



## MURRAY CITY MUNICIPAL COUNCIL COMMITTEE OF THE WHOLE

The Murray City Municipal Council met as a Committee of the Whole on Tuesday, April 16, 2013, in the Murray City Center, Conference Room #107, 5025 South State Street, Murray Utah.

### Members in Attendance:

Brett Hales	Council Chair
Dave Nicponski	Council Member
Darren V. Stam	Council Member
Jim Brass	Council Member
Jared A. Shaver	Council Member

### Others in Attendance:

Dan Snarr	Mayor	Tim Tingey	ADS Director
Janet M. Lopez	Council Office	Jan Wells	Mayor's COS
Frank Nakamura	City Attorney	Doug Hill	Public Service Director
Pete Fondaco	Police Chief	Craig Burnett	Police
Georganne Weidenbach	Centurylink	Diane Turner	Resident
Greg Bellon	Power	Bruce Turner	Power
Royce Van Tassell	Utah Taxpayers	Kellie Challburg	Council Office
Jennifer Brass	Resident	George Katz	Resident
Sally Hoffelmeyer-Katz	Resident	Cody Jenkins	Resident
Eliot Setzer	Resident	Ted Eyre	Resident
Blaine Haacke	Power	Jennifer Kennedy	Recorder
Zach Fountain	Legislative	Janet Towers	
Peri Kinder	Murray Journal		

Chairman Hales called the Committee of the Whole meeting to order and welcomed those in attendance.

### Minutes

Mr. Hales asked for corrections or action on the minutes from the Committee of the Whole meeting held on February 19<sup>th</sup>, 2013, as well as minutes from Council Initiative Workshop meetings held on March 5<sup>th</sup>, and March 19<sup>th</sup>, 2013, and also minutes from the Public Open House held on February 26<sup>th</sup>, 2013. Mr. Shaver moved for approval. Mr. Brass seconded the motion. All were in favor.

**Business Item #2.1**

**Records and Information Management- Tim Tingey & Jennifer Kennedy**

Mr. Tingey announced that he was happy to be speaking on this topic, and with Ms. Kennedy have spent several months putting together this presentation.

An important part of government and city work is the retention and handling of records. It is important for transparency and is often discussed by the legislature. It is important that the City moves forward with a program that contains policies and procedures. Staff is very pleased to have this document to distribute.

Ms. Kennedy explained the purpose of the records and information management policies and procedures is to ensure that the records of the City are being properly managed and that the City is in compliance with both state laws and city ordinances. This also led to the creation of the Records Management Committee.

Both the Utah State Code and the Murray Municipal Code require the City to have a records management program in place. This program should:

- ensure that records are being maintained and preserved ;
- provide access to the records; and
- retain security of the records that are private, protected, controlled, or restricted.

Title 63A, Chapter 12 of Utah Code requires the City to:

- establish and maintain a records management program;
- appoint one or more records officers to oversee the City's records management program;
- ensure employees who process Government Records Access and Management Act (GRAMA) requests receive training on the proper procedures;
- make and maintain documentation of the City's functions, policies, decisions, procedures, and essential transactions;
- submit proposed retention schedules to the State Archives for approval;
- report designation and the classification of each record series the City maintains to the State Archives and
- establish retention schedules for objects of historical value.

A record is defined as a book, document, paper, photograph, film, card or recording or any material regardless of the physical form that is prepared, owned, received, or retained by the City and where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

Mr. Nicponski asked how many employees are dedicated to records management. Mr. Tingey replied that the number is increasing daily because of this document. The purpose of this document is to help everyone get on the same page, and educate and work towards a system where people understand what information needs to be retained. Ms. Kennedy said that the Police Department has personnel dedicated to GRAMA requests. The Records office handles all the other GRAMA requests, other than those for the Police department. Ms. Kennedy handles the requests with the help of the Records Coordinator. Mr. Tingey emphasized that

each department is responsible for their own records retention. There are 12-15 people currently on the records retention committee.

Mr. Shaver commented that one of the things that the Legislature is addressing is the records and how quickly they are accessible. Ms. Kennedy said the goal is to have everything transparent.

There have been 14 different policies created:

Policy 1- **City Records are declared Public Property.**

All City records are public property, regardless of who created it. All records are property of the State and almost everything is subject to GRAMA.

Policy 2- **Effective Records Management Practices.**

The City Recorder will periodically review the departments and divisions filing systems, transfer records to the state archives and insist in compliance with policies.

Policy 3- **Recorder's Office Records Management Functions.**

The Recorder creates records management policies, coordinates city-wide files and management programs, trains records coordinators and establish and monitor compliance with standards for filing in all City departments.

Policy 4- **Responsibilities of City Department Directors.**

City department directors must help ensure that their departments are following procedures and also responsible for designating a records coordinator.

Policy 5- **Responsibilities of Records Coordinators.**

The Records Coordinator acts as the liaison between their department and the recorder's office. They ensure compliance with the policies and ensure that the retention schedules are being used properly.

Policy 6- **City Departments to use Retention Schedules.**

All City departments should use records retention schedules and disposition schedules provided by the City recorder's office.

Policy 7- **Development of Records Retention and Disposition Schedules.**

The City Recorder will facilitate the process for records retention and disposition. Before a record can be destroyed, it needs to be on a destruction log, along with a statement of records, and it must be signed by both the department director and the City Recorder before it can be destroyed.

Mr. Shaver asked if this included items to be added also. He said there is a line there that mentions added items also. Ms. Kennedy said that just means it has to meet the specific standards before it is added.

Policy 8- **Archives and Preservation of Permanent Records.**

Inactive records should be stored securely to prevent theft or damage, and also be easily retrievable. The City Recorder shall ensure permanent preservation of historical records.

Policy 9- **Non-Current Records not to be maintained in Office Files.**

If a record is no longer needed to support current or daily city functions, those records should be either transferred off-site or destroyed if they are scheduled for destruction per the retention schedule.

Mr. Shaver asked if the City has an off-site storage. Ms. Kennedy said that the City has a place at the fire station and can also utilize the state archives free of charge.

Policy 10- **Records using Photographic and Digital Media.**

Documents can be reproduced or retained in photographic or digital or a non-paper medium. The medium needs to be reproducible and once it is reproduced it cannot be altered.

Policy 11- **Electronic Mail and Electronic Documents.**

This is an area that most cities are struggling with because there are not visible right and wrong answers. Basically, emails and electronic documents are records even though there is no hard copy. They are subject to GRAMA as well. There is a list of emails that are not considered records and are not required to be saved. Those include: personal notes or communication, drafts, junk mail, copyrighted material, commercial publications, proprietary software, or personal daily calendars. A "record" copy is the copy that the City designates as the original copy. If there are duplicates of a record copy, those can be deleted at any time without being on a destruction log. Employees are responsible to store emails within folders in the email system. Mr. Shaver clarified that the Council Members are considered employees also. Ms. Kennedy agreed.

Policy 12- **Social Media.**

This includes blogs, Youtube, Twitter, Facebook, MySpace, and similar sites. Any content on these sites that relates to City business is considered a record and is subject to GRAMA.

Policy 13- **Text and Instant Messages.**

This is another area that cities are struggling with. Most texts and instant messages are transitory, which means, they are for a specific purpose and not needed long after that. A text or instant message is considered a record only if the content of the message refers to City business, functions, and/or programs. The technology to store or retrieve text messages is not available, so the policy is that no communications regarding policy or program correspondence may be conducted through text or instant message. If business needs to be discussed, the preferred method would be the email system.

Mr. Shaver asked a question about the definition of a draft. He said that a draft is not an accepted form of communication, it is an idea. As a Council, sometimes the members share incomplete ideas and that would be considered a draft and not something that needs to be

recorded. He asked if that was correct. Mr. Nakamura stated that a draft is not a record unless it pertains to empirical data that is not found anywhere else. Mr. Nakamura said that staff should always err on the side of disclosure.

Policy 14- **Public Disclosure of Records.**

All records are considered public unless classified otherwise and must be disclosed if they are requested as required by GRAMA. Anyone requesting a record, (with the exception of police reports/records) must do so by submitting a GRAMA request to the City Recorder's office. There is a reasonable fee charged to cover the costs incurred. The amount of the fee depends on the size of the GRAMA request, and how much of the employee's time is spent working on it.

There have also been some procedures created for the following functions:

- routing contracts and agreements;
- routing deeds, easements or other recorded instruments;
- transferring records to the Utah State Archives;
- destruction of records;
- GRAMA requests.

All of the above documents come through the City Recorder's office and are tracked and routed to the appropriate departments, so that all necessary personnel see them and sign them. The procedures to transfer documents to the state archives is also through the recorder's office.

Also, anytime a department is destroying records, the destruction log needs to be filled out and signed by Ms. Kennedy and the Department Director before the records are destroyed. The GRAMA request procedure has been created within the last two years, and has been very helpful. The requests are centralized and logged in and tracked to ensure they are being completed. The Attorney's office has been helpful in working with the Recorder's office also.

The City is required by State law to have a records management program. All of the City's records are classified public, unless classified otherwise. Emails, electronic documents, social media are also considered records and must be maintained. The Recorder is working with the departments and records coordinators to ensure compliance with the policies. The City departments must adhere to the retention schedule, and the records committee that has been created must meet frequently.

Mr. Tingey emphasized that the purpose of this is to help everyone understand the importance of records management. It is a process to educate staff in every department about the process and the procedures.

Ms. Kennedy said that the records committee is discussing the records management issues in question. The committee is working with each department individually and making sure that the retention schedule works for that department. The records committee should act as a liaison between the department and the Recorder's office, ensuring their records are being destroyed, assist with GRAMA requests, and helping in classifying their records.

Mr. Shaver asked about a Council agenda, for example. That is a record, but that record is maintained in the Council office; is the retention of his copy of the agenda required, he asked. Ms. Kennedy said that it would be considered a duplicate and doesn't need to be retained by

Mr. Shaver. Ms. Kennedy said the problem with duplications is that once a document is up for retention, it needs to be destroyed, and all duplicate copies should be destroyed also. Ms. Kennedy said the retention schedule should be referred to for duplicate documents. Mr. Shaver said that the agenda, for example has gone out to thousands of people. He asked if he needs to let the Recorder's office know when he is destroying his copy. Ms. Kennedy said that he does not because Ms. Lopez in the Council office is maintaining that record.

Mr. Stam asked if the Council Members should be deleting those duplicate copies of documents that they receive. Ms. Kennedy said that they should delete those. Ms. Lopez mentioned that the Council office documents and all backup records required for the meeting are required to be retained for 10 years. Mr. Hales clarified that the Council office will have the records for 10 years.

Mr. Brass asked a question about emails. He doesn't keep his City email account on a computer, just an iPad. The iPad retains emails for a certain amount of time before dropping off. Technically he has not deleted an email, and believes that they are being saved on the City server.

Mr. Tingey said that the City has backup on the email system. Ms. Kennedy stressed that the IT Department should really only be used in an emergency situation to find records and not for records that should be retrievable otherwise. Mr. Stam asked if there was information there that should have been destroyed from years ago. Ms. Kennedy said that there is and doesn't believe that IT has gone through old information and destroyed it. Mr. Tingey said the responsibility is the department's to destroy it as per the schedule because it does take up space and space costs money.

Mr. Shaver said that this also means that the communication on the computer, laptop, or iPad is also requestable. Ms. Kennedy said that is true and recommends that any City communication be done on a City issued device, or City email. Mr. Tingey said that as long as the device is linked into the City system, it would be retained by the City. Mr. Hales said that is a budget issue also that is being addressed. Mr. Brass confirmed that if City communications are being done through the City email, that should be fine. The City email account could be requested by GRAMA, but not necessarily the device. Other information that is not public may be on the personal device also. Ms. Kennedy said that if business is being done on a personal email account, then that account may be subject to GRAMA.

### **Business Item #2.2**

### **Capital Improvement Program (CIP) Recommendations- Jan Wells**

Ms. Wells excused Mr. Zollinger who is out of town. Ms. Wells explained that the CIP Committee is made up of Mr. Zollinger, Mr. Hales, Mr. Stam, Mayor Snarr and Ms. Wells. It has been a great experience and good efforts have been made in making these recommendations.

When the discussion started, there was \$30 million in requests, and about \$1.8 million in funding to put in place. The program put in place is for the departments to save budget money from the previous year, and then use it for the next year resulted in the \$1.8 million. The previous year, \$510,000 was moved ahead and used for new police cars. The departments had saved 75% and the committee prioritized the requests of the departments.

Road funding was important to the CIP committee, and a portion of the funds were saved for roads. This year, the committee allocated 20%, which was \$360,000 to go towards

roads. They also allocated \$50,000 for preliminary plans for a New City Hall. These amounts will come from the Capital Projects Reserve.

The state funded 5900 South at \$1.2 million and that funding is also listed here in the CIP report. Also, the RDA provided funding in the amount of \$200,000 for the Fireclay railroad arm. Those are both listed on the plan that was handed out.

There are four departments that have set money aside for future needs to grow their budget. Those departments are: ADS, Human Resources, Finance, and Fire. Human Resources, ADS, and Finance all set money aside for future software. The Fire Department set aside some money for apparatus such as; engines, ambulances and vehicles.

The committee has made recommendations, and those are subject to approval by the Council. These recommendations can also be discussed with Department heads in the Budget meeting on May 14<sup>th</sup>.

Mr. Shaver asked a question about the 75%. He believes that the Council was trying to create an incentive for the departments to spend their money wisely, and if they spend wisely, they would have some money come back to them to spend as they see fit. Is this 75% something that should be maintained as a constant, or does it need to be more of a 50% allocation he asked. He believes it would behoove the City to look at the percentage and see if departments are able to get their projects done. Ms. Wells said that this has been discussed as a committee and decided that they would wait and see how it played out this year. There may be adjustments that need to be made as time goes by. Mr. Shaver clarified that would mean looking at the numbers at the end of the budget year. Ms. Wells agreed that would be good to have an opportunity to review those numbers also. Ms. Wells said that there are incentives and disincentives to this structure. Departments can be told to save money, but does that incline them to put more money in the budget than they really need, or does it incline them to "nickel and dime" things in certain ways, she asked. There is a spectrum that is affected by different personalities and management styles. Ms. Wells believes it is a great process and allows them to work with the different departments and meet the priorities in the best manner possible.

Mr. Shaver asked if it looks like the process of creating a plan and agenda and setting priorities is working. Are the department heads engaged in the process, he asked. Ms. Wells said the biggest problem is that the past four years have been lean and there have been many requests. She believes that the department heads understand and are supportive, and would certainly like more money. She likes the fact that the departments decide their priorities and can save for items, if they choose.

Mr. Stam said that the 75% structure gave the departments an opportunity to decide their priorities and made the job much easier to allocate the funds. The negative side to the 75% structure is that there wasn't money to allocate in other areas. One of the issues is that the size of the departments vary and the smaller departments don't have as much opportunity for large projects. For example, the Parks department has a fairly small budget; but they have \$200,000 in expenses to replace a bathroom. They will not have that kind of money in their budget, and yet they maintain several infrastructure items that are costly. Until the City gets through some very good years, it would be difficult to finance these projects. Ms. Wells agreed that it is hard to keep putting things off and saving for a project for a very long time is not very feasible.

Ms. Wells stated that the good news about the CIP system is that in the good years, extra money can be set aside for those projects. Mr. Stam said there are other positive

elements, such as, the Council gets a chance to see all the needs before budgets are cut, and are aware of things that need to be taken care of. There should be no surprises this way. Another positive is that there were some departments that were very good about giving up some of their money to go towards other things. Those departments that were willing to do that should be complimented.

Ms. Wells asked the Council to come to the committee with any questions they might have. She asked if the CIP recommendations should be adopted before the budget, or right along with the budget. Mr. Hales suggested that it be done with the budget, and Mr. Nicponki agreed. Mr. Brass said that the final numbers can be discussed during the budget process and it can be adopted all together. Mr. Stam clarified that according to the policy, numbers should be discussed during a retreat.

Mr. Brass commented that the CIP was created to make the City and Council look forward and start putting money away. The fact that it was created during a down economy meant that there was not a whole lot of money to put away. Things are adjusted as time goes along and the City may find that certain items don't belong there, or there may need to be some saved for emergency projects, such as bathrooms. Thinking about Operation Shakeout tomorrow, Mr. Brass said that it is important to prepare for the emergency, but need to focus on what to do after the emergency also. How the City gets back in business, he noted. He asked IT if the City building was lost, what is the situation with backup servers. Ultimately, the plan is to store them at the EOC in Station 83. Those items may need to be looked at sooner than later. Mr. Brass said that it has always been said that the big one was due within 50 years, and he has lived here for 40 years. The City needs to be prepared for that; it will be a huge financial setback. As a Council, this should be discussed. Ms. Wells agreed, but said that would be one of many places to set aside extra money. Mr. Brass said that the process cannot be adjusted, as money is put away.

### **Business Item #2.3**

### **Fiber Infrastructure/Utah Telecommunications Open Infrastructure Agency (UTOPIA) and Utah Infrastructure Agency (UIA) discussion.- Mayor Snarr and Jan Wells.**

Ms. Wells attended a meeting this week concerning the fiber infrastructure. She handed out a copy of the UIA plan and the direction that things are moving. When looking at the line graph, it shows the revenue for February and things are moving closer and prospects are looking better. It is speculated that by June those revenues will be performing as anticipated.

There are dual tracks happening with UTOPIA and UIA. One is to try and continue to go ahead with the plan that is in place in order for the City to continue and pay the money that has been committed. This would hit franchise fees and in order to continue with that, there would be necessary bonding, which would probably occur in June. Mr. Hales asked if something passed the previous day about bonding. Ms. Wells confirmed that UIA passed the resolution to move forward with the bonding. Mr. Stam clarified that it is the next portion of the existing bond, not a new bond.

The other track would be to see what the options are for moving ahead with a utility model. The challenge right now is the undecided factors in where the City is and where the City wants to be. Ms. Wells stated that basically right now, the City has gone out to dinner with the group but have not paid the City's share of the ticket at the end of the meal. The City is in a place of having to decide what needs to be done about that. Ms. Wells has a lot of information



about the fiber mall; there is a trip planned to Spanish Fork and trying to move forward with dual tracks as best as possible. The challenge is the unknown consequences that will come if the City chooses not to pay their portion of the operations. She said she doesn't know if the utility model can continue without Murray's contribution. She asked for questions.

Mayor Snarr said that everyone in attendance knows where he stands on this topic. He is disappointed in a lot of ways because the other cities have not had the infrastructure put in that Murray has. Mayor Snarr said he has seen the advantages that fiber has brought to certain businesses in the City, and to parks, both sides of I-15 headed north. Those owners have made an investment and are concerned with the tenants they have there. The Mayor's own neighborhood street is concerned, and he will just refer calls to the Council Members. The decision is the Council's to make, the Mayor would like to see the Council step up and pay the City's fair share. Especially, considering the amount of infrastructure that has been put in Murray. There is no doubt it is a weighty position, but he has seen the success they are having in Spanish Fork, and other cities. Also, talking to people in Provo, they are seeing light at the end of the tunnel, although their system is fully installed.

The last two weeks have been difficult for the Mayor, due to the pressure he and his wife have felt about running for Mayor. He assured everyone that he will not be running for Mayor. He said he has never liked politics, or the mean-spirited divisiveness of it. He stated that he will weigh in on this campaign and future campaigns for issues that he has a passion for; such as UTOPIA, the Fireclay development, and other challenging areas of development. He has had a number of people calling him and asking him for advice on the election; many of those people have the fiber network and are concerned. Many of those people that have the fiber work out of their homes, and that is their livelihood. Without the fiber, these people are out of a job, or may have to move.

Mayor Snarr believes he was blindsided during the last election. He had said he would not weigh in on a primary election, and kept his word. He said he will weigh in this time on issues that are important to him, and fiber would be one of them. He wanted to be candid and honest about that. He has seen the investment and what it means to the City's infrastructure. In talking to the doctors over at the hospital, they are concerned about losing the fiber. The school district is also concerned about the fiber situation. Mayor Snarr believes that an open discussion is needed so that they know where the City stands and what could possibly happen. Mr. Brass said that is fine to let them know and asked if they were willing to assist the City in the debt. Mayor Snarr replied that those patrons pay what they are supposed to pay, according to the original agreement.

Mayor Snarr said the other cities are staying the course and have said they would step up and pay the tab for Murray, even though Murray has more fiber put in than anybody else. He said fiber has been a challenge, but believes sometimes you need to step up to the challenge and treat others fairly. Particularly, when it looks like it is getting closer, and he knows of other cities outside the UTOPIA agreement that would like to join. Fiber is the way of the future, and to give Comcast and Qwest credit, those companies are trying to do more. At the end of the day, the only way to make it work is to take the fiber right into the business. Speed can be enhanced, but it won't be asymmetrical depending on the time of the day and who is on it. He feels bad overall about the course that America is taking. He believes that the other countries have had the wisdom and the foresight to put in the necessary technological infrastructure to make their countries successful. America is not there. He said he is not intimidated by anybody and doesn't think you should back down and should stand by what you believe in.

Mr. Shaver asked Ms. Wells what exactly she would hope to accomplish by having this discussion. Ms. Wells said that perhaps there could be a resolution suggesting the direction that the City wants to move, and that the Council could act on that. If that is the case, what the Council would like the resolution to say, she asked. Ms. Wells said that the City can always relay a message to those running the network, but the other cities are all on the dual track and headed in that direction. Murray has the option to go forward and continue on this dual track and do the fiber utility model and create the things that the City believes are important. Ms. Wells would be happy to give some ideas about a possible resolution.

Mr. Shaver asked about the dual track, and a definition of the different tracks. Ms. Wells stated that track one would be where the City is right now, working to continue to grow the system, take care of the stimulus funds, and keep those in play. There have also been other opportunities that have come along that continue to grow the system to have a better return on the investment. The next bonding round would take advantage of some of those opportunities and continue to grow the system. This would also keep operational costs down, then the operational money would be eliminated from the City's obligations.

The second track would be to work together and see the feasibility of the City taking this over as a utility model. The utility model as it stands now would be fiber to every home and business and be open to any provider. It would involve a fee for all residents but would be accessible to all residents also. It would be more infrastructure and lean towards the City's strengths, which is providing and maintaining infrastructure. There are many things that need to be ironed out with this track. It would be best if a model similar to this could be put in place before the next Legislative session. Another thing to think about would be whether the other cities are willing to do that. A resolution might point the direction the City wants to take and see how the other cities feel about that. Mr. Shaver asked if the resolution would specify what Murray is doing and how the other cities feel about that. Ms. Wells said they had discussed taking a resolution about the dual tracks to the UTOPIA Board and see if the cities would like to go on this dual track system. A resolution would simply formalize the direction the City is headed, and help Murray stay in the game.

Mayor Snarr said it would be helpful if the Council Members would go to Spanish Fork and take a look at the model they are using. Mr. Brass clarified that Spanish Fork City retails and that is a huge difference. Mayor Snarr agreed but said that the fiber would be opened up to everybody, which has always been the plan. Ms. Wells said the trip to Spanish Fork would be useful to look at how the infrastructure is handled and how the residents perceive it. She would like to meet with the right people in Spanish Fork to discuss this. Mr. Brass commented that he recommended that they go to Spanish Fork because he was around when that was started, as well as IProvo.

The personnel and the equipment needed to do this utility model is unknown. Obviously, the City would have to purchase their piece of it. There are costs to this and he would like to find out what is involved, if it is feasible or not. The answer may be that it isn't feasible and the City would have to go a different direction. He loves the fiber and does his work on it and needs that kind of speed. Mr. Brass was in a meeting last week and was asked if they can make enough money to pay the debt service payment. He would like to have the answer to that question. It would answer the question of moving forward or is it throwing good money after bad, he said. It would be helpful to know what the average revenue per connection is. Mr. Stam said that it is \$23.00/\$30.00 on the legacy people. Mr. Brass said to cover the payment, all of that money for 6,000 subscribers would have to go towards what the City is paying. He asked how many

subscribers there are in Murray. Ms. Wells said she has heard between 2000 – 3000 subscribers. That is his concern, that number is roughly half of what it needs to be.

Mr. Brass commented that he loves technology but also feels like they have a responsibility to the citizens also. Many citizens came and spoke their opinion at the meeting. It is true that the hospital is critical, they are the City's number one employer. The school district is extremely important as they are educating the children. But, the Council can't forget about the 45,000 people that live here. As mentioned earlier, the City had CIP needs of about \$30 million and have about \$1.8 to allocate, and to give \$1.6 to fiber cannot be ignored.

Mayor Snarr compared it to the Power Department many years ago. Mr. Brass said that it was different since power was a necessity. The citizens may be able to survive without fiber, but the citizens need power. Power is needed to make fiber optic cable. Mayor Snarr commented that at one time in history, the Power department didn't do that well. Mr. Brass added that there have been a lot of Power companies that haven't done well. There have been Power companies that have gone bankrupt until California deregulation.

Mr. Brass said he wasn't disagreeing on the disarray of the communication systems in this country. It is amazing to see the neat toys that they have overseas that this Country doesn't have, he said. He asked how the City bears that cost and continues to operate this government for the citizens, pave the roads, take care of the parks, and provide police and fire protection. Ms. Wells said that some of that could possibly be answered in this fiber utility model; if the City chooses to embrace it. It gives the City an option to do some of the things that have been talked about for a long time, she said. That means to maintain it, bring it in house, and have more responsibility for it. Murray is successful at things that the City handles privately. The question is whether the City wants to give it a chance, or is the City done, she asked. Those are some of the things that need to be decided. If a resolution is not worthwhile, that is fine also. She just needs to know the direction the City wants to take. The City is in a place where it will either sink or swim and a decision needs to be made about where the City wants to go.

Mr. Stam said he is working on something that may help in the discussion. The problem is the timing in giving it. When Mr. Stam took the assignment last year, he went out and asked a lot of questions and his thoughts have changed. He was appointed as the Chairman of the Finance Committee for UIA. After the Council vote that denied paying the money, he went to the next Finance Committee meeting and asked them to evaluate UTOPIA's standing. If UTOPIA was a business, what would be the step to break even, he asked. UTOPIA knows that it can't continue being "in the hole." There was a lively and active discussion and he is hopeful that next month they will have an evaluation sheet showing what kind of services could be cut and the effects of those cuts. The preliminary results are showing that the maintenance on a footprint for connection is \$1.20 per address passed. It doesn't take very many addresses to cover the cost of the maintenance. So, shutting down a footprint will not result in a lot of savings. On the other hand, what happens if you get another 25% of members in that footprint, he asked. This report will show where we have built, where we are right now, and the future impact. If Murray doesn't have any additional maintenance costs, when adding new subscribers, then the City will be closer to paying off the bond.

Mr. Brass said finally, a decade later the conversation is about signing people up, instead of more building. Building costs money, signing people up to what exists in the ground does not cost money. That discussion came about because the City said "No" to the additional funding. The City has been promised in 2004, 2008, 2010, and now about every six months, a different model. Ms. Wells asked Mr. Brass how he feels about this model that lets people

choose and gets the City out of the provider business. Mr. Brass said he isn't for making the network go dark, he doesn't think that is a viable solution. He doesn't believe it will go dark, he thinks somebody would buy it. It would be an impact on the City financially, but he thinks that people will be able to keep their connections because it is an asset and somebody will take it over, even if it is Centurylink, Verizon or similar. The technology just isn't compatible right now. He would like to find a solution, but doesn't believe the solution is to stay the course. To stay the course reminds him of the looming iceberg for the Titanic. This utility model is different; if it is Murray City's then it would be under the City's control. If the citizens then don't like what we are doing, they can fire us all in the next election.

Mr. Nicponski asked about the monthly fee. He believes that the Council could be fired with that obligatory monthly fee for all residents. Mr. Brass agreed but said that the concept of Murray City running it is different. That is one way, but it hasn't been figured out yet.

Mayor Snarr said that there was an \$18 million deficit when putting in the necessary infrastructure to take care of the storm drain system. If the City didn't take care of that, they would be fined by various groups like the EPA (Environmental Protection Agency). People opposed the City when raising the fee for recycling. He had to get them to understand that it was necessary to not fill up the landfill, and pay 50 times more to ship it out to a land fill. He said that sometimes you just need to step up and realize that it costs money to run a city, and Murray charges less than anybody else.

Mr. Shaver said that all of the Enterprise funds are selling a product or service and creating a revenue. He sees UTOPIA as a business that should be a profitable enterprise. The state legislature said that the budget needs to be balanced. Part of the challenge with UTOPIA is that they don't balance their own budget and are requiring the Cities' to balance their budget for them. He would like to see UTOPIA balance a budget and say what it will cost to maintain, what they will require from the cities and what the revenue would be. He would like to see a stark figure. He has difficulty in how it has been managed and he isn't talking about an individual. Trying to manage a single entity with board members and councils and who they represent and all of those people having input is a morass. There is no possible way to come to a conclusion.

If they want a resolution that tells the other cities that we are looking at other options and asking them to join us, he doesn't have a problem with that kind of resolution. If we are on a dual track and this is a good idea to pursue, he doesn't have a problem with that. They are planning to look at different options anyway. They are going to go to Spanish Fork, and see what it would take for Murray to maintain it. Like Mr. Brass has said, fiber is a viable option. It is something that makes a difference not only for the major contenders like the hospital or the City, but for all the citizens. Mr. Shaver cannot get the upload speed that he needs from other providers, but has it with the fiber. It isn't just the frustration of having the schools or the hospital go dark, it is how those other residents will be serviced. When the vote ended, and he went back home, he heard from many people who said not to pay the money. He had phone calls the next week asking him to explain his comment, as many people use it and like it. There are both sides on this issue. He doesn't think the resolution will hurt the City.

Mr. Nicponski said that he thinks that comparing recycling to fiber is comparing apples to oranges. The recycling fee could make sense to people, but when it comes to raising taxes to take care of City services affects the compression issue, taking care of the employees and their benefits. His primary concern is taking care of the employees and then looking at all the other needs the City has with roads, pavilions, etc. UTOPIA keeps grabbing and wanting more and

more. Do we know if this would be the last time they ask for money, he asked. He doesn't want it to go dark either with the potential consequences.

Mr. Brass said he would love to sit down with the UIA and UTOPIA Boards and have a discussion. The UTOPIA debt is the elephant in the room and isn't in the paperwork. He would like the Board to know where he is coming from. Everyone has opinions on how other people think. He said he is not married to an anti-UTOPIA opinion, he is married to the fact that the cost to hook up houses versus the revenue per connection doesn't work and will never be able to pay that off. They have done amazing things to cut the costs, so the payoff time is down to 12 years. He asked if anyone could name a business that could stay in business without turning a profit in 12 years. The answer they gave was that they don't have to operate like a business because they are a government agency. That is fine until they start taking money from everyone. He said if they can find a way to pay for itself then he would support it. The City subsidizes parks and recreation to a huge extent and he is good with that and might be willing to subsidize data if it meant something for the City; although if it is going to sink this City he has a real problem with it.

Mr. Hales mentioned the fact that the City has control over the parks and recreation. That is the biggest problem is that the City has no control over the fiber. He asked if the bottom line was that the City was being asked for the money.

Ms. Wells replied that they are asking what the City should do next. Does the Council support going down these dual tracks, and if so, is the Council willing to help pay for operations while that happens. If not, that is fine. Votes are not expected to happen tonight, just a little direction. Ms. Wells said she is trying really hard right now to keep our head above water, work with the other cities and figure out how to move forward. Murray has made a huge commitment to this already and there are a lot of people that depend on it. The question is what to do now, she said.

Mr. Stam asked if he could add a couple of things. There is a point in time; for example, whenever you buy a car or a house that a point is reached that it is cheaper to go forward than it is to go back. He asked is the City to that point. A lot of things that he sees would show that the City is to that point. Going back would cost a lot more than going forward. Mr. Brass made a comment earlier about wanting to talk to the Board. Mr. Stam has received complaints from the people at UTOPIA that the Council Members won't return their calls. UTOPIA management has been trying to get a hold of Council Members and are not getting a response. Mr. Hales commented that he prefers not to talk to them on an individual basis. He believes he has been counseled that isn't the best idea.

Mr. Brass said that to receive a phone call on an item that has been agenda could be considered an ex parte communication. It isn't the best thing to do. Ms. Wells said that the challenge with the Board is that they are a public entity and it would be best to attend a meeting and talk to the Council. The members come from all around the state and it is a little hard to get everyone together all the time. There is always public comment time and maybe that would be a good time. Mr. Shaver asked when the next Board meeting would be. Ms. Wells said it is the second Monday in May. He clarified that the Spanish Fork trip was scheduled for May 9<sup>th</sup> and a Board meeting after that.

Ms. Wells said she could send the things that she has put together if that would be helpful. If not, that is fine also. She doesn't want to pin anybody down, just get a little direction. Mr. Shaver suggested that the Council look at the resolution and give Ms. Wells their feedback

on it. He asked who created the resolution. Ms. Wells responded that nothing has been created yet. Ms. Wells said she had the idea for two resolutions. The first resolution would say that the City would work on going down the dual track. The second would be more specific with items that the City may be more concerned about. The Council can determine the content of the resolution.

Mr. Stam said the bottom line is that it doesn't hurt to talk about any kind of option. There are some things that should be investigated to determine whether it is worth it to go down that track.

Mr. Hales asked why the most recent resolution that was passed by UIA was not reported to the cities. Mr. Stam said that it could be. Mr. Hales believes that information should be reported, especially when the cities are the ones putting in the money.

Ms. Wells said that the agenda is there and doesn't know if the UIA Board had to take that action or not, since the City had already agreed to the funding. Mr. Stam said the resolution that was passed yesterday allowed the Chairman, Vice-Chairman, and Treasurer to proceed in looking at the bonding and making the decision in the bonding. Mr. Hales still believes it would have been nice for the cities to be notified. Mr. Stam said he would be happy to send out the emails that he receives. He has sent out the emails in the past but didn't get a lot of response.

Mr. Shaver asked if there was a person similar to a City Recorder that recorded the meetings for the Boards. Mr. Stam said that minutes become public after they are approved, similar to the way Murray handles it. There is a time period when those minutes are waiting to be approved. He said that the documents are available that they had at the meeting. The City has citizens here that go online and look at the documents, these are available just like the City's.

Mr. Nicponski asked if UTOPIA is gaining or losing subscribers. Ms. Wells said that they are still gaining subscribers, even with the funding problems.

Mr. Shaver said he would like to see the information and the resolution possibilities. He asked Ms. Wells to forward that to him and definitely is planning on going down to Spanish Fork. He said that Mr. Brass makes a valid point in comparing retail versus wholesale. Mr. Shaver said it will be interesting to see what department would take it over, and to see what personnel costs would be. Ms. Wells said that some of the staff would be available also to answer those questions. Mr. Shaver said that it would be nice to have estimated costs of what a machine might cost for example, and if it was possible to share with other cities.

Mr. Brass said that this has all been done. It is often said that Murray has more fiber in the ground than anybody else. He has continually asked how much of that fiber was already the City's fiber. He has never received an answer. Murray put fiber in, put a loop in and tied the substations in, and thinks that it went to the school district. He would like to know how much more fiber UTOPIA has put in. The City built the rest and had a Telecommunications Advisory Board before selling this.

Mr. Stam said he would try and find out the information. He said there is new reporting on the finances and subscribers. There is a dashboard that is a snapshot of every single day and shows exactly how many people either signed up or dropped on a given day, and the net result at the end of the week. It shows the recurring revenue that comes out every week. The impact can be seen on the current shortfall in the operations. This is almost finalized in the

information format, and he is happy to forward those on every week. Mr. Shaver asked if it is a total figure for the network or if it is broken down by those footprints. Mr. Stam said it is a total for the whole network. They are trying to break it down by Cities but haven't been able to do that yet. That will be a couple more months before that is available.

Mr. Stam said the other thing that the Finance Committee has done is to make the finances available to everyone. There is a summary sheet now, which is basically a cash flow sheet on a monthly basis. It is a summary of the financial statement and is an easy thing to read.

Mr. Shaver asked if it was available on their website. Mr. Stam said this single sheet summary would be available on their website. Mr. Shaver asked if Ms. Lopez was getting copied on it and could maybe copy all of them also. Then it would also be recorded as information they receive on a regular basis.

Mr. Stam offered to explain the dashboard at the next Committee of the Whole and explain the different sections and what they mean.

Mr. Shaver thanked Mr. Stam for the number of hours he has spent on this and noted he has taken a lot of heat from the Council and others. He appreciates the time spent and the concern for this issue.

Mr. Hales said that Ms. Wells should go ahead and do a resolution.

### **Announcements**

Ms. Lopez said that she has some dates for the APPA and the UAMPS meeting and she would send those out this week to get an idea of who is interested in attending. Mr. Shaver asked if those dates had been checked against the Council calendar. Ms. Lopez said that the calendar is clear.

Mr. Hales adjourned the meeting at 6:08 p.m.

Kellie Challburg  
Council Office Administrator II