

**TOOELE CITY PLANNING COMMISSION MINUTES**  
**January 28, 2009**

Place: Tooele City Hall Council Chambers  
90 North Main Street, Tooele Utah

**Commission Members Present:**

Ken Spence, Chair  
Shawn Milne  
Phil Montano  
Bob Gowans  
Fran Garcia  
Jerald Sagers

**Commission Members Excused:**

Gary Searle  
John Curwen

**City Employees Present:**

Rachelle Custer, City Planner  
Councilman Dave McCall, City Council Representative

Minutes prepared by Elisa Jenkins

The meeting was called to order by Chairman Spence at 7:00 p.m. Chairman Spence excused Commissioner Searle, Commissioner Curwen, Mr. Baker, Mr. Hansen, and Mr. Campbell from the meeting.

**1. Pledge of Allegiance**

The Pledge of Allegiance was led by Commissioner Sagers.

**2. PUBLIC HEARING and RECOMMENDATION on ordinance 2009-05, an ordinance amending Tooele City Code 7-1-58 to allow home occupation daycare/preschool to care for up to eight (8) children at one time and to require all home occupation daycare/preschool become licensed with the State of Utah.**

Presented by Rachelle Custer

Ms. Custer explained that in Tooele City's Ordinance it states that a home occupation daycare/preschool can only have up to (6) children maximum. The state allows for up to (8) children per adult with a state license. Tooele City will require that home occupations become state licensed with this ordinance change. The staff felt that it was time to change the ordinance to meet the state requirements and allow for home daycare/preschool to have up to eight children at one time with a state license. This will

not change the home occupations ordinance that states there will be no employees in the home. There will not be any employees allowed in a home occupation day care. The only thing that will change is they will be able to have eight children instead of six and they will be required to have a state license. The City has been requiring a state license as a condition for the last two years, but now it will be part of the ordinance.

Chairman Spence asked if the state has allowed eight children for some time.

Ms. Custer said that the state has allowed up to eight children but Tooele City has been very slow to catch up. It has been that way for a long time.

Commissioner Montano said that the ordinance does not allow employees in the home. If they did allow employees there could be eight children for every one adult.

Ms. Custer stated that is the difference between the state and Tooele City, is that Tooele City does not allow more than one adult. If there is a family member that lives in the home they could work with the day care as a part owner not an employee.

Chairman Spence asked if that could allow for sixteen children.

Ms. Custer said no, only in a commercial setting, not a home occupation.

Chairman Spence stated that this is a public hearing if anyone would like to come forward and address this issue.

Liz Hamilton, 342 Isgreen, Tooele addressed the Commission. Ms. Hamilton feels that this ordinance change would help Tooele City in many ways. There are many people in Tooele that are doing child care illegally because the rules are different between the State and the City. It is hard to follow two sets of rules at the same time. This ordinance change might make it easier for those providers doing child care illegally to get licensed. She also feels that this will help parents because many parents take their children to Salt Lake for day care because there are not enough providers in Tooele. This will change will allow for licensed providers to care for more children. She is hoping the Commission will consider this ordinance change.

Chairman Spence thanked those day care providers in the community who follow the ordinances and the law.

**Commissioner Gowans moved to close the public hearing.** Commissioner Milne seconded the motion. All members present voted "Aye". The public hearing closed at 7:06 p.m.

Commissioner Milne asked for clarification that the state will only allow a ratio of one adult per eight children.

Ms. Custer said that is depends upon the licensing category.

Commissioner Milne asked if the provider's children that reside in the home are included in the 1:8 ratio.

Ms. Custer said that with the State it does but with Tooele City it does not.

Commissioner Milne said that with this ordinance change it makes it more stringent for providers because their children count against them.

Ms. Custer said that the City will still not count the provider's children as part of the 1:8 ratio.

Commissioner Milne asked if the City will be conforming to the state regulations with the daycare providers own children.

Ms. Custer said the only way they are conforming to the state is in the sense that they are allowing eight children at one time.

Commissioner Milne asked if there were four outside children and four of their own children does that equal the eight.

Ms. Custer stated that by Tooele City that would be allowed but that would not be allowed by the state. They have to be state licensed.

A member of the audience explained that the state counts your own children under the age of four toward the license. For example if she had three children under the age of four she could only have five day care children.

Chairman Spence said that this is basically bringing the ratios in line with the state.

Ms. Hamilton asked if Ms. Thomas from the State of Utah could address the Commission.

Chairman Spence asked if there is a motion to re-open the public hearing.

**Commissioner Milne moved to re-open the public hearing.** Commissioner Garcia seconded the motion. All members present voted "Aye". The public hearing re-opened at 7:10 p.m.

Donna Thomas addressed the Commission. Ms. Thomas is the manager for the State of Utah Child Care licensing. She told the Commission she would like to answer any questions that they might have.

Commissioner Milne stated that the way Tooele City has been operating is that they would have allowed someone without a state license to have up to six out of home children plus the number of in home children.

Ms. Custer stated that nieces, nephews and grandkids also do not count.

Commissioner Milne said in theory you could have in home children plus a quantity of six out of home children. He asked what the age limit for the in-home children was.

Ms. Thomas said that children under the age of four count in the ratio.

Commissioner Milne stated that this can have an increasing effect for those who have this occupation and also potentially a decreasing effect because now the children they have under the age of four would be included in the ratio.

Ms. Custer stated that by requiring them to become state licensed Commissioner Milne is correct.

Commissioner Milne stated that basically they are adopting the State licensing policy.

Ms. Custer said they are not adopting the State licensing policy, they are requiring that they become State licensed.

Commissioner Gowans said that they are moving the City's ratios to the State ratios. The City was requiring applicants to become state licensed but the City's ratio was 1:6 and the State is 1:8.

Commissioner Milne indicated that he has neighbors that are doing daycare illegally. He wanted to make these clarifications so he might help encourage his neighbors to become legal. He supports this ordinance change. He thanked those who are operating their businesses legally.

Commissioner Montano wanted to clarify that the City does not allow for home occupations to have employees in the home.

Commissioner Milne asked if the State allowed out of resident employees in home occupations daycares/preschools.

Ms. Thomas stated if they have a license, people are allowed to come and help them.

Commissioner Garcia verified with Ms. Thomas that if someone has a State license they are only allowed eight children.

Ms. Thomas indicated that they are allowed eight children but their own children under the age of four count in that eight. They also have other requirements for the care givers.

Commissioner Garcia said that if care givers wanted to have more than eight children they would have to go commercial according to Tooele City ordinance.

Ms. Custer said that is correct according to the City's ordinance.

Commissioner Gowans understands that the State talks more about residential than home occupation in Exhibit B. The State requires a business license and a State license.

Ms. Thomas said that was correct.

Commissioner Montano stated that the City still does not allow any employees in the home for home occupations and this ordinance change would not change that.

Commissioner Milne would like to still see no employees allowed in home occupations, especially because of parking issues.

Ms. Thomas wanted the Commission to understand that parking in child care is usually not an issue because they are usually open 12 hours a day and parents are coming and going all day long.

**Commissioner Milne moved to close the public hearing.** Commissioner Gowans seconded the motion. All members present voted "Aye". The public hearing closed at 7:16 p.m.

**Commissioner Milne moved to make a favorable recommendation to City Council on Ordinance 2009-05.** Commissioner Garcia seconded the motion. All members present voted "Aye".

3. **Review and Approval of meeting minutes for Planning Commission meeting held January 14, 2009.**

**Commissioner Gowans moved to approve the minutes as presented.** Commissioner Milne seconded the motion. All members present voted "Aye".

4. **Adjourn**

**Commissioner Milne moved to adjourn the meeting.** Commissioner Sagers seconded the motion. All members present voted "Aye". The meeting adjourned at 7:18 p.m.

Approved this 25<sup>th</sup> day of February 2009

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Chairman Spence