



## MURRAY CITY MUNICIPAL COUNCIL COMMITTEE OF THE WHOLE

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The Murray City Municipal Council met as a Committee of the Whole on Tuesday, February 15, 2011, in the Murray City Center, Conference Room #107, 5025 South State Street, Murray Utah.

### Members in Attendance:

Jim Brass	Council Chair
Jeff Dredge	Council Vice Chair
Darren V. Stam	Council Member
Jared A. Shaver	Council Member
Krista K. Dunn	Council Member

### Others in Attendance:

Michael D. Wagstaff	Council Executive Director
Dan Snarr	Mayor
Jan Wells	Mayor's Chief of Staff
Frank Nakamura	City Attorney
Janet M. Lopez	Council Office
Peri Kinder	Valley Journals
Jennifer Brass	Citizen
Charles Crutcher	Power
Tim Tingey	Comm & Econ Dev Director
Doug Hill	Public Service Director
Todd Marriott	UTOPIA Director
Stacy Marriott	UTOPIA
Dani Spitzer	UTOPIA
Christine Richman	Richman & Associates

Chairman Brass called the Committee of the Whole meeting to order at 5:15 p.m. and welcomed those in attendance.

### Business Item #1:

### Power Impact Fee Discussion – Charles Crutcher and Christine Richman

Mr. Nakamura explained that Ms. Richman had been retained to complete the power impact fee analysis. She is experienced in this area, and the impact fee statutes are specific, in that, before any changes are made to impact fees this detailed study is required.

Ms. Richman explained what was done over the last several months. The initial power impact fee was established in 2003 based on a capital facilities plan (CFP) completed in the same year, which identified \$9.1 million in projects to address the needs for new development in Murray. The 2003 impact fee was \$231 per kW, which was turned into a fee schedule based on the kW of different types of development and connections.

The 2010 CFP study identifies an additional \$503,491 in projects, and existing excess capacity that new development would buy into. These are improvements that were done between 2003 and 2010 that have established some excess capacity that is available for new development into the future. The statute allows the City to impose an impact fee to have new development buy into that excess. And a portion of the new impact fee covers the buy-in amount.

The legal findings show that Murray has found that impact fees are necessary 1) as a component of the City's strategy to maintain service levels, 2) to preserve the current cost/benefit relationship between new development and the cost of providing facilities, and 3) to provide the same level of service to new development as currently enjoyed by existing users. It does not increase or decrease the current level of service, Ms. Richman stated.

It consists of a fee reduction to \$155.92 per kW, which is a 33% decrease. Residential single phase impact fee will now be \$467.77 based on 3 kW for each residential single family connection. This is a reduction of \$228.20.

The existing substation excess capacity is estimated at a value of \$9.8 million that is the actual cost of building the facility, about \$273,000 of bond issuance cost. That is allowed by the statute, and including the two new additional development projects in the Fireclay area, if and when that occurs, for a total of \$10.6 million on the capital facilities plan.

The CFP is based on design criteria that are the basis of the level of service. The design criteria have been consistent for many years, and are the same criteria that were used to establish the 2003 CFP, and have remained constant for that period of years.

The cost per kW for the existing excess capacity of 86.1 MW, which can be addressed with the \$9.8 million of actual construction costs, comes to \$114.39, financing of \$3.17, for a total buy-in amount of \$117.56.

Ms. Richman indicated that when combined with the cost of the two Fireclay projects, which are \$510,000, and the cost of the study (which is allowed by statute), the total gross impact fee is \$155.92 per kW.

Normally, when that is calculated, the properties that will be developed have already contributed to the cost of constructing the existing infrastructure. For example, property tax has been collected on the undeveloped property. However, because all the costs for power are based on user fees, we don't have that calculation. There is no adjustment that needs to be made for user fees; therefore, the gross impact fee is also the net impact fee. That is the maximum amount per kW the impact fee can be, \$155.92, based on this analogy.

When an impact fee is established, we are required to ensure that proportionality is maintained so that each different type of land use is paying for their share of impact to the system. This requires a proportionate share analysis. Because power is based on kW, maintaining proportionality is very simple, as the different types of connection are tied to the kW. The impact fee maintains that proportionality based on its structure.

The cost of the existing public facility has been calculated to make a determination as to whether or not there is a deficiency in the system, which there is not. Whether or not there is existing excess capacity has been determined, which there is. The manner of financing in the past, for the existing system has been reviewed, and it is consistent with future financing. The relative expense that newly developed properties contributed to existing facilities was reviewed, and it was determined that they did not contribute. The relative extent to which newly developed properties are entitled to a credit was determined, which they are not. There are no

extraordinary servicing costs associated with the anticipated new development. Because the City has already bonded for the majority of what is being paid for in the impact fee, the time-price differential has already been established and paid out.

The study and enactment ordinance are out for public review, and is scheduled on your Council agenda for March 1, 2011.

Mayor Snarr commented that the City has never had anyone show up to a public hearing when the impact fees were reduced.

**Business Item #1:**                      **UTOPIA/ UIA Update – Todd Marriott**

Mr. Marriott introduced his wife, Stacy, and Dani Spitzer. He has met with Mr. Dredge and Jan Wells, as well as, the Board, and Executive Committee.

The new bonds are slated to be issued in the next one to two months. He confirmed that the company is working through some issues with Key Bank and Bank of America. If those issues are not resolved, UTOPIA does not have the ability to wait longer, and is ready to move forward. Much research has taken place over the last eight months. He said that they are working with a company called Rare Method on new branding and marketing of UTOPIA. Some constituent panels will be formed, and he would love to have Council members participate in that. Until the money is available, there is some sequencing that cannot move forward. In every way possible, they will be ready to go quickly when the money is in hand.

Take rates and residential offerings in place is something Mr. Marriott feels good about. Some past issues are being corrected with M Star and Prime Time, and residential service providers. There are over 17 service providers, and even the residential providers are very good, however, there are always those that have video struggles. That will be rectified; so that when UTOPIA comes back into Murray, there will be raving fans. More detail over the next couple of weeks will become available.

Relating to the federal grant, a waiver has been asked for due to the delay in funding, so that some of the federal funds can be drawn down on. The approval on the waiver has been received, and the cash match will have to be caught up on in the second quarter this year. They are anxious to get the money in our hands, so that building can go on in UTOPIA areas.

The environmental draft has been submitted for approval, with minor requests for information. These were related to air quality on generators.

The initial grant funds for engineering, and non construction related costs have been drawn down another \$100,000. He confirmed that UTOPIA is on schedule, and meeting commitments is important on the grant.

Recently, three additional service providers were added, One Wire, Info West, and Utah Broadband. He is working closer with entities in the state, Utah Department of Transportation (UDOT), Utah Education Network (UEN), and Utah Transit Authority (UTA), which will make a difference in the bottom line. Staff is ready for a major roll-out this year in new and existing areas. Some of the attrition, due to poor service providers, will be addressed. Because of the funding issues, they are a little handicapped.

Mr. Dredge described a situation with a new home owner in a residence that previously had a UTOPIA connection. He wondered if the new owner could take advantage of the connection, have it activated, and, if so, what would that cost. Mr. Marriott said that if he knows of someone now, then he would like to get them on board, and it would cost about \$100. In the

future, that person would be part of the consent for utility enhancement program, and be in the queue to have it done. If someone does not have connectivity from the curb to the home, then they have to wait.

Mr. Stam said that several homes have connectivity from the curb to the home; however, they have never had a box that was connected. There are a substantial number that have everything in place, but were never set up with a service provider, Mr. Marriott confirmed.

Mayor Snarr commented that he has not had any issues for several months, and he asked if he gets preferential treatment.

Mr. Marriott stated that shortly, there will be three to five different video feeds from which to select, at least two to three. Now there are two, the UTOPIA, and Prime Time. He will have Connected Life's and Veracity video prior to launch.

Mr. Shaver related that during the RDA meeting, a business owner proposed that he would like to extend fiber to his building, which is a rather extensive stretch of fiber. He would be liable for the cost of the fiber. Mr. Shaver wondered if UTOPIA could help him supplement that cost by seeking other property owners on the block who also would like to have fiber. Mr. Marriott responded that the business development specialist, John Crump, does that all the time. He stated that they did it at Siegfried & Jensen, and would get right on the project.

Mr. Nakamura pointed out that Murray is pledging the energy tax only on the bond, and he asked the anticipated amount of total bond. Mr. Marriott said that the first round would be around \$25 million. Mr. Nakamura asked if the bond would be for the full amount. Mr. Marriott confirmed it would be first round only. Mr. Nakamura said that the City is looking at a bond refinancing, and there is a \$10 million a year limit, therefore, he wanted to make sure Murray could go ahead with the other bond.

Mayor Snarr asked if the marketing firm is local. Mr. Marriott said they are local, and operate in Canada as well. They are very innovative. They were taken through an RFP process, came in to present, and we let them know what we do. He stated the branding is what is needed. UTOPIA is not just triple play. Some power entities have looked at what could be done with power grid. UTOPIA is intent on load balancing, and providing technologies currently on hand and available to do that. There may be some skepticism because it has been talked about for so long, however, UTOPIA is moving down that track. With mesh networks, and 700 long term evolution (LTE), at some point everyone will need the fiber whether triple play is done or not. That is where we are headed. It is the critical infrastructure being deployed. Rare Method will take that, message it, and brand it to go forward. We are not planning to compare ourselves to Comcast. When I say Apple, I don't have to tell you it is a really great computer, faster, etc., because it has been branded.

Mr. Shaver asked for an explanation of what was being done with the Murray Power Department. Mr. Marriott said that nothing is being done except information gathering. UTOPIA believes there are technologies that exist, and spin off technologies that they can capitalize upon. Capri Sun drinks are a spinoff of going to the moon. There are aero defense companies here in Utah working with sensing and actuating missiles, and intercontinental ballistic missiles (ICBM). That spinoff technology would allow UTOPIA to imbed sensor type capabilities in an AP. Mr. Marriott stated his belief that someday your network will operate an underground sprinkler system that will test the humidity every three to ten feet of your lawn. It will tell you if you are out of cheese or milk. Now, UTOPIA simply wants to imbed it at that location. Then, a power company could know instantaneously, what power is needed. It requires an open access Ethernet system like Murray has in place. Whoever envisioned this in the beginning were pioneers, and great visionaries. What you have in place is exactly what others across the nation

want to do. With power, we are working through the preliminary stages of simulating a city like Murray. If that works, some initial pilots would be run, and if that is successful showing documentation and the quantitative ability to reduce the power bill, by 6% to 29%, then that percentage of savings could be used to take the network to every single home in Murray for the same amount of money they pay today. When this is done, Mr. Marriott said he would go to the Council and ask for public safety to put up long term evolutions (LTE), and construct it across the network. He would urge the City to get the departments to use UTOPIA's network operations center (NOC) and a supervisory control and data system (SCADA) that will work with analog devices in power, water, and lights. He said that we are so far behind on that because UTOPIA was initially envisioned as faster internet and triple play. This is coming, and that is what UTOPIA is talking about with the power department.

Ms. Dunn stated that in the near future, public safety communications, and emergency communications will work with the infrastructure Murray has in place, in many locations. She stressed that the City needs to be involved in that, and a leader in it. Looking at the fiber and what it can do is important. New York City public safety is looking at putting every dollar available into fiber systems like we have because that is the future.

Mr. Marriott related that the department of transportation cannot use some of the existing incumbent networks because they are shared. Video does not work well. They are looking at putting sensors in streets to know, when to snow plow, and what the traffic count is. They see it coming sooner than he does. Eventually, they say that a car will get on Interstate 15, at 80 miles per hour, three feet behind the next car, and a car will drive, and sense based on traffic flows. He does a lot of work with UDOT trading out fiber back and forth.

Mr. Brass mentioned that one thing to consider in power is the security of power grids, and systems as the federal energy regulatory commission is very concerned about this issue. Currently, Murray does not touch any external network at the power department. Therefore, we are very secure, however, what Mr. Marriott is discussing changes that whole philosophy. Mr. Marriott responded that it can still be a closed network using the existing fiber system; however, Mr. Brass is right that it can be a problem, and he does not know how the nation would address that, and who would hold the key. At a recent roundtable discussion with Senator Hatch that was addressed. It is very powerful. UTOPIA could provide a network where that could not occur. Mr. Brass voiced his concern that someone at home hacking could turn everything off.

Mr. Marriott confirmed that what is being developed can be the greatest public good for the next generation's advancement, but also, a field for battle.

Ms. Dunn said that as others see this direction, they know who to partner with rather than trying to create it themselves. Many organizations are talking about building this, and that is where the branding will be important to inform people of what UTOPIA can do for them.

Mr. Marriott confirmed that some communities are waiting to see if the new model is actually sustainable.

There being no further business, Mr. Brass adjourned the meeting at 5:55 p.m.

Janet M. Lopez  
Council Office Administrator