

**TOOELE CITY PLANNING COMMISSION MINUTES**  
**September 22, 2010**

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

**Commission Members Present:**

Ken Spence, Chair  
Steve Dale  
Melanie Hammer  
Bob Gowans  
Phil Montano  
John Curwen  
Matt Robinson

**Commission Members Excused:**

Gary Searle  
Fran Garcia

**City Employees Present:**

Rachelle Custer, City Planner  
Roger Baker, City Attorney  
Paul Hansen, City Engineer  
Councilman Shawn Milne

Minutes prepared by Elisa Jenkins

Chairman Spence called the meeting to order at 7:00 p.m.

**1. Pledge of Allegiance**

The Pledge of Allegiance was led by Commissioner Montano.

**2. PUBLIC HEARING and RECOMMENDATION regarding a proposed annexation policy plan.**

Presented by Roger Baker

Mr. Baker explained that state law requires every community to have an annexation plan. The annexation plan is a document that looks at where the city might annex not necessarily where it will annex. State law indicates that if the city wants to annex any land they cannot do so unless the land is part of the annexation plan. The annexation plan is a necessary prerequisite to annexation. This does not mean that the City is ready to annex this land today or anytime in the future. The City adopted an annexation plan in 2004 and staff feels that the plan needs to be updated. This plan has been misinterpreted by developers and other jurisdictions. The City would like to eliminate the mis-

impression that the annexation plan entitles owners of property to petition for annexation and get it on their terms. The City will annex property on its terms when it feels it is ready to have the property come into the City. The other reason they are proposing this plan is that there is a parcel of property that the City plans to annex into the City immediately after this plan is formerly approved. This property is owned by Tooele City and maintained by the City as open space. It is maintained for view shed protection, open space, water shed preservation, wildlife habitat preservation, and non-motorized recreation. It is imperative to annex this land to be able to better protect it. There are certain areas that make sense for the City to consider annexation, such as the large piece of property on the south west end of the City that is owned by a single property owner. The land is relatively flat and undeveloped which would lend itself well to a future industrial park when the need arises. The plan addresses how annexation would change the tax consequences for the property. It also addresses what public utilities exist serving these various areas and which public utilities would be needed. The plan addresses what services the County and others are providing now and what services the City would have to provide (i.e. fire, police).

Mr. Baker noted that there is an area (Option A) under the proposed annexation plan that Grantsville recently identified in its annexation plan. There is a concern that when this annexation plan is adopted there will be overlapping annexation plans. Actually this area has been part of the City's annexation plan since 2004. Tooele's plan included the area in Option A before Grantsville's plan. Grantsville's Mayor Marshall sent a letter to the City after Mr. Baker sent them a copy of the City's annexation plan. (The letter is included with the minutes as Exhibit A). Grantsville is in opposition to Option A of the City's annexation plan. Grantsville indicated that they have an immediate intention to annex that property into Grantsville City. In the letter it states that "Grantsville City is currently negotiating an agreement with Tooele County to provide all of the water and sewer services for the Desert Peak Service District..." Grantsville also points out that they are providing water service to Desert Peak, Miller Motor Sports Park and Reckitt Benckiser facility. They also intend to provide sewer to those areas as well. Mr. Baker pointed out that today Tooele City is providing sewer treatment for all of Desert Peak, all of Miller Sports Park, and they have provided a will serve letter to provide sewer treatment to the Reckitt Benckiser facility. Reckitt Benckiser is gravity feeding their sewage to Grantsville on a 12" line that Tooele County designed and installed, and when it reaches Grantsville it connects into an 8" line. Grantsville may have intentions for the property and to provide all the services that property would need. Both Grantsville and the City are providing some services. The Mayor and the City Council will decide whether to protest Grantsville's imminent annexation or not.

Mr. Baker stated that the plan also has to have a financial feasibility study. The financial feasibility study is currently underway. Two new areas have been added to the plan so they have had to go back and redo some of the calculations. The conclusions of the feasibility study are in the annexation plan. The plan examines what services are currently being provided, what the cost of the services is to whoever is providing them, and what the cost to the City is if they provide them. It also looks at tax differences. The plan does not obligate the City to provide any services. One of the important things that

has been added to this plan is on page 5 under Section III states “This Plan shall not be construed as an expression of the City’s intention or ability to annex, or to extend municipal services or infrastructure to, any particular property in any particular time frame or at all. Should the city annex any land identified in the plan, the city’s stated policy is for the land owners and developers to construct and dedicate all land and facilities necessary to provide municipal services e.g. roads, water, sewer, storm drain, etc., as a condition to annexation.” The city needs to preserve their position and not let developers tell the city that they have a right to annex property into the city because their land is in the proposed annexation plan. This plan establishes the open space use as an important City function. The plan talks about the opportunities that annexation can provide for open space preservation. The City has worked hard to provide water service to the properties that are already in the City limits. If any more properties are to be annexed pursuant to this plan additional water sources will have to be developed. That will probably be the biggest challenge in annexing any property. Developers will have to participate in any infrastructure development. The City does not have the water sources today to serve the proposed annexation property except for the City-owned open space. The City has increased the sewer treatment capacity at the plant but they want to be careful not to give that capacity away to properties that are not in the City today at the expense of properties that already are.

Commissioner Dale stated that it is his understanding that under State law any annexation has to be contiguous to City boundaries. At this point there is some distance between Grantsville City and the Option A parcel.

Mr. Baker indicated that Grantsville would have to annex everything in-between as well. They cannot annex an island.

Chairman Spence noted that in the plan it explains the duties of the Planning Commission and it states that there needs to be a public meeting and a public hearing.

Mr. Baker explained that this is both a public meeting and a public hearing. The City gave 14 days notice to all the affected entities and gave notice to some that are not affected entities to be neighborly. The public meeting is the meeting that has an agenda and it is advertised, a public hearing is advertised separately and is given more notice, in this case 14 days. The next step is the plan will be taken to the City Council where another public hearing will be held. Mr. Baker noted that Option C has included a large area because there is a potential to preserve it as open space and allow for residential development on the flatter part. It would be a cooperative arrangement if it ever happened.

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

Vern Loveless, Tooele County Engineer addressed the Commission. Mr. Loveless explained that the Desert Peak Complex and the Miller Motor Sports Park share a 4” forced main that connects into an interceptor that Tooele City installed to serve the

Industrial Depot. The 4” forced main is at capacity, any additional growth in this area would require additional sewer infrastructure. Tooele City has expressed concern about the 4” connection to that particular interceptor because that interceptor was installed with grant money intended for the Industrial Depot. There has been some concern on the part of Tooele City that that interceptor cannot be used because it is at capacity. The 12” gravity main that runs on Sheep Lane runs from Reckitt Benckiser to a pump station that is on Sheep Lane that is on the northern border of the service district, and at that point the pumps pressurize a 6” pressure main to Grantsville. At build out it can move a quarter of a million gallons a day. In the County’s discussion with Grantsville City they are aware that improvements will need to be made to their sewer system. The existing sewer service provided by Tooele City is at capacity and the existing sewer service going to Grantsville has capacity to spare.

Commissioner Dale noted that Tooele County’s efforts appear to facilitate Grantsville and their desire to annex this property to the exclusion of Tooele.

Mr. Loveless stated that when the Miller Motor Sports Park business park subdivision was proposed to the County they approached Tooele City for additional services and they were discouraged to increase sewer service to the area at that time. The County composed their agreement as though it would be an inter-agency agreement between Desert Peak Service District and the municipality. The County is seeking an agreement whereby Desert Peak Service District would pay Grantsville or Tooele for treatment of wastewater and supply of municipal water. As the County negotiated the details, Grantsville City proposed annexation. That proposal was made some time ago and he does not know what phase Grantsville is in at this time.

Commissioner Dale asked if it is the intent of Tooele County to facilitate Grantsville’s annexation of that property?

Mr. Loveless stated that the County has committed not to oppose it.

Councilman Milne asked Mr. Loveless how the County was discouraged from creating more demand on the sewer line?

Mr. Loveless indicated that at one point Tooele County was told that Tooele City would provide service but wanted to have the ability to choose the occupants as to eliminate any competition for Utah Industrial Depot.

Councilman Milne questioned that it was exclusively the type of business that would be built not the type of waste that a business would produce.

Mr. Loveless indicated “yes”. They thought they could overcome that but there was not a “welcome mat” out and there was a lot of discouragement on behalf of Tooele City. Tooele County chose to speak to Grantsville City about the options and the negotiations have been successful thus far.

Mr. Baker indicated that Mayor Marshall's letter used the words "with plans to annex this area as soon as possible". Mr. Baker asked Mr. Loveless how much of Option A is in the Desert Peak Service District?

Mr. Loveless indicated that the Desert Peak Service District is six sections. It is six square miles, three miles wide and two miles high. Grantsville's annexation plan is to take all six miles. That will connect them to the east edge of the Oquirrh Estates subdivision annexation a few years ago.

Councilman Milne asked if it would be a peninsula?

Mr. Loveless said that it would be a peninsula but it would be continuous. It would run against Utah Industrial Depot's north fence. It would not include any residents. He does not know if Grantsville has plans to incorporate any other land.

Chairman Spence asked if state laws indicates that the land has to be contiguous or if it can be a peninsula.

Mr. Loveless said that state law addresses both issues.

Mr. Baker stated that state law used to prohibit peninsulas but he is not sure what it states at this time.

Councilman Milne asked if it would be Mr. Loveless opinion that the negotiations with Grantsville are imminent or if they could take another look at this?

Mr. Loveless indicated that it would be a change of direction to where there foresight is at this time. It was a surprise to the County the inclusion of Option A in the City's annexation plan.

Councilman Milne noted that Option A has been included in the City's annexation plan since 2004. This is his concern. It was intuitive of the County to ask Tooele City first, but Grantsville was quick to offer another option. It might behoove the area if it were to go to the municipality that is currently closer than to one that is farther away. The area in question has been part of Tooele City's annexation plan for six years and has only been part of Grantsville's annexation plan for six months.

Mr. Loveless did not want to speak for the Commissioner's that set policies but he indicated that he feels that the County would be indifferent if there wasn't already momentum in one direction. He said it is an awkward situation for Desert Peak Service District to be split into various forms of governments.

Councilman Milne interpreted Mr. Loveless to say that one municipality takes the whole six miles into account and the other municipality is only willing to take a part.

Mr. Baker indicated that at the time of early discussions with Reckitt Benckiser, the City was very concerned about the ability to take on additional sewer treatment. At that time the wastewater treatment plant could only treat 2 – 2 ¼ million gallons a day. Since that time, however they have expanded the capacity to treat 3 ½ million gallons a day. The plant capacity is no longer the concern that it was. Mayor Dunlavy did express concern about encouraging new commercial development in far areas that would compete with Main Street. This area has great commercial potential near Miller Motor Sports Park. That was the Mayor’s reluctance to encourage competition on the fringes of the City. They want to focus on bringing businesses to the heart of the City. The City continues to be concerned about interceptor B; they have to reserve that capacity for businesses at Utah Industrial Depot.

Councilman Milne noted that the wastewater treatment plant was a concern early on but asked if there have been any further discussions since that time?

Mr. Baker stated that he has not been involved in any further discussions. The City provided a will serve letter to Reckitt Benckiser for sewer which would require a significant investment on their part for a forced main and a lift station and they choose not to utilize the City’s treatment and choose to partner with the Desert Peak Service District and gravity feed to Grantsville. The City has a contractual agreement with Deseret Peak and Miller Motor Sports Park.

Commissioner Dale asked if Mr. Hansen had anything to add to the discussion.

Mr. Hansen indicated that he concurred with what Mr. Baker has said.

**Commissioner Gowans moved to close the public hearing.** Commissioner Montano seconded the motion. All members present voted “Aye”. The public hearing closed at 7:37 p.m.

**Commissioner Dale moved to make a positive recommendation to the City Council regarding the proposed annexation policy plan.** Commissioner Montano seconded the motion. All members present voted “Aye”.

**3. PUBLIC HEARING and RECOMMENDATION on an ordinance of the Tooele City Council to add a Research and Development Zone to Tooele City Code §7-16.**

Presented by Rachelle Custer

Ms. Custer explained that this has been before the Planning Commission many times as far as general planning along Hwy 112 (1000 N) corridor. There have been many proposals and feedback and it has been to City Council for discussion. The last discussion with the Planning Commission was to review the table of uses. The recommendation was given to come up with a new zone to fit this area. The new zone will be called the Research and Development (RD) zone which is a mix of light industrial

and small retail. They envision this area as a dressed up business park. There will be higher standards on building and landscaping and includes commercial businesses to support the industrial and research uses such as gas stations, coffee shops, and restaurants. They do not envision any outdoor storage in this area. The businesses would contain their storage inside their building. This area is right next to residential homes. The Research and Development zone is before the Commission as an ordinance proposal. The ordinance defines the Research and Development zone and defines the table of uses. They have not at this point put in the general plan together as where they would like to see this zone. The Research and Development zone will be in with the commercial general plan. The next time they come before Planning Commission with this area they will have a map of the general plan. They are not looking to rezone any property at this time they are looking to plan it for the future. Staff feels that it is important to get this new zone in place so it lends opportunity for this property to be in this new zone.

Chairman Spence asked if a Research and Development zone is a commonly used zone in other municipalities?

Ms. Custer said “yes”. She indicated that it is usually Research and Development or a business park.

Commissioner Dale recalled that the area of Hwy 112 and 1000 N was a large focus in the general plan discussion.

Ms. Custer stated that this ordinance does not rezone anything or propose to rezone anything at this time. The general plan proposal that they will bring before the Planning Commission will not propose to rezone anything. Staff wants to get this zone in the commercial general plan category so if a property owner came in to ask for a re-zone it would be available.

Chairman Spence asked what is an example of Research and Development zone in Salt Lake City?

Ms. Custer stated that the Ogden large industrial zone has a Research and Development zone.

Mr. Baker stated that there were many discussions as to whether to allow accessory outdoor storage and warehousing in this new zone. Most of the staff felt if they allowed outdoor storage and warehousing it would fundamentally change the character of this zone and turn it into a light industrial zone, which the City already has. It is his opinion that if you allow outdoor storage and warehousing in this zone you do not need it; you could stick with the Light Industrial zone. He feels that there is a need for this new zone.

Commissioner Montano feels that if outdoor storage is eliminated it could impact business owners and where they can build. If outdoor storage is not allowed who will enforce it? If outdoor storage is not allowed it needs to be enforced. He indicated that as a business owner himself he bought storage sheds so he could contain his materials and

not have outdoor storage which became a great burden. This is the same kind of burden that could be passed on. He agrees that it is a tough call to make.

Mr. Baker indicated that Commission Montano brought up a good point. If this zone is implemented the City needs to make sure that there is enough property that is zoned Light Industrial for those business owners who need it. The City would like to provide a mix of zoning districts to address every need.

Commissioner Hammer asked who would enforce it if no outdoor storage is allowed?

Mr. Baker stated that it would be enforced the same way it is now if someone violates the zoning. The enforcement officer would write them a ticket and if they do not take care of it then they would be prosecuted criminally.

Chairman Spence asked if it would eliminate any kind of outdoor storage including yard maintenance storage sheds.

Mr. Baker stated that they could have a shed. There would be no warehousing. They could have accessory structures.

Commissioner Montano stated that it takes enforcement to not have businesses storing things outside and making it look junky.

Commissioner Dale asked what are the limitations on 1000 North becoming fast food alley?

Ms. Custer indicated that at this point zoning would allow it.

Commissioner Dale indicated that they are envisioning a nicer more upscale business park. In these types of areas there are some fast food restaurants.

Ms. Custer stated that they will bring back design guidelines which will not prevent the type of business just the type of esthetic treatments of the buildings.

Mr. Baker stated that they don't want to raise the bar too high, but high enough.

Ms. Custer indicated that they do not want to discourage growth.

Commissioner Hammer asked how landscaping would be enforced?

Ms. Custer stated that the City does not have a mechanism to require landscaping maintenance unless the City owns the property and can place CC&R's.

Commissioner Hammer asked why the City requires landscaping but does not require a business to maintain their landscaping or a way to enforce it.

Ms. Custer stated that there is a nuisance law that talks about weeds but does not say that your grass has to be green.

Commissioner Dale used as an example the old Sonic building that hasn't maintained their landscaping since it was built.

Commissioner Gowans recalled a discussion about a possible bonding mechanism to have a business get their landscaping established.

Councilman Milne noted that is how the trees in the park strips are maintained. He realizes it is not the same thing but it is the same mechanism.

Mr. Baker stated that the City assumes that a commercial property owner would find it in his best interest to keep his property nice, which would attract business. The City could craft a statutory framework for the City to be the big brother and tell everyone to fix their landscaping. Orem has this policy and they are always in the hot seat for it. It raises a difficult policy issue on how to achieve their objective. It can be very complicated legally and politically to go after people. They try to create incentive based ways for them to maintain instead of enforcement based.

Commissioner Dale suggested not only in this but other zones as well, it would be a good idea to clearly define the difference between xeriscaping and zeroscaping.

Mr. Baker suggested defining that in the design guidelines.

Ms. Custer noted that xeriscaping is a brand name. The City has been enforcing businesses if they intend to dryscape they must put in some shrubbery and trees.

Chairman Spence noted on the staff notes that the Planning Commission was to review the changes in red and he asked if the changes go beyond the Research and Development zone?

Ms. Custer indicated that there are some definition clarifications.

Chairman Spence asked if the Planning Commission makes a recommendation for the Research and Development zone and the other changes.

Ms. Custer noted that it would be everything in red.

Mr. Baker noted that there were some terms in the zoning ordinance that were not defined and they defined those terms.

Chairman Spence noted that there are more restrictive rules on how many parking stalls are required.

Ms. Custer noted that they Title 7 Chapter 4 that talks about parking. They also have the table which talks about parking and they are trying to bring the two in line because there were some discrepancies. They are trying to bring it inline with Chapter 4.

Chairman Spence noted that there are some strict parking requirements for churches.

Ms. Custer indicated that it is one parking stall for every three seats. That is what is in place now. They try to look at it sensibly and look at how many they could have seated at one time.

Commissioner Hammer noted that the signage part of the ordinance has been crossed out and asked if there is no signage.

Ms. Custer stated that there is Title 7 Chapter 25 that talks about signage.

Commissioner Dale noted that on 7-65.3 there was 10% overall landscaping in Light Industrial and it was crossed out. It says refer to F2 and he could not find F2.

Mr. Baker noted that F2 is the page after the table of uses.

Ms. Custer stated that this deals with very large lots. It is not very water conscience to require a 20 acre site to have 10% landscaping so they have asked them to only landscape the critical areas.

Mr. Baker noted that he wrote this when the Wal-Mart distribution center was coming to Tooele; they were negotiating a decreased landscaping standard for the Industrial (I) zoning district and then they went to Grantsville.

Commissioner Dale asked what would be the typical landscaping requirement on Light Industrial?

Ms. Custer stated that it would be the critical areas, which would be 15' around any entrances, or any employee break areas, and any customer areas. The critical areas would be required to be landscaped instead of giving them a percentage.

Chairman Spence stated that this is a public hearing if anyone would like to come forward and address this issue. No one came forward.

**Commissioner Dale moved to close the public hearing.** Commissioner Hammer seconded the motion. All members present voted "Aye". The public hearing closed at 8:00 p.m.

**Commissioner Dale moved to make a positive recommendation to City Council on an ordinance of the Tooele City Council to add a Research and Development zone to Tooele City Code §7-16.** Commissioner Hammer seconded the motion. All members present voted "Aye".

4. **PUBLIC HEARING and MOTION on conditional use permit for a contractor's storage yard to be located at 382 S 1200 W by Wind River Construction.**

Presented by Rachelle Custer

Mr. Custer showed a picture of the lot that they are addressing in this conditional use permit. Ms. Custer has included in the Commissioner's packet, colored elevations of a storage facility that the land owner is wanting to build on this property. The storage facility is not part of the conditional use. The conditional use is strictly for the contractor's storage yard. The intent of the colored elevations of the storage facility was to let the Planning Commission know that that he does to intend store some of his items in a building it will not all be outside. The contractor's storage yard which will be the primary use of this lot does require a conditional use permit.

Commissioner Dale asked if they will be approving the building in a future meeting.

Ms. Custer stated "no" the storage facility is a permitted use.

Commissioner Gowans noted that the building as designed is permitted.

Ms. Custer stated that it is permitted with approval from the RDA design review committee which has not come back yet, but it is not part of the conditional use.

Commissioner Montano understood that Tom Parker wanted to put this type of building on his property and he was not allowed to.

Ms. Custer indicated that it is up to the RDA design committee.

Ms. Custer explained that Mr. Dominquez currently owns a piece of property at 382 S 1200 W. He would like to use this property for his contractor equipment and supplies. He currently has landscaping installed and a fence around the property. Staff recommends approval of a contractor's storage yard at this location with the conditions that:

1. Any lighting be directed down onto the site.
2. Vehicle and equipment salvage is not allowed.
3. 10% of the site be landscaped as required by City Code.

Chairman Spence stated that this is a public hearing if anyone would like to come forward and address the Commission. No one came forward.

**Chairman Spence moved to close the public hearing.** Commissioner Curwen seconded the motion. All members present voted "Aye". The public hearing closed at 8:05 p.m.

**Commissioner Gowans moved to approve a conditional use permit for a contractor's storage yard to be located at 382 S 1200 West by Wind River Construction with the following conditions:**

- 1. Any lighting be directed down onto the site.**
- 2. Vehicle and equipment salvage is not allowed.**
- 3. 10% of the site be landscaped as required by City Code.**

Chairman Spence seconded the motion. All members present voted "Aye".

- 5. Review and Approval of Planning Commission minutes for meeting held August 25, 2010.**

**Chairman Spence moved to approve the Planning Commission minutes for August 25, 2010 as presented.** Commissioner Gowans seconded the motion. All members present voted "Aye".

- 6. Adjourn**

**Commissioner Dale moved to adjourn the meeting.** Chairman Spence seconded the motion. All members present voted "Aye". The meeting adjourned at 8:08 p.m.

Approved this 13<sup>th</sup> day of October

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Chairman Ken Spence