

TOOELE COUNTY, UTAH
BOARD OF COUNTY COMMISSIONERS
RESOLUTION PROPOSING SPECIAL SERVICE DISTRICT
June 19, 2007

RESOLUTION 2007-06

**A RESOLUTION PROPOSING THE ESTABLISHMENT OF THE
ERDA SPECIAL SERVICE DISTRICT, TOOELE COUNTY, UTAH,
CALLING A PUBLIC HEARING AND PROVIDING NOTICE
THEREOF AND RELATED MATTERS**

WHEREAS, the Board of County Commissioners of Tooele County, Utah has determined that the public health, convenience, and necessity require the establishment of the Erda Special Service District, Tooele County, Utah (the "District") to provide the following services: water including culinary and irrigation, sewerage, drainage, flood control, recreation, and street lighting within the proposed District's boundaries, pursuant to the provisions of Article XIV, Section 8 of the Utah Constitution and Section 17A-2-1301, *et seq.* (the "Act"); and

WHEREAS, all of the property to be included in the District will be benefited by said District and its provision of the proposed services.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Tooele County, Utah as follows:

1. The public health, convenience, and necessity require the establishment of a special service district.
2. The name of this special service district shall be the Erda Special Service District, Tooele County, Utah.
3. The boundaries and service area of the District shall include portions of Tooele County, Utah, largely consistent with the Erda Township and more particularly described as follows :

BEGINNING AT A POINT LOCATED ON THE WEST BOUNDARY OF THE STANSBURY PARK IMPROVEMENT DISTRICT (SPID) POLITICAL BOUNDARY, SAID POINT ALSO BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SR-138, AND THENCE THE FOLLOWING SIX (6) COURSES ALONG SAID POLITICAL BOUNDARY: SOUTH A DISTANCE OF 3,550 FEET TO THE SOUTHWEST CORNER OF SAID POLITICAL BOUNDARY; THENCE EAST A DISTANCE OF 8,942 FEET ALONG BATES CANYON ROAD; THENCE SOUTH A DISTANCE OF 2,680 FEET; THENCE EAST A DISTANCE OF 1,254 FEET TO A POINT WHICH LIES UPON THE WEST RIGHT OF WAY LINE OF SR-36; THENCE NORTHEASTERLY A DISTANCE OF 2,740 FEET ALONG SAID RIGHT-OF-WAY LINE TO A POINT WHICH LIES UPON THE CENTER OF BATES CANYON ROAD; THENCE EAST A DISTANCE OF 1,182 FEET ALONG SAID POLITICAL BOUNDARY, THENCE EAST A DISTANCE OF 528 FEET ALONG SAID ROAD TO A POINT WHICH LIES UPON SAID POLITICAL BOUNDARY; THENCE EAST A DISTANCE OF 544 FEET ALONG SAID POLITICAL BOUNDARY AND ROAD; THENCE EAST A DISTANCE OF 23,625 FEET ALONG SAID ROAD ALIGNMENT TO A POINT WHICH LIES UPON THE TOOELE COUNTY AND SALT LAKE COUNTY LINE; THENCE SOUTH A DISTANCE OF 20,369 FEET ALONG SAID COUNTY LINE TO A POINT WHICH LIES UPON THE SOUTH LINE OF SECTION 4, TOWNSHIP 3 SOUTH, RANGE 3 WEST; THENCE WEST A DISTANCE OF 25,038 FEET ALONG THE SOUTH LINES OF SECTIONS 4, 5, 6, AND SECTIONS 1 & 2, TOWNSHIP 3 SOUTH, RANGE 4 WEST TO A POINT WHICH LIES UPON THE UNION PACIFIC RAILROAD; THENCE SOUTHWESTERLY A DISTANCE OF 3,924 FEET ALONG SAID RAILROAD TO A POINT WHICH LIES UPON THE TOOELE CITY POLITICAL BOUNDARY AND THENCE THE FOLLOWING EIGHT (8) COURSES ALONG SAID POLITICAL BOUNDARY: NORTH A DISTANCE OF 2,849 FEET; THENCE WEST A DISTANCE OF 2,635 FEET; THENCE NORTH A DISTANCE OF 4,182 FEET; THENCE WEST A DISTANCE OF 10,339 FEET; THENCE SOUTH A DISTANCE OF 3,927 FEET; THENCE WEST A DISTANCE OF 5,164 FEET; THENCE SOUTH A DISTANCE OF 5,238 FEET; THENCE WEST A DISTANCE OF 2,598 FEET TO A POINT WHICH LIES UPON THE POLITICAL BOUNDARY LINE OF TOOELE CITY AND DESERET PEAK IMPROVEMENT DISTRICT; THENCE NORTH A DISTANCE 7,841 FEET ALONG THE SAID DISTRICT POLITICAL BOUNDARY; THENCE WEST A DISTANCE OF 7,490 FEET ALONG SAID POLITICAL BOUNDARY; THENCE NORTH A DISTANCE OF 6,886 FEET ALONG SAID POLITICAL BOUNDARY TO A POINT WHICH LIES UPON THE SOUTHERLY RIGHT-OF-WAY LINE OF SR-138; THENCE NORTHEASTERLY A DISTANCE OF 19,514 FEET ALONG SAID RIGHT-OF-WAY LINE TO THE POINT OF BEGINNING.

CONTAINS 29.6 SQUARE MILES OR 18,940 ACRES, MORE OR LESS.

4. The services to be provided by the District shall be one or more of the following:
 - i. water, including culinary and irrigation
 - ii. sewerage
 - iii. drainage
 - iv. flood control
 - v. recreation
 - vi. street lighting

5. The Board of County Commissioners of Tooele County, Utah shall hold a public hearing on the proposed creation of the District on August 7, 2007, at 3:00 p.m., at 47 South Main, Tooele, Utah.

7. The Board of County Commissioners directs the County Clerk to cause to be prepared and published the notice of intention in substantially the form attached hereto as Exhibit A, to establish a special service district and call the aforementioned public hearing, which notice shall be

published once each week during three consecutive weeks with the first publication being not less than 21 days nor more than 35 days before the public hearing, in accordance with the terms of the Act and it direct the County Clerk to also complete the record of proceedings attached as Exhibit B.

ADOPTED, APPROVED, and ORDERED by majority vote at a duly called meeting of the Board of County Commissioners of Tooele County, Utah this June 19, 2007.

TOOELE COUNTY, UTAH

By: Colleen S. Johnson
Chair

ATTEST:

Marilyn K. Sillette
County Clerk



EXHIBIT A

NOTICE OF INTENTION TO ESTABLISH THE
ERDA SPECIAL SERVICE DISTRICT, TOOELE COUNTY, UTAH

NOTICE is hereby given to all interested persons that on June 19, 2007, the Board of County Commissioners (the "Commission") of Tooele County, Utah adopted a resolution declaring that the public health, convenience, and necessity require the establishment of a special service district, to be known as the Erda Special Service District, Tooele County, Utah (the "District") to provide the following services: water including culinary and irrigation, sewerage, drainage, flood control, recreation, and street lighting to properties within the District's boundaries and providing for the holding of a public hearing on the proposed establishment of the District.

In the event the District is created and in the event an election is called and a majority of qualified electors voting at an election grant approval, taxes may be annually levied upon all taxable property within the District. For services provided by the District, such as water services, charges may be imposed to pay for all or part of the services to be provided by the District.

The boundaries and service area of the proposed District shall include portions of Tooele County, Utah, largely consistent with the Erda Township and more particularly described as follows:

BEGINNING AT A POINT LOCATED ON THE WEST BOUNDARY OF THE STANSBURY PARK IMPROVEMENT DISTRICT (SPID) POLITICAL BOUNDARY, SAID POINT ALSO BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SR-138, AND THENCE THE FOLLOWING SIX (6) COURSES ALONG SAID POLITICAL BOUNDARY: SOUTH A DISTANCE OF 3,550 FEET TO THE SOUTHWEST CORNER OF SAID POLITICAL BOUNDARY; THENCE EAST A DISTANCE OF 8,942 FEET ALONG BATES CANYON ROAD; THENCE SOUTH A DISTANCE OF 2,680 FEET; THENCE EAST A DISTANCE OF 1,254 FEET TO A POINT WHICH LIES UPON THE WEST RIGHT OF WAY LINE OF SR-36; THENCE NORTHEASTERLY A DISTANCE OF 2,740 FEET ALONG SAID RIGHT-OF-WAY LINE TO A POINT WHICH LIES UPON THE CENTER OF BATES CANYON ROAD; THENCE EAST A DISTANCE OF 1,192 FEET ALONG SAID POLITICAL BOUNDARY, THENCE EAST A DISTANCE OF 528 FEET ALONG SAID ROAD TO A POINT WHICH LIES UPON SAID POLITICAL BOUNDARY; THENCE EAST A DISTANCE OF 544 FEET ALONG SAID POLITICAL BOUNDARY AND ROAD; THENCE EAST A DISTANCE OF 23,625 FEET ALONG SAID ROAD ALIGNMENT TO A POINT WHICH LIES UPON THE TOOELE COUNTY AND SALT LAKE COUNTY LINE; THENCE SOUTH A DISTANCE OF 20,369 FEET ALONG SAID COUNTY LINE TO A POINT WHICH LIES UPON THE SOUTH LINE OF SECTION 4, TOWNSHIP 3 SOUTH, RANGE 3 WEST; THENCE WEST A DISTANCE OF 25,038 FEET ALONG THE SOUTH LINES OF SECTIONS 4, 5, 6, AND SECTIONS 1 & 2, TOWNSHIP 3 SOUTH, RANGE 4 WEST TO A POINT WHICH LIES UPON THE UNION PACIFIC RAILROAD; THENCE SOUTHWESTERLY A DISTANCE OF 3,924 FEET ALONG SAID RAILROAD TO A POINT WHICH LIES UPON THE TOOELE CITY POLITICAL BOUNDARY AND THENCE THE FOLLOWING EIGHT (8) COURSES ALONG SAID POLITICAL BOUNDARY: NORTH A DISTANCE OF 2,849 FEET; THENCE WEST A DISTANCE OF 2,695 FEET; THENCE NORTH A DISTANCE OF 4,192 FEET; THENCE WEST A DISTANCE OF 10,333 FEET; THENCE SOUTH A DISTANCE OF 3,927 FEET; THENCE WEST A DISTANCE OF 5,164 FEET; THENCE SOUTH A DISTANCE OF 5,238 FEET; THENCE WEST A DISTANCE OF 2,598 FEET TO A POINT WHICH LIES UPON THE POLITICAL BOUNDARY LINE OF TOOELE CITY AND DESERET PEAK IMPROVEMENT DISTRICT; THENCE NORTH A DISTANCE 7,841 FEET ALONG THE SAID DISTRICT POLITICAL BOUNDARY; THENCE WEST A DISTANCE OF 7,490 FEET ALONG SAID POLITICAL BOUNDARY; THENCE NORTH A DISTANCE OF 6,888 FEET ALONG SAID POLITICAL BOUNDARY TO A POINT WHICH LIES UPON THE SOUTHERLY RIGHT-OF-WAY LINE OF SR-138; THENCE NORTHEASTERLY A DISTANCE OF 19,514 FEET ALONG SAID RIGHT-OF-WAY LINE TO THE POINT OF BEGINNING.

CONTAINS 29.6 SQUARE MILES OR 18,940 ACRES, MORE OR LESS.

The public hearing shall be held on August 7, 2007, at 3:00 p.m. at the county offices at 47 South Main, Tooele, Utah. Any interested person may protest the establishment of the District either orally at said public hearing, or in a written protest filed with the Tooele County Clerk. All written protests must be filed within 15 days after the conclusion of said public hearing and all withdrawals or cancellations of withdrawals must be filed within 30 days after the conclusion of said public hearing. The Commission will hear all interested persons desiring to be heard and will give full consideration to all protests. If special accommodations are required, please call (435) 843-3150 with reasonable advance notice.

Any written protest made on behalf of a corporation owning property within the proposed District shall be signed by the president, vice president, or any duly authorized agent of the corporation. Where property within the proposed District is owned by more than one person or entity, all owners

holding title to the property must join in the signing of the protest in order for it to be considered in the fifty percent (50%) calculation discussed below.

If, within 30 days after the conclusion of said public hearing, more than fifty percent (50%) of the qualified voters of the territory proposed to be included within the District, or the owners of over fifty percent (50%) of the taxable value of the taxable property proposed to be included within the District, file written protests against the establishment of the District, the Commission is required by law to abandon the proposed creation of the District.

After the public hearing and 30-day protest period closes, the Governing Authority shall adopt a resolution either establishing the District, amending the District or abandoning the establishment of the District. A resolution approving the establishment of the District may contain any changes from the initial resolution or this notice of intention the Commission determines to be appropriate, including reduction of boundaries of the District and elimination of one or more of the types of services proposed. The boundaries of the District may not be increased nor additional types of services added, unless the Commission gives a new notice of intention and holds a new public hearing.

Any person who shall have timely filed a written protest and who is a qualified voter residing within, or owning property within, the District, may petition the district court within 30 days after the adoption of said creation resolution for a writ of review. The grounds for such a petition are limited to: (1) a claim that the petitioner's property will not be benefited by the services to be provided by the District; and (2) a claim that the procedures used to establish the District violated the law.

FAILURE TO TIMELY FILE A WRITTEN PROTEST PRECLUDES THE PROTEST FROM BEING INCLUDED IN THE 50% CALCULATION DISCUSSED ABOVE AND THE PROTESTANT FROM FILING A PETITION FOR A WRIT OF REVIEW. FAILURE TO TIMELY FILE A PETITION FOR WRIT OF REVIEW FORECLOSES ANY RIGHTS TO THEREAFTER OBJECT TO THE ESTABLISHMENT OF THE DISTRICT.

DATED June 19, 2007

/s/ Marilyn Gillette
County Clerk

Published on July 3, 10, 17

EXHIBIT B

RECORD OF PROCEEDINGS

June 19, 2007

The Board of County Commissioners of Tooele County, Utah, met in public session at its regular meeting place in Tooele, Utah, at 47 South Main at 3:00 p.m., or as soon thereafter as feasible, on June 19, 2007, with the following members present:

Colleen Johnson	Chair
J. Bruce Clegg	Commissioner
Jerry Hurst	Commissioner

Also present:

Marilyn Gillette	County Clerk
Doug Hogan	County Attorney

Absent:

After the meeting had been duly called to order and the minutes of the preceding meeting read and approved, and after other matters not pertinent to this resolution had been discussed, the County Clerk presented to the Board of County Commissioners a Certificate of Compliance With Open Meeting Law with respect to this June 19, 2007 meeting, a copy of which is attached hereto as Exhibit "A".

Commissioner Hurst then introduced and moved the adoption of the foregoing resolution, which motion was seconded by Commissioner Clegg and the motion was passed as follow:

AYE:

Hurst
Clegg
Johnson

NAY:

ABSTAIN:

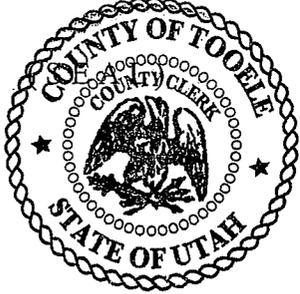
STATE OF UTAH)
 : ss.
COUNTY OF TOOELE)

I, Marilyn Gillette, the duly qualified and acting County Clerk of Tooele County, Utah, do hereby certify according to the records of said County in my official possession that the foregoing constitutes a true and correct copy of the minutes of the meeting of the Board of County Commissioners held on June 19, 2007, including a resolution adopted at said meeting as said minutes and resolution are officially of record in my possession.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature and impressed hereon the official seal of said County this June 19, 2007.

Marilyn K. Gillette

County Clerk



CERTIFICATE OF COMPLIANCE WITH OPEN MEETING LAW

I, Marilyn Gillette, the undersigned County Clerk of Tooele County, Utah (the "County"), do hereby certify, according to the records of the County in my official possession, and upon my own knowledge and belief, that in accordance with the requirements of Section 52-4-6(2), Utah Code Annotated, 1953, as amended, I gave not less than twenty-four (24) hours public notice of the agenda, date, time, and place of the June 19, 2007, public meeting held by the County as follows:

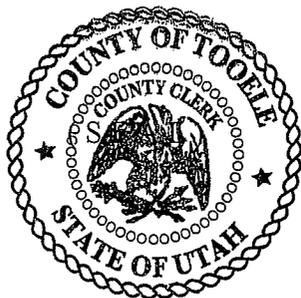
(a) By causing a Notice, in the form attached hereto as Schedule "1", to be posted at the County's principal offices at least twenty-four (24) hours prior to the convening of the meeting, said Notice having continuously remained so posted and available for public inspection until the completion of the meeting; and

(b) By causing a copy of such Notice, in the form attached hereto as Schedule "A", to be delivered to a newspaper of general circulation within the County at least twenty-four (24) hours prior to the convening of the meeting.

In addition, the Notice of 2007 Annual Meeting Schedule for the County Commission (attached hereto as Schedule "2") was given specifying the date, time and place of the regular meetings of the County Commission to be held during the year, by causing said Notice to be posted on _____, 200__, at the principal office of the County and by causing a copy of said Notice to be provided to at least one newspaper of general circulation within the County on _____, 200__.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature this June 19, 2007.


County Clerk



The Steps for Creation of a Special Service District are as follows:

1. The Governing Authority of a Sponsoring Entity (County, City, or Improvement District) moves for the adoption of a resolution: (1) declaring that the public health, convenience, and necessity requires the establishment of a service district to provide the proposed services within the Proposed District's boundaries; (2) designating the name of the proposed service district; and (3) setting a time and place for a public hearing on the matter (about 35-50 days later). (See U.C.A. Title 17A, Chapter 2, Part 13)
2. Smith Hartvigsen, PLLC prepares a Notice of Intention to Establish Service District. The Notice must: (1) describe the boundaries of the district; (2) describe the types of services to be provided; (3) state that taxes may be levied annually upon all taxable property within the district; (4) state that fees and charges may be imposed to pay for any or all services provided; and (5) designate a time and place for a public hearing on the matter. Notice of the protest procedure should also be included.
3. Publish this notice in a newspaper of general circulation within the Sponsoring Entity once a week for three consecutive weeks, with the first publication being not less than 21 days nor more than 35 days before the hearing date.
4. At the public hearing, the Governing Authority shall allow all interested persons the opportunity to voice their protests. The hearing may be continued to another date and time if necessary. Written protests may be submitted any time prior to 16 days after the end of the public hearing. The Governing Authority shall hear and give full consideration to all protests.
5. In considering the protests, the Governing Authority shall abandon the proposal to establish the district if written protests are filed: (1) by more than 50% of the qualified voters within the district's proposed boundaries (County voter registration records are conclusive evidence of residency); or (2) by the owners of more than 50% of the taxable value of the taxable property within the district's proposed boundaries. (If property is owned by a corporation, a protest is valid if signed by any authorized officer or agent. If property is owned in the name of more than one person or entity, all owners must join in signing the protest before it is valid.)
6. At a duly noticed Governing Authority meeting held more than 30 days after the end of the public hearing, the Council shall adopt a resolution either establishing the district, amending the district, or abandoning the proposal to establish it. (Smith Hartvigsen, PLLC prepares this resolution when the results of the protests are known.)
7. If the district is established, any qualified and registered voter who filed a written protest may petition the courts, within 30 days after the date that the district was established, for a writ of review based on either the procedures followed or the claim that the protestant will not be benefitted by the services provided. If the establishment of the district is not so challenged within that 30-day period, the establishment cannot thereafter be challenged.

8. The district should then adopt rules and regulations for its operations (Smith Hartvigsen, PLLC generally assists in drafting the rules and regulations). The Governing Authority may either act as the governing board of the district or it may authorize the creation of an administrative control board having three to seven appointed or elected members with such powers as the Council may delegate to it. Certain powers may not be delegated and the Council remains in a supervisory position. (Again, Smith Hartvigsen, PLLC regularly help prepare these documents as well.)