

Murray City Municipal Council Chambers Murray City, Utah

The Municipal Council of Murray City, Utah, met on Monday, the 5th day of May, 2008 at 6:30 p.m., for a meeting held in the Murray City Council Chambers, 5025 South State Street, Murray, Utah.

Roll Call consisted of the following:

Krista Dunn,	Council Chair - Conducted
Pat Griffiths,	Council Member
Robbie Robertson,	Council Member
Jim Brass,	Council Member
Jeff Dredge,	Council Member

Others who attended:

Daniel Snarr,	Mayor
Jan Wells,	Chief of Staff
Frank Nakamura,	City Attorney
Mike Dykman,	Battalion Chief
Doug Hill,	Public Services Director
Patricia Wilson,	Finance Director
Janet Lopez,	Council
Carol Heales,	City Recorder
Roy Van Tassel,	Utah Taxpayers Association
Eric Isom,	Qwest
Steve Proper,	Comcast
Chris Hogan,	UTOPIA
Kirt Sudweeks,	UTOPIA
Jim Reams,	UTOPIA
Paul Recanzone,	UTOPIA
Todd Marriott	UTOPIA
David Shaw,	Kirton & McConkie, General Counsel, UTOPIA
Thomas Coverick,	KeyBanc Capital Markets
Laura Lewis,	Utopia Finance
Michael Brodsky,	Hamlet Homes
Erin McShay,	Valley Journals
Murray City Firefighters Citizens	

A. OPENING CEREMONIES

1. Pledge of Allegiance

* The presentation of the Murray History Distinguished Service Award that was scheduled on the agenda for this meeting, was postponed to a later date as the recipient was unable to attend this meeting.

2. A Joint Resolution of the Mayor and Municipal Council of Murray City, Utah, to designate and support the week of May 18 to May 26, 2008, as **Emergency Medical Services Week**.

Ms. Dunn read the Joint Resoultion.

Mr. Brass made a motion to adopt the Resolution.

Ms. Griffiths 2nd the motion.

Call vote recorded by Ms. Heales:

AYE/NAY

<u> A </u>	Mr. Dredge
<u> A </u>	Mr. Robertson
<u> A </u>	Mr. Brass
<u> A </u>	Ms. Griffiths
<u> A </u>	Ms. Dunn

Motion passed 5-0

Mayor Snarr presented the Resolution to Mike Dykman, Battalion Chief, expressing his appreciation to not only the Fire Department, but to the Council as well.

Mayor Snarr explained that when he was first elected, the City did not have paramedic service in Murray, the County provided the services at that time. Murray now provides the service, and the Mayor stated that he was very proud of the fire department and staff; they have taken the initiative and some have been asked to train to become paramedics. We are fortunate now, when we recruit new firefighters, it is almost a prerequisite to have a paramedic license.

The Mayor noted that they are excited, although not yet approved by the Council, that they are working on something that they feel is very important: providing ambulance service to the citizens of Murray City. The Mayor is excited over the opportunity to do this, excited about the new fire station on Vine Street; one of the most critical things that our emergency medical response teams needs is time. Time is of the essence; we had a big hole in the County, Murray stepped up and said we would do something about it, and in the interim there has been a satellite station for the paramedics. This is what the City is all about: providing state-of-the-art services for its residents. Fire and police are absolutely number one on the City's agenda, and for that, the Mayor said, he is very proud to present the Resolution, and to express the City's appreciation for the great emergency medical response that Murray has.

Mr. Dykman stated that when he started with the City, there were basically no EMT's with the City, they basically responded only on fires. Now it has grown into EMT's, paramedics, and now they are looking forward to the ambulance services. The City has a world class hospital across the street, and world class paramedics and firefighters that serve it and the City. They are proud to do that, and he feels that everyone of them there are proud to be part of the Murray City Fire Department and the job that they do for the citizens of the City. He thanked the Mayor and the Council.

Ms. Dunn added that the City has great public safety offices in both the police and the fire departments, and is pleased with what they provide for the citizens.

3. Ms. Dunn stated that it is a tradition in Murray City to ask the Boy Scouts and their leaders, who are in attendance at the Council meetings, to stand and introduce themselves and the badges they are working on, and asked them to do so.

Attending Scout members and leaders introduced themselves.

B. CITIZEN COMMENTS (Comments are limited to 3 minutes unless otherwise approved by the Council.)

None Given

C. CONSENT AGENDA

None Scheduled

D. Public Hearing(s)

1. Staff and sponsor presentations, public comment and discussion prior to Council action on the following matter:

None scheduled

Council consideration of the above matter to follow Public Hearing.

E Unfinished Business

Ms. Dunn noted that the Public Hearing on this matter was held on April 28, 2008, and as the public comments on this matter was closed at that meeting, she reminded everyone that no more public comment would be heard on this matter tonight. Council discussion was opened.

Consider a resolution of the City Council of Murray City, Utah ('The City'), authorizing and approving a pledge of its sales tax revenues; authorizing the execution by the City of an amended and restated pledge and loan agreement with the Utah Telecommunication Open Infrastructure Agency (UTOPIA) and any other documents required in connection therewith; authorizing and approving the taking of all other actions necessary to the consummation of the transactions contemplated by this resolution; providing a severability clause; repealing resolutions in conflict; providing an effective date; and related matters.

Ms. Griffiths stated that in one of the recent news articles, there was a report the Payson City had voted against the refinance of UTOPIA, and that they would immediately need to start paying on the initial pledge. She asked if this was correct, and if so, what provision of the original agreement is the enabling provision.

David Shaw, General Counsel, UTOPIA 518 West 800 North #204, Orem, UT

Mr. Shaw explained that there have been many, many news reports with respect to UTOPIA; much with accuracy, some with some accuracy, and much that didn't get it quite right. With respect to calling on the pledge immediately: there will be ramifications to Payson, he can not tell you what the mechanics of that ramification is. In fact, he has had discussions with Payson about how to go about enacting fairness amongst

the member cities. There is not a specific enabling provision of the current pledge agreement that allows a unilateral call on a single members pledge. They have had discussions with the bond council, who are reviewing those documents to determine potential mechanics there, as well as what, if any, remedies can be enforced on Payson.

Mr. Brass asked: If the network goes into receivership, RUS gets the asset, then the bank starts to collecting the pledges; is that a foregone conclusion then, or are there other options? If the refinancing doesn't pan out, can you go back to the drawing board?

Mr. Shaw said that the answer to that question is really one of time, and whether or not the revenues that are coming in currently on the system would be sufficient, not to pay Bank of America, because their remedy would be as against the pledge agreements, but with respect to the RUS loan and payment of the interest and principal, currently we are paying interest on the RUS loan; we have not missed a payment to any lender, and we have not used any tax money in those payments. The difficulty arises when the principal and interest payments to RUS come due combined, and the revenues today are not sufficient to cover that payment.

Mr. Brass asked when that due date is.

Mr. Shaw stated that he believes it is July 01, Ms. Lewis stated it was one year from the time we originally drew the contract. Mr. Shaw corrected the dates to mid-July or the first of August. The likelihood is that in July or August, RUS would have the remedy to declare default for non-payment of the principal or interest, whichever, he believes it gets applied to the interest first. Then their remedy under the default is to take receivership of the system; they don't have the right to sell the system, but they have the right to continue to control it and operate it to the extent possible. So, Mr. Brass would be correct; the federal government would conceivably come in and take over that system.

Mr. Dredge asked if, under the new financing, is the network and the City dollars backing that? Are both tax dollars and the network excel, the hard assets backing the debt?

Mr. Shaw said that under Utah law, the revenues of the system and the system itself cannot back the debt. That would be known as a double-barrel bond. There was a proposal a couple of years ago that went to the electorate that would allow double-barrel bonds that was voted down, so the short answer is no, the system and the revenues and the tax pledges cannot back the system, so it would be backed by the sales tax pledges and the revenues, but not the underlying asset.

Mr. Dredge said that under a refinance scenario, if there were problems in the future, we could conceivably end up with our network, unlike now. Is that correct?

Mr. Shaw stated that yes, that is correct, if by 'we' he means UTOPIA.

Mr. Brass stated that according to the interlocal agreement from four years ago, that to the best of his knowledge has not changed or been rescinded, if UTOPIA dissolves, then the ownership of the network goes to the individual cities, that part that is within the city: 18.4.4.

Mr. Shaw stated that was correct; after payment of all outstanding debt.

Mr. Brass asked Mr. Shaw to explain to him, since it has been presented that if we refinanced, then the network would have value should the time ever come to sell it, and in his somewhat jaundiced business world, if you are selling a business, the last thing you want to do is to increase your debt. You tend to get your book value up and get rid of your debt. How does increasing our debt, increase the value of the asset?

Mr. Shaw answered: currently, due to some of the issues that they faced with RUS, when they learned that RUS would not release additional loan funds, they were in the middle of construction in Centerville,

Brigham City and Perry. They put a stop work order on that construction and so currently, the work in Centerville has conduit in the ground, but not fiber. As fiber is pulled in, the possibility for customer connection increases, and the possibility for potential revenue down the line increases as well. Right now, there is stranded asset in the ground that without additional resource to connect, is not as valuable as it would be if there were fiber in the ground to connect to customers.

Ms. Griffiths said she had a lot of concerns. Being one of the Council Members who voted nay on the original proposal, she has hoped against hope that this would succeed, but is very disappointed in the lack of leadership they have had, all the mistakes that have been made, and just saying 'I'm sorry' just doesn't cut it with her.

Ms. Griffiths continued: this backup funding that the City pledged initially, she understood that was to be for the bond. Now they are being asked for the RUS; when was the RUS funding process commenced?

Mr. Shaw stated that the RUS funding process was commenced in the middle of 2005; in late 2005 they received loan approval from RUS with the commitment that they would be able to close that loan in approximately three months time, in other words, January 2006. As they continued discussions with them, it was then April, then July, and then it was: if you don't hire outside counsel, then we won't be able to close til 2007. So they agreed to pay RUS' outside counsel to expedite the process. As they went through that, it took them until October 2007 to hire their outside legal counsel; November 08, 2007, they had their first meeting and it was not until April 2008 that they promised to close, and finally did close, July 05, 2008. Mr. Shaw corrected himself, stating those dates should be 2007, and said to backtrack all the years by one, so 2006/2007, so, July 05, 2007 is when they closed that loan.

Ms. Dunn asked Mr. Dredge to clarify a statement last week, when he declared that he had some previous dealings with UTOPIA, speaking about working on financing for RUS before he was elected.

Mr. Dredge said that it had been a lot of years, and that perhaps Mr. Shaw could correct him if he makes mistakes on the specific dates. When he was first approached, they were looking at the financing, the bonding already, that was in progress. They had heard about this RUS, where they could secure some funding, and so they needed some financial statements that were in generally accepted accounting principles format, not this squirrely government accounting cash flow. They were, even at that time, having some problems getting commitments from RUS, so they tabled it and decided to go on with their original financing plan; the RUS was for cities that were tabled for in the future, and as he recalls, when they first brought the presentation before them, it wasn't an issue, not even a question because it had been tabled. It was like when they were first looking into this, they were looking seriously into rolling out wireless at the same time they rolled out the network, and they tabled that too and decided just to focus on the core phase I.

Mr. Dredge stated that it was his understanding from subsequent conversations, that after they bonded, RUS came back and said 'yeah, this is a project that falls within parameters that we've been mandated to fund, reapply' and that was his understanding of what happened.

Mr. Shaw clarified further: they went as far the first time as to submit a loan application, and RUS informed them that they did not fit the parameters of their program, and denied the application. They then came back to UTOPIA and they had further discussion, significant discussion with them prior to resubmitting the loan application to insure that they would fit the parameters of their program. They obtained multiple assurances from the officials at RUS that, yes in fact, they would qualify, assuming that they filled out the application and met the parameters. Before they embarked down the path a second time only to be denied, they did a significant amount of conversation with RUS, they brought them to a level of convincing where UTOPIA filled out the application, and obtained approval. It was at that point that the time period that they were committed by RUS, got extended, re-extended, and extended yet again.

Ms. Dunn asked that, by her understanding from that is that before the City ever voted on this the first time, UTOPIA had discussions with RUS and decided, the reason that they didn't bring any mention of RUS to the City, was that they had determined that was not a possibility at the time?

Mr. Shaw stated that the first go around, that is correct. The second go around it was actually part of the financial plan to obtain funding that was not backed by tax pledges, and that is what RUS provided: a revenue backed source of funding. It just as well could have been any other bank, but the interest rates available from RUS were lower than were available at the commercial banks. That is why the pursued it after much discussion with them about "gee, are we really going to be wasting a lot of time on an application that will just get denied."

Ms. Griffiths stated that she understands that this is just designated for rural communities, with the consortium including urban. That didn't have any effect the efficacy of that?

Mr. Shaw said that it did change some priorities in a couple of cities. In phase I of UTOPIA, the plan originally was to build the six pledging members, or portions of them, in Salt Lake and Utah County. Payson, Lindon, Orem, West Valley, Murray and Midvale; the five pledging cities to the north, largely rural cities that qualified for RUS funds with the exception of Layton, were part of the phase II plan. We could rehash the history of how that went down, but four of the five phase II cities were qualifying phase II cities, in happened that Lindon and Payson were as well.

Ms. Griffiths asked: when Mr. Shaw says 'we', who are the people included in that, making these decisions?

Mr. Shaw answered: the UTOPIA Board of Directors, the Executive Committee, and UTOPIA management.

Ms. Griffiths stated that she is concerned that nobody on that board ever communicated that to the City. No-one did.

Mr. Shaw apologized for that lack of communications, they are well aware of that and have made commitments to other cities to increase those lines of communications, and to increase the reporting. They will be providing monthly reports to the city councils of UTOPIA to let them know the status as they progress.

Mr. Brass stated that it was one of the commitments he had been looking for and did get. Like Ms. Griffiths, he also voted no and not because he did not believe in the technology, but he was very concerned about the ability of the network to pay for the simple cost of hooking somebody up. He is still concerned about that, but his bigger concern now is the fact that this asset that they have invested in, and in Murray they have a big investment, the City put in a fiber ring then sold it to UTOPIA, and many of their critical services are on that; he is very concerned that they would lose control of that. That has changed his thinking somewhat. Now it becomes, which is the lesser of all evils, and he thinks that getting control of the network again, and not losing that, is probably very important to them.

Mr. Brass also noted that he is also very upset that money was spent before it got in the bank. He understands that they had a promise, but tens of millions of dollars....he would rather see the check in the bank, cleared, before he spent it. What assurances do they have under the new financing, that the same wont happen again?

Mr. Shaw said that he feels that the best assurances, and there are others present who could speak to them as well, there has been significant change to UTOPIA governance; the Board of Directors and particularly the Executive Committee have taken a highly active roll in the day to day oversight and

governance and management of UTOPIA.

Mr. Brass asked if this is the same Executive Committee and Board of Directors who signed off on this the first time?

Mr. Shaw stated that there have been changes to this as well. He also said that the commitment going forward is best seen in the past 6-9 months of activity and oversight by that board, as well as the commitment to hire a qualified Executive Director. They have undergone a nationwide search for a director with deep experience, not in city management, but in telecommunications management and in revenue projections, revenue sales growth and in marketing growth. Not in marketing the sales providers services, but in letting people know that the network exists and that there are choices available in the marketplace; and so that nationwide search has been going on, interviews have been held, and there will be somebody installed with that experience.

Mr. Brass asked if the network, the asset under the refinancing plan, now safe? Or is that still going to be pledged as collateral? In other words, are we going to be back here two years from now?

Ms. Lewis stated that, as Mr. Shaw indicated earlier, under Utah law they cannot pledge both the assets and the system revenues. They have chosen to pledge the system revenues for repayment of the debt and it is backed, in order to get the lowest rates of financing and the financing completed by the sales tax, but the assets are not pledged.

Ms. Lewis asked a clarifying question of Mr. Brass: when he spoke about spending money before it was in the bank, is that in regards to the RUS?

Mr. Brass answered yes.

Ms. Lewis stated that it is her understanding that it is their requirement that they approve the contracts, that you let the contracts, the work is done, and then they reimburse you.

Mr. Brass stated that he had heard that, and then had heard just the opposite, and he pretty much gave up on trying to figure out which one was accurate.

Mr. Shaw said that there has been confusion on that, not just on our side, but RUS' side as well. He felt that it is important to note that they have been the first municipally owned project that RUS has ever funded, (Mr. Brass interjected: or thought about funding) and in dealing with them, there has been confusion simply about the way municipal finance works and the way their loan program dovetails into that.

Mr. Shaw gave a brief example of that: when they were first approved for their loans, they went to RUS with their existing finance structure which is contained in general and supplemental indentures. They proposed a new supplemental indenture which would overlay the existing framework as it is traditionally done in municipal bonding. Their in-house attorneys rejected that and they said that they did not do things that way, that they do it with a loan agreement. UTOPIA said OK, and they went back and redrafted all of the documents to be loan agreements. When they hired their outside bond counsel, they came back and said: "gee, why are we doing this with a loan agreement? It would make so much more sense to do it as a supplemental indenture." That is just a brief example of some of the confusion that has gone on and them knowing how to deal with UTOPIA, and admittedly, UTOPIA knowing how to deal with RUS.

Ms. Lewis added that most other federal programs do require expenditure first, then reimbursement.

Ms. Griffiths stated that she had asked a question last week, and was still concerned about it. In 2006, the Legislature redistributed sales tax; Murray was the only city in this consortium that was negatively impacted, in fact, some of the smaller cities are probably enjoying higher sales tax revenues at our

expense. She had brought out her concerns about one portion that said that the State “*would not alter, impair, or limit the sales and use taxes in a manner that reduces the amounts to be rebated to the City until the bonds are fully met and discharged.*” Say that the pledge is called on, on the re-application; do these contracted bond obligations supercede our ability to provide the other municipal services that were required?

Mr. Shaw restated the question to be sure he understood. Do these bonds constitute priority bonds? (Ms. Griffiths stated that yes, that was the question.) No, they do not. These are subordinate bonds. All bonds that the City issues, provided that the coverage ratio test provided in Section 2.4 of the pledge agreement are met, your bonds are priority bonds; this is fully subordinated. There is a 1 ½ times coverage that Ms. Lewis could speak to better than he could, about when priorities bonds can be issued. As a general rule, and he has not particularly looked as it is not his expertise at Murray’s typical bond coverage issue, but most cities have an additional bonds test of three times coverage. This is a 1 ½ times coverage ratio. In some of the other cities they have looked at, the problem with issuing additional bonds has not been with respect to UTOPIA’s covenant, but with respect to the city’s own internal coverage ratio.

Ms. Lewis stated that she had run the numbers for a few cities, and Murray’s was one that she had looked at. Murray’s bond covenance, when they talk about priority bonds, priority bonds to the UTOPIA pledge, that would be the bonds that the City has already issued to build public facilities and could contemplate issuing in the future. The test she looked at was: what is the maximum number of sales tax bonds that the City could issue before the UTOPIA pledge would be inhibiting to it. The answer is \$100 million, assuming a 20 year amortization, and 5 ½% interest. If that is shortened, and the interest rate were higher, she would have to make some reasonableness assumptions to calculate the coverage test.

In so doing that, and arriving at that number, Ms. Lewis stated that it was clear to her, as she set up the spread sheets to determine the coverage on the City’s priority bonds, because the bonds that the City has outstanding today, if UTOPIA didn’t exist at all, the City has covenants in those bonds that you can not issue more than, and its not dollar amounts of bonds, its again a coverage ratio where they look at the numerator is your sales tax revenue, the denominator is the total of all of the annual sales tax revenues, its not all of them, but the maximum year of those annual payments. That is the denominator. When you divide those two out, the coverage of the City’s own bonds, and she stated that she gets some mixed up but it usually three times, sometimes it’s a two times coverage test, but you would actually violate that covenant before you would hit the minimum of UTOPIA. You are restricted more by your own bond covenants on your priority bonds than on the UTOPIA bond.

Mr. Dredge stated that there had been some confusion over perhaps there could be some additional funding sources with RUS, that was a surprise to some. Is it contemplated, should this pass, that you would be looking for other revenue based financing for current UTOPIA cities, or is this enough to take care of what they need to?

Mr. Shaw stated that UTOPIA’s end game is to achieve funding based on its revenues alone. Which would contemplate a revenue bond financing, which at some point, they anticipate hope, can’t commit when, they would refinance the bonds altogether and remove the sales tax pledges. That is the end goal, and once that has happened, the revenues are paying fully for the system. Again, he will not stand there and say that it will happen next year, or five years from now; he is not the guy to make those predictions and his crystal ball is not good enough, but that it is the end goal.

Mr. Dredge reiterated that his question is: Similar to RUS, that was an additional financing source that was needed to build out those rural communities.

Mr. Shaw stated that was correct, and today, that is not contemplated.

Mr. Dredge continued: other cities that are potentially joining UTOPIA; he understands that this funding is to cover the current UTOPIA cities. But it would seem that future cities coming in should bear some of the risk that the people who went first incurred. What is UTOPIA's position on this?

Mr. Shaw stated that the way the current document, the UTOPIA Interlocal Cooperation Agreement is structured, is that when new members join UTOPIA, unless the Board of Directors decides to waive a pledging requirement, which they have the authority to do, they are required to pledge. If they don't pledge, and that requirement is waived, they are treated exactly as a non-pledging member is today; which is a sort of best efforts approach.

Assuming they pledge, there is an additional premium added to their risk, so to speak. He believes that is ½ of 1% for the risk that has been incurred by the prior cities. Now, under that scenario, assuming there is enough pledge capacity to bond and build those cities, in that scenario they would contemplate additional bonds, but they would be for that purpose.

Ms. Griffiths stated that the initial pledge the City made over a 20 year period, if the pledge were called it would be approximately \$25 million. In the tables in the appendices of the refinance, over a 33 year period if it were called, there is a potential of our City having to pay \$66 million. Is that right?

Mr. Shaw deferred to Ms. Lewis on the numbers.

Ms. Griffiths added that is with the 2% per year assumption on the increase. She added them up and it came to \$66 million, and she thought that was a lot of money, if we were called. Maybe it is not something that they are anticipating, but it is a possibility if that is what they are signing and what they are agreeing to.

Ms. Lewis stated that, candidly, no matter how you look at this it is a lot of money. Noone disputes that. What she has tried to do is look it in terms of today's dollars, because a dollar today has more value than a dollar does in the future. You can buy a gallon of gas today for \$3.50, and it might be \$5 next year. So, if they bring everything back into today's dollars, she believes it gives you the best apples to apples comparison of what the new increase means to you. In so doing that, and again you can play games with numbers, everyone knows that, so they try to justify, give you the rationale for their assumptions. In arriving at that, one of the things that really drives what that present value number is, is what the interest assumption you are using. They looked at the 25 year average of the State Treasurer's investment fund, and that average is a 4.05%. The way to look at that number is if Murray says 'here, we will give you the money today and you just shove it in a bank under either option, and you invest at 4.05%,' it will spit off the cash flow for scenario one, or it will spit off the cash flow for scenario two. The difference in those numbers in a present value under Murray's current pledge amount, you would have to provide \$17.9 million. Under the new pledge, you would have to provide \$28.47 million. There is a significant difference but again, it is an apples to apples comparison of bringing all those cash flows up to today.

Mr. Brass asked when they would start the marketing plan, if this goes forward.

Mr. Shaw said that he would defer that question to someone smarter in marketing than he is.

Todd Marriott, 1774 Meadowville Road, UTOPIA Advisor

Mr. Marriott stated that their marketing efforts would begin in earnest June 01, 2008 with the restructuring. All efforts from here to date would be to prepare for capitalizing on some early, low-hanging fruit opportunities through the summer. They will be establishing a base line, and re-establishing their base lines and restructuring those things based on the final outcomes here, of course. They are looking to create a marketing model that will be in earnest, in a shorter period of time rather than longer. They will be marketing come June 01, 2008, and if no one minds the analogy, hauling hay this summer.

They will be in earnest in their model somewhere between three and six months on implementing the model as they go forward. They have had discussions, even today, as to that low-hanging fruit, and as to how to capitalize and go gather that in as quickly as possible. They have some really good business and residential opportunities to do so, right off the bat. Once their machine kicks in, they should be earnestly under way.

Mr. Brass continued: that is marketing as was stated last week, and for the last long time, and has been one of his biggest concerns. He stated that he stumbled on the fact that he could get UTOPIA at a different meeting, and he found out that, oh my goodness, they have built out in his neighborhood.

He said he could guarantee that UTOPIA's competition is not going to sit around and wait one month, or six months, or whenever; they are out banging on doors and building networks. The quicker we get this thing going, the better off this would be. He is concerned that UTOPIA did not start marketing a year ago, or two years ago. He is also concerned that they are not marketing now.

Mr. Marriott stated that during the dot.com era, many such networks made similar errors. It was perceived, they think and noted in some of the things they learned, that they depended on service providers that were young and were emerging themselves, to market the presence of UTOPIA, and not very effectively. As far as their competitors, Murray will be the beneficiary of those efforts and as they drive down rates and competition, it will be a good thing. That is what UTOPIA is based on, this type of competitive model.

He also added that when talking about their marketing efforts, and low-hanging fruit, to date, if you consider X, number of stranded, or orderable addresses, with the restructuring, that would become X times 2.5, giving you orderable addresses. Taking into effect that UTOPIA self admits that they have not done a very good job of marketing the network, they have still realized a 28% take rate. They believe that they can better that, at the very worst case scenario, even if they are not quite there that represents the stranded investment stranded and ransomed with the restructuring.

Mr. Brass suggested that, if the refinancing goes through, please get someone to answer the phone. Mr. Marriott asked if he would like his phone number; Mr. Brass stated that he had the phone number but is talking about anyone who calls UTOPIA for information.

Mr. Marriott stated that their reporting and communications are a priority and A-1 commitment.

Ms. Griffiths said that it brings up a question: what do they have set up for customer service?

Mr. Marriott said that, keeping in mind that they are a wholesale provider, much of the service providers provide their own customer service for their services. UTOPIA is restructuring that very fact; to simply answer the phones is a novel idea possibility, but they are going to do it.

Mr. Brass said it was an amazing concept.

Mr. Marriott continued: some of the technology that they have at their fingertips will actually allow them to cascade telecommunications and allow those phone calls to be answered regardless of whether the front office staff is busy with other phone calls. They anticipate not just answering phone calls in the typical fashion, but using technology that they are currently espousing to, to mitigate much of the problems of the past.

Ms. Griffiths stated that the problem she has is that she hasn't seen too many definitives in these plans, and feels like they haven't been provided with the necessary tools to make a wise investment decision. She needs to have some positives, definitives, some definite things they are going to do, and how much is it going to cost for a little lady who wants a phone and that's all? It's going to cost the same to hook her up as it will for someone who wants the triple-play, isn't it?

Mr. Marriott stated that it will cost what the service providers will be able to provide that service for, given how they work with UTOPIA's wholesale rates. They won't provide that nice lady some telephone service, they don't do that, but they can provide the broadband to the home. They are going to provide some very creative methods to do just that, getting to those people. In terms of having definitives, they have been available, maybe not as much as they should have, but more available over the past few weeks to answer definitives and provide those kinds of drilled down question and answer sessions. He would be happy, at any time, to drill down and show those things when he is not having to do so, if possible, in front of his competitors, and those people who would take advantage of that knowledge. There are definitive things that they are working on; real solutions, not hyperbole, not hot air. They see the eyes of the council members that they are facing on an every other day basis, and they are very serious about quantifying those efforts.

Mr. Shaw asked to speak on Ms. Griffiths last point: there have been successes with respect to those sources of connections, and took a moment to editorialize a little bit about one of those: his grandmother is a resident of Murray, she is 91 years old. Prior to UTOPIA, she did not know what the internet was. She was paying \$65 per month for basic phone service, never using long distance. Now, for \$5 more per month, she has a 50 MB symmetrical internet connection, has learned to use email, pays her bill on-line. For someone who has difficulty getting out of the house, that's remarkable. She now has both basic and long distance for that price and calls her children around the country, and her extended family from around the world; she communicates with her daughter who currently lives in Bolivia using a SCIPE over her broadband connection. There are examples of that which will continue forward.

Ms. Griffiths agreed that there are a lot of success stories, and said that she doesn't question the technology. She understands that the possibilities are endless; but as far as our mission of being ubiquitous, she thinks they better find a new adjective, as she doesn't think they will reach everybody with equity and the connection costs, etc.

Mr. Marriott stated that they do have solutions for that, and that they are definitively, quantitative solutions and they would be happy to share those with Ms. Griffiths, one on one, that addresses ubiquity to lower income people specifically. The promise of ubiquity in Murray, really comes down to the fact of a successful model, rolling forward in Murray. Sure, some of the lower-hanging fruit is the business sectors, those that were heard in the former Council Meeting, that need that to survive and moved to this community; those areas where it is easier for UTOPIA to realize those take rates, but as that occurs, and the network grows, it will propagate itself here and has, if not immediately, at least the promise of ubiquity going forward at some point.

Mr. Dredge wanted to ask a question and make a point of where he has come through this as a UTOPIA Board Member over the last few months. When he first heard about the question of refinance, quite frankly, his answer was not only no, but maybe heck no. He had concerns over things that they have expressed, of things that the citizens have expressed, about things that the papers and the Utah Taxpayers Association has addressed. He had all of those same questions, and still has a few questions. Over the course of the last few months of asking a lot of hard question, the picture has started to form. They now have a proposed executive director with significant experience, something they did not have before. They now have an executive director who has, from what he has seen, some very unique, outside the box, ways to finance this and ways to add customers. He has been very impressed with what he has seen in terms of marketing.

The fact that Packet Front is now involved; there are stating, and this comes from their United States director, that their presence in the United States is based upon the success of UTOPIA. They have a very vested interest in this rolling forward. One of his concerns was the marketing; and it has been played up by the media and those against it, this up front cost; this was one of the hardest things for him as well. He said he just couldn't see it out there, the average citizen agreeing to do that, and yet, in one meeting through some creative presentation, he saw one way, in probably ½ hour, that it actually could be done. He thinks he has seen a significant change in attitude by the executive board. Many of these

people have stuck their livelihoods on the line to get this where it's at.

He also believes that in going forward they are going to see, if this should proceed, a significantly better communication in terms of what are the metrics, what are the measures, and what are they after. They have, in meeting with them as your representative, they have convinced him that they are committed to that. He has also looked from a business perspective and sees this stranded fiber, what has been referred to as low-hanging fruit; if we can put a little fiber in that conduit in areas where there are not a lot of choices, they are going to find some fairly significant take rates.

With this creative marketing, and with the way they are structuring, or potentially structuring, the up front funding, he also sees a different attitude towards the importance of the business community and going after business clients. It has given him some real hope. He, like you, is looking into a crystal ball and deciding whether or not they are doing a good thing or not. But, he guesses where he has gone, Murray has always been a city of vision. He would have loved to have been at the meetings when the Murray Power Department was envisioned, and the discussion occurred over buying a water system. When they originally voted on this, they were trying to see the same vision, and to say that there were hiccups, would be a big understatement.

Ms. Griffiths interrupted, saying that the difference or problem she has with that comparison is that we had management controls. Now the management control is vested in a board of a lot of different cities with a lot of different needs; the people who serve on the board, there is no prerequisite that they need to know anymore about this than she does. These are real concerns she has, and it needs to be remedied or we could repeat this same scenario all over again.

Mr. Dredge stated that vision comes in many forms. He is not saying this is perfect, quite frankly, he would love to get this thing turned around and let some investor buy it and run with it. He doesn't care that we own the fiber, he thinks we need the infrastructure; the infrastructure of the internet; the way that people communicate now needs to be there or we stifle the growth. There was an article in the paper, not too long ago, that talked about within seven years, it is projected that there is going to be gridlock on the internet, similar to gridlock on the freeways, because so many people are using it for wide area networks. We are really just at the beginning of it, so yes, we are earlier adopters and have paid a price for that, and it is an expensive and scary price, and he wished to heck that he wasn't sitting there right now, to tell the truth.

Ms. Griffiths guesses that she is having trouble with the trust factor, because she feels that their trust has been betrayed.

Mr. Dredge stated that he is not speaking for UTOPIA, but for himself in the fact that he has spent many hours in meetings with those people, and thinks that if it were to fail, it would not going to be due to a trust issue. He thinks that there are people's jobs on the line here, and they are committed to making this work, and now realize that if they don't communicate, they are going to fail. It may not have been there in the past, but it is there now. He has been convinced of that.

Mr. Brass is concerned; he has met with the potential new director, asked a lot of questions, told him exactly where he stood, and he does like his ideas. As he stated earlier, his biggest concern is in losing control of the network to RUS. He finds that to be the least desirable circumstance. He feels that if it gets refinanced, there is a two year window where they capitalize the interest and can turn this thing around, or not; he would prefer to see the test happen before we committed, but that is not possible. Tremonton is set up to where it can be lit up and the marketing plan can be tested up there. And if you all can't sell it in Tremonton, he doesn't think you can sell it anywhere. At that point, he would expect to see them start to market the network to someone who would buy it, as opposed to continue to build and spend that money. It really doesn't become debt until you spend it, hopefully.

Having that comfort level with the new director, who has contacts in this industry, with providers and

individuals who have the where-with-all to take over the network, he has come to believe that going forward is the lesser of the evils at this time. He has been given the commitment of communication and received a call just today that said he was going to bug the heck out of him, so he has to get a new cell phone number; but he would rather know that when he calls that office and, he said that somewhat tongue-in-cheek, have someone answer the phone. But he wants the people in the office to understand that we own this network. We are not just a bunch of irritating people coming in and asking questions; We are the owners, and that is the way we had been treated. But, talking to this individual now, he at least has a belief that we will get the communication we need to get this going forward, or get out where it will cost the City the least amount of money. He is operating under the belief that he wants to cut his losses; if they make it work, he will be thrilled, but right now, it is a case of what is the worst, how can we make the best out of a bad situation. He has come to believe that going forward is our only choice, and he hates that; but doesn't feel we have any other choice.

Mr. Robertson stated that a week ago, he would have been a no vote on this, but he has spent a lot of time going over all this, and agrees with Mr. Brass that our best option is to go forward, cut our losses. He gave an analogy of when he was flying: they had a plan line, how much fuel it was going to take to get from here to there, they had a max line that said if you get above that you will spend some time in the water, and had an actual line which they plotted as they went along. When you looked at those, if that actual line got around the max line they started looking for alternatives; he imagines that we can do those same kind of things as we're looking at this and following the charts. He stated that he would expect a number on the board, and the rest of us will be looking at shutting it down, sell it and move on.

Ms. Griffiths asked if assurances were in writing, that if this doesn't fly in two years we are not committed?

Ms. Dunn said that if we are not all smart enough, if we go forward with this, and there is not some progress over the next six months, 12 months, 18 months, for sure two years, to get on the phone to 10 other cities Council Members to say its time to cut it and sell, we haven't learned anything then.

Mr. Dredge agreed with Mr. Brass in terms of the thought of RUS getting our network and paying the bank every year as the only option right now that's in tenable with him. We at least need to change things so that we have the ability, in a worse case scenario, to get our network back somehow; right now that is not a possibility.

Mr. Dredge made a motion to move forward, based on the facts as they have been stated.
Mr. Robertson 2nd the motion.

Ms. Dunn stated that her further discussion is to let you folks know that this group has spent hundreds, each person, of hours studying this. More hours than she ever wants to spend on anything again; especially this. This group has learned everything there is to know about what has happened in the past, and where this is going. She wanted to say, right now, that whichever way this goes, whichever way the vote goes, if the vote is in favor to move forward, it is by no means, any way, make no mistake, the vote is not a vote of confidence; it is a vote of we have no other options. If you lose the asset and the dollars, for the next 20 years, we all pay for it for the next 20 years; at least, if we move forward, the only thing she can say is that at least we have a chance to sell it. Perhaps it may only be pennies on the dollar, but at least we get something out of it.

Call Vote recorded by Ms. Heales:

AYE/NAY

 A Mr. Dredge
 A Mr. Robertson
 A Mr. Brass
 N Ms. Griffiths
 A Ms. Dunn

Motion passed 4-1

Ms. Griffiths stated that before they move on to the next issue, she wanted to explain her position: she stated that she thinks this is not a win-win proposition, and does not appreciate being placed in a catch-22 position like this.

Mr. Brass and Ms. Dunn both agreed that none of them like to be in this position. But it is what it is.

Ms. Dunn asked if the motion made included passing the Resolution. The Council agreed that it did.

F. New Business

1. Consider an Ordinance amending Sections 12.32.010, 12.32.020(A), 12.32.030, 12.32.040, and 12.32.130 of the Murray City Municipal Code relating to Trees and Shrubs.

Staff Presentation: Doug Hill, Public Services Director

Mr. Hill stated that this proposed Ordinance amendment will change the responsibility of enforcement in public right-of-ways for landscaping from the City Forester to the Zoning Enforcement Officer.

The primary reason for doing this is because the Zoning Enforcement officers are trained in these kinds of issues, where the City Forester is trained in tree and landscaping maintenance. On occasion, there may be violations of our Ordinance; for example: someone may remove trees or live plant materials in the park strips in a residential area, and that is against the City Ordinance, so the City would be put in a position where they would need to go out and get compliance for those types of issues. The Zoning Enforcement Officer, they believe, is the best equipped to handle those types of enforcement issues.

Mr. Brass made a motion to approve the Ordinance.

Ms. Griffiths 2nd the motion.

Call vote recorded by Ms. Heales:

AYE/NAY

 A Mr. Dredge
 A Mr. Robertson
 A Mr. Brass
 A Ms. Griffiths
 A Ms. Dunn

Motion passed 5-0

2. Consider a Resolution approving an Interlocal Cooperation Agreement between the City, Utah Transit Authority (UTA), and Salt Lake County for the Jordan Riverbank Restoration and Re-vegetation.

Staff Presentation: Doug Hill, Public Services Director

Mr. Hill stated that this project is already underway. Salt Lake County has received a grant and has received a donation from UTA to work on the Jordan River Bank Stabilization and Re-vegetation, just south of 5400 South, between Bullion Street and 5400 South. They have been down there for about a month cutting those banks back to a slope that will: A. Not create a safety issue, and B. Will allow vegetation to grow; it is also hoped that it will help with future erosion in this area. Currently, the rivers banks are so steep and are eroding in this area.

Salt Lake County has asked that Murray participate in this, since it is a portion of our Jordan River Parkway. Our participation is that we will pay the water bill for the establishment of the vegetation in this area. He is recommending that the City approves this.

Mr. Dredge lightheartedly asked if we couldn't just suck the water out of the Jordan River to do this?

Mr. Hill said that yes, we could do that, but it could get expensive as well.

Mr. Dredge made a motion to adopt the Resolution.
Mr. Robertson 2nd the motion.

Call vote recorded by Ms. Heales:

AYE/NAY

<u> A </u>	Mr. Dredge
<u> A </u>	Mr. Robertson
<u> A </u>	Mr. Brass
<u> A </u>	Ms. Griffiths
<u> A </u>	Ms. Dunn

Motion passed 5-0

Mayor Snarr asked: when IHC did the wetlands exchange, over on the smelter site, did the City pay for the water as well?

Mr. Hill said that yes, we do. This is not unlike other projects that the City has done in the past.

3. Consider a Resolution approving an Interlocal Cooperation Agreement between Murray City and the Utah Transit Authority (UTA), the Wasatch Front Regional Council (WFRC), Taylorsville City, Salt Lake County, and Utah Department of Transportation (UDOT) for an Alternatives Analysis.

Staff Presentation: Doug Hill, Public Service Director

Mr. Hill stated that several months ago, representatives from UTA and Taylorsville met with the City to discuss the possibility of Murray sharing in the cost of an east - west transportation study to look and see the feasibility of such a study, to find the routes of potential or future opportunities

for light rail or bus rapid transit; this Resolution and Interlocal Agreement formalizes that presentation, that discussion. It will commit \$20,000 of Murray City funds to participate in this study. This is a very small portion of the overall funds that are required to do this. The majority of the funds will be coming from UTA, \$180,000, and then Taylorsville will also be providing \$30,000 to complete this study. We will be working as a committee member on the Steering Committee to provide input into that study.

Ms. Griffiths asked if we have money in the current budget to handle that?

Mr. Hill stated that they do have the funds in the upcoming budget. The current budget has no funds currently budgeted for this project, and the language indicates that these funds are subject to appropriation. The Mayors budget has submitted the \$20,000 and it has been included in the Mayors budget; of course, the City Council has not yet approved that money, and UTA does understand that these funds are subject to appropriation.

Mayor Snarr asked if the amount was \$20,000 or \$22,000.

Mr. Hill stated that it is \$20,000; they had originally asked for \$22,000 and then reduced the amount.

Mr. Robertson made a motion to adopt the Resolution.

Mr. Brass 2nd the motion.

Call vote recorded by Ms. Heales:

AYE/NAY

<u> A </u>	Mr. Dredge
<u> A </u>	Mr. Robertson
<u> A </u>	Mr. Brass
<u> A </u>	Ms. Griffiths
<u> A </u>	Ms. Dunn

Motion passed 5-0

Mayor Report

Mayor Snarr stated that he and Ms. Dunn had attended an interesting meeting that morning, regarding the celebration of David Archuleta as one of the three finalists of the American Idol program. There was a loud discussion, and it has been decided that the recognition and celebration of David Archuleta will take place at the Murray High School football field, they are indicating that there will close to 20,000 people attending.

They are excited for the Council's participation; they found out recently that they cannot use the golf carts, as they would have had to have been Ford golf carts to make this happen. They are trying to get word from the high school as to whether or not they will allow cars to go on the school track, or on the grass. (Ms. Wells said that yes, the school will allow it.) So, they are excited about this, it will be a great opportunity for the City to showcase the City, and he (David Archuleta) has made us proud. He is a humble young man who cares about his community, has always stood up and said he was from Murray City, and they are proud to recognize him. There is a great cooperative effort going on with the PTA, the School District administration, the high school administration, the Chamber of Commerce, etc.

It is unique that Ford is the sponsor for American Idol, and right next door to Murray High School is a Ford dealership. Ms. Wells has been in conversations with the people in California at the Fox Network, and they are excited about what the City is proposing to do.

The Mayor asked if all of the Council Members would be available on Friday for the celebration. Mr. Brass stated he would not be able to attend as his daughter would be receiving her Doctorate. The Mayor agreed that that was more important. The remaining Council members stated that they would be available to attend.

Ms. Dunn thanked Ms. Wells for all of her efforts in putting this celebration together. She said that it was a lot of work bringing 50-60 agencies all together to create this in less than a week; and said Ms. Wells has done a great job in that, and in standing up for the City this morning when it was needed. She thanked Ms. Wells, and everyone else who was involved.

The Mayor again said that he was excited over this, and the opportunity to showcase our City and to say that we are proud of our community and of this young man. He has an incredible voice, and yet, is so humble about his talent.

Ms. Griffiths stated that now the City needs a performing arts center where Mr. Archuleta could perform.

Mayor Snarr said that there will always be more needs than money, but, having served as the Chairman for the Conference of Mayors, and having been a Mayor for 10 years, the City has done exceptionally well in what they provide for the citizens. When he stood up and spoke on what other cities charge for city services and extras, he was proud to say that Murray did not charge their citizens.

Ms. Griffiths stated that she did not want to argue the point with the Mayor.

The Mayor stated that he would love to have a performing arts center in Murray, but when the decision was originally made, he looked at it, and he truly values the people in the arts, but also realized....

Ms. Griffiths interjected: 'But not enough to give them a home.'

Mayor Snarr continued: telling Ms. Griffiths that comment isn't fair. He looked at it and said: how many people participate in Murray's Parks and Recreation programs, and do we have the ability to continue to provide quality programs. They were running out of space; that is why he supported, before some of the Council was elected, building the Park Center. He added that if he won the lottery, he would give them their home, so pray that he wins!

The Mayor stated that they have completed the project at the freeway, as a gateway to our community, they did an incredible job. Odyssey Landscaping can do a job quickly, safely, and wonderfully. He thanked everyone who was involved in that job, from the Police Department to the Public Works Department, and UDOT, who stepped up and did a great job of supervising to insure that it was done in a safe manner.

He also said that he is excited about the River Bank Stabilization project, and they had a wonderful time on the river this morning, having a nice opportunity to discuss the Jordan River Blueprint. Several of the Mayors attended; and if anyone else would like to participate in that process, there is an on-line survey that people can complete, and meetings that they can attend. Everyone applauded, once again, Lynn Pett's vision, which cost millions of dollars to make that vision a reality, but because we did it when we did, we were able to buy the land at a very fair price compared to today's dollars, and have made incredible enhancements.

Everybody says there is no better portion of the Jordan River that is completed and finished. We have an equestrian trail, and provide a 'Cadillac' venue for both our residents, and for all other residents in the County who love to come down here and enjoy the Parkway. One of his neighbors stated to him: "you can always tell, when you get into Murray City, that we take pride in our city, and the image we try to portray."

Questions of the Mayor

Ms. Dunn added that the program on Friday should begin at 3:30.

Ms. Wells stated that they are still waiting on confirmation from American Idol, but that they should receive confirmation soon, and it does look like it will be at 3:30 p.m.

Ms. Dunn asked for help in getting the word out to the public, but is sure that they will have help from the media when the time comes. It will be a big traffic mess as well.

The Mayor added that they will have the media tell people that we would love them all to come, we love them to come to our community, but if possible, to have them take light rail to the event. It will only be 1 ½ blocks to walk from the station to the stadium.

Ms. Dunn stated that traffic and all was considered. In the meeting of that morning, the Police and Fire were present, and it will be a great event.

Adjournment