants did a beautiful job in designing the home and he loved the driveway. Mr. Lawrence said the reason for the move was for the preschool. In the 13 years they operated the

preschool on Blueridge Drive, they had no problems or complaints. They wanted to keep their traffic off of the public streets. Now the parents drive onto private property to drop the children off, and pick them up. The parents are not blocking the City street, neighbor's homes, or mailboxes, and the children are safe. This is one of the main reasons why they built the home to begin with.

Councilman Wardle asked if when the staff was preparing the paper work for the conditional use permit, they found anything that would prohibit this from going there? Ms. Custer said the only problem they had are there being employees in a home occupation and that was not visited with their conditional use application.

Commissioner Gowans said the fair thing to do is to have the public hearing and then table it as the Commission would have to deny it based on what they know at this time because the Commission can't deviate from the Code, and there are questions as to what that is. Commissioner Searle said they are setting a standard here and they need to be fair. They have stated one level for the last several years, if the Commission increases that level, the next person that walks through that door gets that standard. The Lawrence's may have been allowed that many students under an old ordinance, but because this is a different location, the current ordinances apply. Commissioner Gowans said there are two outstanding questions: the number of children allowed, and if employees can come in. Mr. Lawrence asked if they are all direct relatives, if it is okay? Mr. Campbell responded, "No." Ms. Custer said the employees have to live in the home. Mr. Baker said they need to look at what the rules are. Commissioner Gowans said the only one with jurisdiction to change any of the ordinances is the City Council.

Mr. Lawrence asked what the purpose and reasons were for a limit, and where did the limit come from? Mr. Baker said the limit on day cares is set by the State, and he didn't know about the limit for preschools. Mr. Lawrence said the State told them 16 students. Is there something different? Mr. Baker said he didn't know what the State licensing requirements were. He further explained that the home occupations license is designed to allow limited businesses without making or allowing a commercial operation in a residential area. He stated he would look at it. Mr. Lawrence asked if the employees have to live there? Did the City Council come up with that? Commissioner Searle said that was included in the home occupation rules. Home Occupation businesses are limited in nature and scope. If someone is looking for a full-blown commercial business, it needs to be in a commercial zone.

Mr. Lawrence said they have ran the preschool for 13 years, and asked what they should do in the interim? Can they continue at least through the school year? Commissioner Searle said they were grand fathered in at the old location, but now at this new location there are new requirements that must be complied with. Mr. Baker said no one in this room is trying to shut down the preschool. They are trying to see what the regulations are.

Mr. Baker explained a home occupation business with the following example. If a lawyer or accountant works in their home and has a spouse do their paperwork and billing that would be allowed. If that person hired a secretary to come in to do their paperwork and billing, that would not be allowed. Mr. Lawrence said they have held preschool there for three weeks. Mrs. Lawrence said

they did not know they needed a new conditional use permit and did not understand that the conditional use permit went with the property, not the business, until recently. Mr. Baker said conditional use permits are location specific. Mr. Lawrence said this is a much better location and set-up. Mr. Baker agreed. Mrs. Lawrence said this is just that much safer for the kids. Mr. Baker said if they had wanted to construct a school in that location they would not be allowed to. Commissioner Searle asked the staff to make sure this was put on the next Planning Commission meeting agenda so they could get this resolved.

The commission told the applicants to keep doing what they are doing in the interim. Mr. Lawrence asked who determines how many students, and if those people affected by that decision have input in those rules? Mr. Baker said the City Council makes that decision.

Councilman Wardle said they need a legal opinion from Mr. Baker's department, and they need the staff to look at where we are at with the issues, and then communicate that with the Lawrences before the next meeting. Commissioner Searle said there are 6,000 potential preschools in Tooele because there are 6,000 homes. He wanted them to look at it again in two weeks.

Commissioner Gowans said that Mr. Lawrence had mentioned insurance requirements, and the State said no more than 16 kids. He felt it would be beneficial to know what the State requires and who told them that information. Councilman Wardle wanted this to all be resolved within two weeks. Commissioner Searle said there are two classrooms, whereas most homes have only a family room they use. Mr. Lawrence invited all of them to come see the facility and what they have to offer. It meets all of the specifications and has passed the inspections. Commissioner Searle stated the Commission has no qualms with what the Lawrences do.

Councilman Wardle suggested that they hold and then close the public hearing, and then continue the conditional use permit, and let the staff work through this with the Lawrences. Commissioner Searle asked the Lawrences to get that information about the State requirement of 16 to the staff.

Chairman Milne stated this was a public hearing.

Mike Howsden, 1336 Smelter Road, stated he was the neighbor to the west. All of his kids went to school at the preschool. His only concern was that Smelter Road in this area and to the east is a speedway. The City and the County have no consensus on the speed on that road. They are posted differently. They need the speed issue to be resolved to make it safe. Commissioner Searle said the Lawrences have alleviated that problem with the circular driveway so their students are safe.

Commissioner Searle asked if the kids go outside at all? The applicant answered, "No."

Commissioner Gowans moved to close the public hearing. Commissioner Sagers seconded the motion. All members present voted, "Aye." The public hearing closed at 7:35 p.m.

Commissioner Searle moved to continue this item in two weeks. He requested that they look at the issues and the square footage and sizes of the rooms, what the State requires, and

determine the outside employee issue. Commissioner Searle asked Mr. Lawrence if everyone who works there are family members? Mr. Lawrence answered, "Every one of them." Commissioner Searle continued that they will gather the information and readdress the issue at the January 24, 2007, meeting. Commissioner Sagers seconded the motion. All members present voted, "Aye."

4. **Review and Approval of Planning Commission Minutes for Meeting Held on October 25, 2006**

Commissioner Curwen moved to approve the minutes from the meeting held on October 25, 2006, as presented. Commissioner Searle seconded the motion. All members present voted, "Aye," except Commissioners Gowans and Spence who abstained because they were not in attendance at the meeting.

5. **Review and Approval of Planning Commission Minutes for Meeting Held on December 13, 2006**

Commissioner Searle moved to approve the minutes from the meeting held on December 13, 2006, as presented. Commissioner Sagers seconded the motion. All members present voted, "Aye."

6. **Adjourn**

Commissioner Spence moved to adjourn the meeting. Commissioner Gowans seconded the motion. All members present voted, "Aye." The meeting adjourned at 7:38 p.m.

Approved by Shawn Milne

This 14 day of March 2007