



MURRAY  
CITY COUNCIL

## MURRAY CITY MUNICIPAL COUNCIL AND ADMINISTRATION CITYWIDE CITIZEN MEETING

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The Murray City Municipal Council met with the Administration on Thursday, June 5th, 2014, in the Doty Education Center, Intermountain Medical Center Building 6, 5121 Cottonwood Street, Murray Utah.

### Members in Attendance:

Dave Nicponski	Council Member
D. Blair Camp	Council Member
Brett Hales	Council Member
Jim Brass	Council Member
Diane Turner	Excused

### Panel consisted of:

Doug Hill	Public Services Director	Frank Nakamura	City Attorney
Janet M. Lopez	Council Administrator	Justin Zollinger	Finance Director
Tim Tingey	ADS Director	Blaine Haacke	Power
Ted Eyre	Mayor	Council Members	

Chairman Hales welcomed everyone and asked Police Chief Craig Burnett to lead the Pledge of Allegiance.

Chairman Hales stated that it is a great showing for the City and the City really appreciates the support of the citizens. The purpose of the meeting is to hear what the citizens want regarding the UTOPIA/Macquarie proposal and he stated that the elected officials were voted in by the citizens and would vote according to the citizen responses.

Chairman Hales introduced the panel: Tim Tingey, the Administrative Services Director, would be facilitating the meeting; Ted Eyre, Mayor; Jan Lopez, Council Administrator; Blair Camp, District 2 Council Member; Jim Brass, District 3 Council Member; Frank Nakamura, City Attorney; Doug Hill, Public Services Director; Justin Zollinger, Finance Director; Blaine Haacke, General Manager-Murray Power; Dave Nicponski, District 1 Council Member. He excused Council Member Diane Turner.

Chairman Hales acknowledged the presence of Representative Carol Spackman Moss, and thanked her for attending.

He noted that the format would first include an overview of the proposal by Mayor Eyre, and then Tim Tingey would facilitate the questions and comments section. Each speaker would be limited to three minutes, and would be required to be Murray City residents or business owners at this time. He asked the attendees to please fill out the surveys and leave them in the boxes provided.

**Presentation**

**UTOPIA/Macquarie Capital Fiber Optic Network- Ted  
Eyre, Murray City Mayor**

Mayor Eyre expressed his appreciation at the willingness of the citizens to attend the meeting and participate in the discussion. He added that they were unsure if 35 or 350 citizens would attend, and he is so impressed with the level of involvement from the citizens of Murray. He said the citizens of Murray have a love and a concern for their City to help those that they have elected make proper decisions through citizen input. Mayor Eyre addressed the citizens:

"I realize I have only been involved with this issue at the city level for approximately five months, but in talking with a good number of people during that time, as well as many of them on the panel with me today who have been here for many years, all of us feel that this may be the single most important decision that will face Murray in the foreseeable future. It will involve tens of millions of dollars over the next three decades, and in one way or another will affect every one of our citizens.

This evening we would like to present to you a very brief history of what brought us to this point, an explanation of where we are presently with regards to fiber optics in our city, and the possible options for the future.

A little over 10 years ago in cooperation with 10 other cities we entered into an interlocal agreement to provide a fiber-optic backbone and service to each of our cities. This would potentially provide state of the art fiber optics technology to each and every home and business in our communities. Even to this day there is no technology which can provide faster connectivity in the form of Internet phone and television transmission. And in the future, nothing is presently predicted to have greater application and a faster method of transporting data than the speed of the light that the fiber optics provides.

These cities combined to proffer offer a bond to build the necessary infrastructure for the initial amount of \$185 million. A number of years later it was deemed necessary to form another agency referred to as UIA, Utah Infrastructure Agency, with an additional \$60 million bond. These bond obligations are absolute and cannot be abrogated.

Unfortunately the business model of build out and implementation was not as successful as initially envisioned. Even to this date there have not been enough

subscribers to the UTOPIA Network to keep it financially sustainable, presently or in the future.

System wide there are approximately 10,000 subscribers within the network footprint of over 155,000 potential customers. Murray city currently has 2000 residential and business customers. We are keenly aware that the vast majority of those who have the UTOPIA network for their Internet requirements appreciate very much, the system and the speed that it delivers.

It is not our intent this evening to devote any time to how the past decisions were made or who made them. Hindsight is always 20/20. The most positive and productive use of our time tonight would be to concentrate on where we are today, and the best decision we can make for our future. It is our intent to explain the options available to us in the most fair and unbiased way possible. We are not here to persuade anyone's opinion to align with a preconceived notion, but because we value the judgment and input of the citizens of Murray, we seek your counsel and insight this evening.

In addition to this town hall meeting we have previously held three individual focus groups consisting of residents, City employees, and representatives from our business community.

These focus groups, along with our Utopia committee, consisting of elected officials, department heads, and senior staff, have helped to form the survey we have available tonight, and which has been on our city website for over a week. It is our hope that you will take the time to fill out that survey and to inform your neighbors and friends who are Murray residence to help in this effort as well.

During the past election campaign, it became apparent to all of us involved, that there existed a wide diversity of understanding with regards to UTOPIA. Some thought it no longer existed, some knew it was still available but were unaware of the cost incurred to our General Fund Budget, and there were many who held a very strong position either in favor of or against the fiber optic model as it presently existed. This issue has the potential of having a polarizing effect on our residents, which is uncharacteristic for our city. Murray is very well-known, and even envied, for its independence and its unique sense of community.

When I was running for the office of Mayor, I refused to take a position either for or against Utopia. Instead, like those who were also in the election last November, we decided to take a solution-based approach to this problem. The five solutions that I put forth, and promised to study in detail were:

- Go dark scenario
- Sell the network to someone else

- Market it better to point of sustainability
- City operated utility model
- Stay the course for now and look for other options.

During the course of studying these possible solutions in detail, another proposal was presented in the form of a private public partnership with a company out of Australia known as Macquarie Capital.

Macquarie Capital Group Limited is a global provider of banking, financial, advisory, investment and funds management services. It is based in Australia with more than 70 offices and services throughout the world. It has a staff of more than 14,000 employees and total assets in excess of 150 billion Australian dollars.

On December 9, 2013 a Pre-Development Agreement was signed on behalf of the 11 cities making up the UTOPIA network. That PDA legally bound each of the cities to proceed through the first of four Milestones, each having different elements and objectives.

At the present date, all of the investigative data has been completed for milestone one. Each city now has until June 27 to study and evaluate this information before determining to proceed to the deliverables in Milestone 2, which is the finalization of the business model.

The basic elements of Milestone 1 are:

- Ubiquitous build out of all 11 cities of approximately 155,000 homes and businesses with in a 30-month period.
- Last mile connections to each address at no cost.
- A mandatory monthly utility fee of \$18-\$20 imposed on each residential units, \$10 for every apartment, and \$40 for each business. This utility fee is to be collected by each city each month and paid to Macquarie for a period of 30 years.
- A yearly increase of this utility fee, based on a determiner such as the Consumer Price Index, with a historical yearly increase of 2 to 3% will be imposed.
- The cities would have the liability to cover the cost of each rooftop that is unable or unwilling to pay.
- Basic service to each address will be 3 Mbps of upload and download speed, with a 20 GB data cap each month. Other levels of increased service would be provided at an additional cost up to one GB of upload and download capabilities.
- The cities are to receive a yet to be determined amount of upgrade fee to defer bond indebtedness.
- Macquarie has agreed to update the current system along with an ongoing refresh of the overall infrastructure.
- At the end of the 30-year agreement, the ownership of the system would

return to the cities.

As you can see this is a very complicated issue and decision. It is made even more challenging by the diversity of each city involved. Some not only have varying amounts of build out which varies from 100% in some communities to less than 20% and others. Many of us have different forms of government, various demographics and population. The one thing we have in common is the desire to serve our citizens in the most representative way. For this reason, we have come to you tonight to answer your questions, seek your opinion, and assume the responsibility of difficult decisions that you have entrusted to us to make on your behalf.

If there are still some unanswered questions at the conclusion of the meeting, or if you know of others who were unable to attend tonight, and would appreciate the same opportunity to express their opinion, or give further information, I have made my schedule available tomorrow from 8:00 until 12:00 noon in the VECC room at City Hall. I would be pleased to entertain any thoughts, advice and/or opinions. I hope the rest of the meeting will be very informative.

Thank you very much for the time and effort in this behalf and I would now like to turn the time back over to Tim Tingey to facilitate the question and answer portion of this meeting."

**Questions and Comments**

**Facilitated by Tim Tingey, ADS Director**

Mr. Tingey stated that he appreciated the opportunity to facilitate the meeting and is pleased with the attendance.

He noted that there is a lot of information to cover and hopes to keep the focus on the issue at hand. There are some guidelines that he hopes to outline. He reiterated that tonight was not a presentation of a specific proposal; the Macquarie proposal is out there and the City would like input on that. A decision has not been made, and future decisions need to be made. As the Mayor stated, Macquarie representatives or other groups are not present to outline the merits of their proposal.

The focus tonight is on receiving public input and answering questions. The public input is critical for policy makers to make decisions on future direction of this UTOPIA related issue. The City has been involved in UTOPIA for ten years, and a lot of opinions have been expressed to public officials and staff. The shortcomings and failures of UTOPIA are understood. The focus tonight is to help the public officials understand the thoughts related to the future direction of this issue, rather than rehashing past decisions that were made. He urged citizens to remember that as they prepared their comments.

The desire is to hear from Murray citizens and business owners tonight. He asked for focus on the issue with more than 300 citizens present.

Mr. Tingey added that the meeting was being recorded and could only take one speaker at a time. There are two microphones available in the center aisle. He would call on individuals, alternating between microphones, and added that there will be other

opportunities for public input. There is a three minute time limit for each speaker, and everyone needs to be firm with that. If issues have been presented previously, then the speaker could simply identify that issue and state that they agree with that. Questions would be addressed by elected officials and staff. If there is not an answer provided, then staff would research it and respond later.

He added that this is not a debate, but simply an opportunity to address opinions. Multiple views are encouraged, and the City wants citizen input. He asked that participants be courteous to other participants, and it is okay to disagree, but courtesy is required. He asked citizens to line up at the microphone, and he would begin taking questions.

- Pat Roberts- Vintry Lane.

Ms. Roberts stated that when she read about the revival of UTOPIA, she couldn't help but wonder about what she thought was a great idea. Murray is still paying for the debt by the last folly. Now, someone has gotten more creative about how to front the cost and finish the infrastructure. They have figured out that they can put an assessment on each home. That way there would be no debt, no bonds, no interest to pay; it would be the responsibility of the homeowner. She said she doesn't have a degree in economics or computer science but with a calculator and some common sense she deduced that \$20 per month is \$240 per year per household. She heard tonight that this would be a 30 year agreement, times that by 160,000 households equals \$38.4 million a year. Over 30 years the amount would surpass \$1.1 billion paid to Macquarie. At the end of 30 years when the infrastructure is defunct and outdated, they would hand it back to Murray. She would like to do that with her car. She understands that neither company considered has ever done this before; Murray would be the guinea pig again. One of the companies has a lot of assets and needs the contract to prove that they can do this to other cities waiting in the wing. The other company being considered was brought in just weeks ago and only with the consent of Macquarie is a little, local \$5 million, mom and pop operation with 20 employees; obviously not real competition. She asked what the citizen would receive for \$20 per month, and answered basically nothing. The citizens still needs to possibly pay a connection fee, an internet provider, supply a router, and internet security and if you want faster than 3 mbps then you pay for the premium service, all on top of the \$20 per month. Fiber is not a necessary utility and she wonders if it is legal or ethical to put an unnecessary assessment on households without a vote. Citizens have been denied access to the details and negotiations, and this is an example of back door politics.

- Chris Stephenson- Sander Circle

Mr. Stephenson asked for clarification on a few things. He stated that he understands basic service would be provided to the doorstep. He has basic service now through Comcast, along with phone and television. He asked if the \$20 fee is on top of the charge he pays for the black box from Comcast. He asked how much the phone bill would be and has questions about separating the different bills. He would like an explanation of the fees not

listed. Currently, his total bill is \$99 per month, and wants to know what the bill would be for equivalent service.

Mayor Eyre responded that he appreciates the comments thus far, and especially about the back door politics. There is nobody in this room that is more skeptical of back door politics than himself as they have all dealt with that for a long time. He added that this effort tonight is to eliminate back door politics, and are trying to put as much emphasis as possible on local input. He emphasized that no decision has been made, and they appreciate all the input. The politics involved are really upfront, and the ethical reasons are conditions that the City has looked into as well. There are political and financial reasons and he appreciates the ethical reasons. He said that whether there will be a legal challenge to this is up to the competitors and those involved. In the Legislature last year, there were attempts to try and stop this. He knows that there will be legal and legislative concerns to this, and ethical reasons also.

Mayor Eyre stated that the utility fee would be imposed on every resident and would bring high speed fiber optics to the house, whether the resident chooses to use it or not. It can be hooked up from the box on the side of the house for the basic \$20 fee. If you don't want the fiber, and still want to keep your Comcast, CenturyLink or other service you can, but that would be on top of the \$20 imposed utility fee. There is going to be a bundling component to bundle phone and television with the fiber, but the cost of that was not revealed in Milestone 1. Mr. Stephenson asked if the black box would still be required. Mayor Eyre stated that if you keep Comcast or other service, the black box would still be needed. Mr. Stephenson asked if the internet can be hooked up without the black box. Mayor Eyre stated that the service would go through an ISP (Internet Service Provider) and that would be provided by the ISP.

- Blake Jessup- Avalon Drive

Mr. Jessup stated that it sounds like UTOPIA and Macquarie have already entered into some sort of agreement. He isn't sure if the City now has a choice and he is concerned that the information presented is only from Milestone 1. He asked how the citizens can give an opinion without knowing what the other Milestones are, and what the impact would be.

Council Member Brass responded that the short answer is that the City only knows about Milestone 1 also, and to get more information, you would need to proceed on to Milestone 2. The Council has questions also.

Mayor Eyre noted that the agreement with Macquarie was entered into with UTOPIA and UIA and was only a discussion and discovery agreement and didn't lock Murray in. This agreement simply allowed the cities to look into all the possible implications. The biggest part of Milestone 1 was to determine the amount of the utility fee to be imposed. Milestone 2 is the second part of the agreement, including the questions regarding the build-out. Milestone 3 is where Macquarie secures the money needed to

complete the build-out and Milestone 4 is the actual contracting of the build-out of the 160,000 units.

Although UIA and UTOPIA signed the agreement, it is important to remember that it is only a discovery agreement that allows the cities to do due diligence.

- David Little- Walden Hills Drive

Mr. Little asked how much the bonds were for the initial build-out of the UTOPIA network and how much of that was Murray's responsibility. He also asked what the total cost per home is to repay those bonds.

Mr. Zollinger replied that Murray's responsibility of the UTOPIA bonds was just under \$23 million of the \$185 million total. Of the UIA bonds, Murray's responsibility is \$5,250,000. One more concern is the interest rate swap, which is \$9.3 million. The total current obligation is \$37,450,000. Murray City is currently paying the bond payment for UTOPIA, which it is \$1,647,000; if Murray were to pay the UIA bond, it would be an additional \$390,000. The calculation he came up with was \$7.27 per rooftop for the outstanding debt service. He clarified that it would be per month for the next thirty years, but the amount would decrease the last four years.

- Keith Bateman- 6295 South

Mr. Bateman said he was opposed to UTOPIA since the beginning, and is still opposed to it today. He believes the elected officials need to prepare a simple spreadsheet breaking down all the costs involved, including the current debt and what would happen to it. Does the current debt still need to be paid with the Macquarie proposal he asked. He said there needs to be a spreadsheet showing the cost of entering into this agreement with Macquarie. He understands that there is a fee that the City has to pay if they choose to opt-out at this point. He noted that similar to an earlier comment, the citizens need to know what the real costs are, and doesn't believe that has been revealed. He added that it was a little disingenuous of Macquarie and also in this presentation to state that there is no cost for a hook-up. Mr. Bateman said there is a cost for a hook-up and it is \$7,200 or more if you add up \$20 per month over a thirty year period. The current hook-up is between \$3,000-\$4,000 so this is essentially doubling the hook-up fee, and making every household pay it over time. He requested a spreadsheet to see the costs involved and the impact on the City.

- Merilee Stalling- Nina Way

Ms. Stalling said she is a happy UTOPIA user. She purchased it a couple of years ago and has been happy as a clam ever since. She purchased it outright and received a \$300 discount; her monthly utility cost for internet and phone was reduced in half. She was paying \$111 per month for phone and internet, and it dropped the bill to \$67 per month by using the UTOPIA providers. She said that she would be ahead in the long run, and does not

want UTOPIA to go dark. She hopes that different options would be pursued, rather than letting it go dark.

- Tony Lund- Wintergreen Circle

Mr. Lund said that Murray City is a well-run City. It has excellent roads, which are paid for and maintained, an excellent Fire and Police Department, excellent Power Department, and other services. He likes UTOPIA in his house and believes it is a necessity, like sewer and water. He would like to keep the service as local as possible. He believes Murray runs other things well, and believes they could operate their portion of UTOPIA also. He has faith that Murray can fix it and doesn't want a foreign company coming in and taking the profit. Macquarie certainly sees that they can make a profit. He believes that Murray City can run it better and cheaper and there is evidence to support that. He added to "keep it local."

- James Bigler- Daisy Lane

Mr. Bigler moved to Murray almost eight years ago, and one reason was because of the UTOPIA network. An open access system has been incredibly valuable to him and his philosophies. An open access network makes it so a large corporation doesn't have the ability to dictate the speeds and content that he receives in his home. He has had friends move to the City also because of this network. He believes it has helped the City attract businesses and residents. His concern with the Macquarie deal is that he hasn't seen the numbers. He would like to see a giant spreadsheet showing the costs involved. He wants to see the data and to know that a rational decision was made based on the information that was available.

- Mike Adams- 4930 South

Mr. Adams has been attending City Council meetings regarding UTOPIA for the last four or five years regarding the bonding, etc. The first bond was \$185 million he believes, and the next was either \$60 million or \$80 million. He believes another attempt was made last year for an additional bond for more money. He is very frustrated. He stated the UTOPIA cannot get funding from the Federal government and that is not that hard to obtain funds. That should tell everyone something right there. UTOPIA has been mismanaged since day one, and the City cannot afford to keep throwing money into the fire. The Mayor showed five options on the screen, Mr. Adams believes that there are two that are possible. The first one is to go dark, and he understands the City would still be on the hook for the money previously bonded. The City would then at least know what the losses would be. The other option is to remain status quo and is aware the City is still on the hook for the money, but the output is known. The other scenarios are too unknown, the fee could start at \$18-\$20 per month and go up from there. Residents are already paying approximately \$8 per month from the General Fund budget, if you add another \$20 per month then the citizens are paying almost \$30 per month. He added that the first lady that spoke hit it right on the head. The City is paying millions and millions and it is time to stop the bleeding. He feels like that is what the

majority of the citizens want. Every meeting he has attended, he has heard this same sentiment. There are other people that have had free access to UTOPIA and he believes there are around 500-600 residents benefitting from that. As a constituent, he pleaded for the bleeding to stop and to stop throwing money away. The money could be used for more important things.

Mr. Nicponski clarified that the Council was asked for additional funding from UTOPIA this year, and the Council voted not to give it to them.

- Luciano Martinez- Walden Glen

Mr. Martinez stated that he has lived in his house in Murray for 28 years and was the fifth house built on the street. He asked how this money going to UTOPIA is going to impact other City services. He complained that his street has not been paved in 28 years. He called the City about three years ago and was told that the City could not pave the street because it was a "Catch 22." The street was in such disrepair, that it would take too much money to repave the whole street, and that Murray did not have the money for the repair. He doesn't anticipate living another 28 years and would prefer his street to be paved, rather than money going to UTOPIA. He would like to see the City's basic needs taken care of because he loves living in Murray and believes it is a great City. He hopes that whoever represents the west side will take care of them also. He added that there are greater concerns than UTOPIA.

- Rick Madsen- Lucky Clover Lane

Mr. Madsen stated that he has UTOPIA and was the first person in the neighborhood to have it. He thinks it is a very good system. He added that everyone is going to spend a certain amount of money every month to have high speed internet to their homes. He added that he believes every household spends \$50 or more per month for the service. The concern should be the future. It is a known fact that UTOPIA was not successfully administered and it did not make money. There are other reasons for that besides administrative ones. There are a lot of people that want the business and will lobby for it, so the City should get all the necessary information and go from there.

- Mike Squires- Winchester Blvd.

Mr. Squires commented that he believes Mayor Snarr should be present because this was his initial decision and policy. He congratulated the Council on their courage. None of the present Council are responsible for UTOPIA but yet are doing their due diligence to search out the issues. He commented that Mr. Brass initially voted against it because it didn't add up, and it still doesn't.

Mr. Squires said he grew up in Murray and loves Murray. He is concerned in the manner that things have transpired over the last several years. He has been very engaged with this issue and started a citizens group called "Transparent Murray" because of this issue. He did not receive any answers with regards to UTOPIA. He believes this is not the role of government, and roads, public safety and other issues should have come before this enormous waste of money. He stated that he is happy for those pro-UTOPIA people that make up 23%, while the other 77% pay for it. There is a lot of money being wasted and it is unconscionable that the City is considering a mandate that residents pay a fee. He is aware of many citizens that are living on fixed incomes and struggle to meet financial obligations. Can the City Council look those residents in the eye and tell them to pay up, he asked. He wants a Council that stands up for the tax payers and believes that this group has done that. He applauds them for that and asked them to have courage in this decision and the citizens will support that.

- Zachary Gibbs- Spanish Oak Way

Mr. Gibbs concern is with the utility fee and if the residents have to pay that at the beginning of the 30 year agreement. His concern is that the same issues will exist and the network would not reach everybody. The money should not be paid until the connections are made. Also, if an upgrade is chosen, would the utility fee be paid on top of the upgrade fee, he asked. Would the fee go away after 30 years, or would it then be paid to the City to maintain the network, he questioned.

Mayor Eyre commented on the wonderful opinions present. If the agreement was signed, the utility fee would not be charged until a connection was made to your home. As far as the upgrade fee, if an upgrade was made to Tier I, II or III, the basic \$20 fee would be included in the \$45 or \$60 fee for example.

Mr. Gibbs asked if this agreement is signed between UTOPIA and UIA and the cities agree to go along with that, is the City still responsible to pay back the bond or would Macquarie take it over when restructuring the payment.

Mayor Eyre said that the City would still be responsible for making that bond payment of \$1.6 million per year on top of this agreement. He added that there is a possibility that the City would retain a portion of the upgrade fees to help pay down the bond.

Mayor Eyre stated that the Milestone 1 study cost Macquarie incurs is about \$480,000 to complete nine different consulting areas. If Murray moves on to Milestone 2 then the City doesn't pay any of that cost. If Murray chooses to take an off-ramp and not to move forward then the City is obligated to pay a portion of that, which is a little over 12%. The City would also have the same opt-out ability at the end of Milestone 2.

Mayor Eyre answered the other question in regard to the hook-up costs. Those residents that are currently connected to UTOPIA paid \$2,750 for the connection from the curb to the house. Under the Macquarie model, that initial hook up charge of \$2,750 would go away, and the \$20 per month charge would go in to effect.

Chairman Hales added that the \$20 per month would begin the minute the build-out was complete. The timeframe proposed for the build-out would be 30 months, so the time period would still be close to 30 years.

- Don Spencer

Mr. Spencer has been using the UTOPIA system and is very happy with it. He believes it is vital to his business. He works on his computer all day long and wouldn't be able to continue without UTOPIA. He has been formally trained in Public Risk Management and served as Murray City Engineer and Public Works Director for Salt Lake County. He has experience in utility services. He moved to Murray in 1933 and remembers the sewer system coming in, and people not wanting to connect to it because they had septic tanks and wells, and compared that to this. He urged the City to move forward and has confidence in spreadsheet analysis; the *go dark* option would be a total disaster for the City. He said the internet is the way of the future for the children. He is concerned with the expense, but believes the fiber needs to remain to keep the City vital.

Chairman Hales asked Mr. Spencer if he believed the proposed \$240 per year per resident is something that just needs to happen, and is concerned with those residents that can't afford \$240 per year. Mr. Spencer replied that he remembers the same sentiments when people were asked to pay for sewer hook-ups. He asked how the children would be educated in the future when they are asked to do their homework on the computer and submit it over the computer. He added that his children and grandchildren are currently doing that and couldn't do it without those resources.

- Carl Durrick- 5205 South

Mr. Durrick stated that 30 years is a very long time. For example, Blockbuster went from a mom and pop shop to a behemoth business and out of business in 28 years. He stated that the contract should have three ten year renewals, and not be a thirty year contract. He asked what the expertise is of Macquarie, and said it seems like they are a financial institution and not a fiber company. He has concerns that Macquarie would not know what they are doing. He asked if the City chooses to go with Macquarie, what are the chances of a possible Google buyout of the UTOPIA system. He noted that Google bought out the Provo system, and that could be a precursor to buying out the UTOPIA system. He asked what prevents Macquarie from turning around and selling the business to someone else.

Mayor Eyre said that with regard to the thirty year contract, Macquarie is estimating that in order to build out this entire system it would take that long to recover the cost. Many of the cities have less than 20% build-out. There would be over 100,000 homes that the fiber line needs to be taken to. Macquarie is estimating that the build-out cost for them would be \$300 million and that payback would not happen within a ten year period. Of course, they are in business to turn a profit added Mayor Eyre.

Mayor Eyre said that it is a good question as to whether fiber optics would still be the best technology in thirty years. No one knows what will happen in the future, but right now the type of fiber being installed in the bottom of the ocean is fiber optics, and that cable is expected to stay there for decades. Fiber optic cable does not really deteriorate, and it isn't expected to have anything travel faster, but there could be a different mode of transportation. Currently, it is the best thing seen on the horizon he noted.

Mayor Eyre replied that the expertise of Macquarie is financial. They support projects financially and put contractors together. They are not digging in the dirt; they have people do that for them. They have had hundreds of these types of contracts for different types of infrastructure throughout the world. They have a large background in building infrastructure, but that includes building roads, bridges, electrical build-outs, etc. They have put together very large financial packages.

Mayor Eyre said that currently Google is prevented from coming in and taking over due to the exclusionary contract. He added that he is unsure why the contract was opened up for the additional bidder. In the original pre-development agreement, there was an exclusionary contract that prevents shopping around for a better deal. He noted that if Macquarie departs, there may be other people interested in presenting options, but that is unknown.

Mayor Eyre said he doesn't know of any guarantee that down the road Macquarie won't sell it, similar to mortgages. He doesn't know of any provision that states Macquarie has to keep the contract for thirty years.

- Doyle Collins-

Mr. Collins stated that the exclusionary contract sounds fishy. It makes him wonder about the cost if they prohibit speaking to other companies. He agreed that the spreadsheet would be a great idea showing the different options. He asked about an ISP charge and if that was on top of the \$20 fee.

Chairman Hales answered that the extra charge would only be applicable with an upgrade.

Mr. Collins said he pays \$50 per month for 12 MB of phone and internet. He said that to get the same amount of service, he believes it would cost a lot more with Macquarie. He doesn't believe Macquarie would be

competitive. He would like to see around the exclusionary deal and see other options. It would be nice to use the existing network he added.

- Mike Conrad- East Murray

Mr. Conrad was incorporated into Murray a few years ago, regardless of choice. He stated that if he wants internet he could sign up with CenturyLink and doesn't need to pay any extra fees. He doesn't see any advantage of having UTOPIA.

- Donetta Mitchell- Shamrock Drive

Ms. Mitchell thanked the City for having this meeting. She is concerned about the mandatory fees, particularly for the households that can't afford it. She believes this agreement is predatory to other competitors, locking into a UTOPIA provider, rather than choice. Ms. Mitchell asked if it was legal by both State and Federal guidelines to apply these fees and have this approach to other carriers. Also, is Macquarie willing to accept the risk on the legal issues, she asked. She also asked what the impact is if Murray votes no and the other cities vote yes. Is Murray obliged and if so, what is the cost, she questioned. She stated that she just heard that Google is using satellite to extend the wireless capability in Provo, and added that one of the most expensive pieces of this proposal is the last mile. Why is Murray not looking at reducing overall costs and looking at a wireless option she asked? She believes there is a lot of expertise in the technical world and this is not the only way to get internet to the home.

Mr. Nakamura responded on the legality of the proposal. There are legal concerns and he has expressed them to the Council. He stated that his job is to outline Federal and State laws and their parameters. He is very confident in this Council. In regards to competitiveness, there are State laws that set parameters as to when a municipality crosses a line in unfair competition against private enterprise. He said there are a lot of attorneys in the cities, including the UTOPIA and UIA attorneys looking into this issue as well. He stated that the Council would make a decision within those legal parameters. He added that currently the risk lies with the cities. The City is deciding to proceed to Milestone 2, and any agreement would not be made until after the feasibility study. There could be other negotiations.

Mayor Eyre said there are eleven cities involved and Macquarie has stated that if one or two of the cities take the off-ramp and opt-out, then they would have to determine if there is enough critical mass for them to continue with the remaining cities. If there is enough critical mass to move forward, then they would have to re-evaluate those cities and the impact on their utility fee. The \$18-\$20 fee would most likely be increased if they lose two-thirds of their customers. If Murray is the only city that decides to take the off-ramp, and the other ten cities choose to stay with Macquarie, a few different scenarios could happen. Murray has 2,066 customers out of the 11,000 total customers. Murray has nearly one-fourth of the entire customer base. He doubts that anyone would cut off the power to Murray and lose 2,066 customers. However, the City would have to come up with

the additional money to keep UTOPIA supplying customers with the power. If two or three cities opt-out and Macquarie decides not to continue, and states that all the cities start over from square one, that doesn't necessarily mean that UTOPIA goes dark. It means that the City needs to keep UTOPIA limping along while looking for other options. It doesn't mean it is a *go dark* scenario the day that Macquarie decides not to continue with this proposal. There are too many different facets involved depending on the number of cities that accept or reject this proposal to determine the consequences.

Mayor Eyre added that the *go dark* scenario is not a solution as far as he is concerned, but simply to understand the consequences of that possibility. The consequences of the *go dark* solution have been determined and he would devote more time on that subject the following morning.

- Brian Christian- Silver Shadows Drive

Mr. Christian has had UTOPIA for the last three years and it has been the best of all the other providers he has used. He believes this is a real opportunity to look towards the future if it is done in the right way. The most glaring part of this proposal is that this sends dollars to the other side of the world. He believes the City has put so much money in to UTOPIA over the last six years and would like to potentially make a decision on UTOPIA itself. He would like to see a RFP (Request for Proposal) sent out on keeping UTOPIA and keeping it local, within Utah and certainly the United States. He hopes he is speaking for a lot of the younger families when he says that the 3 MB speed and limited storage capacity won't be sufficient. He stated that he uses 20 GB in about ten days, and has a 2 GB allowance on his cell phone and uses that in about 15 days. He stated that the majority of the people in the room would need an upgrade. In today's world, 3 MB is completely unacceptable. He asked about the possibility of improving the speed and storage for the base model in this proposal.

Mr. Doug Hill responded to the questions. An RFP to solicit other business models is not currently allowed because of the exclusivity agreement with Macquarie. An RFP could only be done if the cities decide against the Macquarie proposal and revert back to square one. UTOPIA staff and others would say that they have attempted to solicit others and there is no one else interested. They state that Macquarie is the only suitor that has come forward.

Mr. Hill replied that the cities cannot pressure Macquarie into increasing the base speed and data cap at this time. The proposal is what it is and he believes that Macquarie wants the lower cap so the ISP providers provide the base level for free in hopes of getting customers to upgrade and pay additional costs.

- Seto Nashimoto

Mr. Nashimoto discussed quality and cost, without the emotional aspect. He is a scientist and when he was a student he had dial-up, DSL, Comcast and other

internet providers. He compared the differences to a mud road and a highway. He currently has a 100 MB connection through Xmission and UTOPIA, and it is like driving on the freeway. He pays one half of what his friends pay for double the speed. He is always notified by email of any interruptions in advance. In the past, it would take three days for a Comcast repairman to fix internet problems. Four years ago, he chose a house in Murray and the main reason was UTOPIA and especially the vision behind UTOPIA. He asked what the other residents are paying for internet in Murray and would like comparable information. He said there needs to be a CAP set because electronics are a depreciating commodity. He asked for a comparison between UTOPIA providers and other providers to be listed on the City website. Mr. Tingey responded that staff would look into that possibility.

- Mark Jacobsen- Wilson Avenue

Mr. Jacobsen has lived in Murray for about nine years and has had UTOPIA since day one. He has not had any problems thus far. He works in the industry and fiber is the top of the technology and will continue to be. He stated that there is a lot of concern regarding the fee charged to every household and those that cannot pay for it. He asked if Macquarie doesn't mandate how Murray collects the money, is there a way to charge the people that want the service a little more to make up for those that don't.

Mr. Hill responded that it is a concern for those that cannot afford the fee. It has been a discussion with Macquarie with all the cities in all the meetings. There have been similar ideas suggested. He stated that right now that possibility is unknown, and may be disclosed in the later contract phase, probably Milestone 4. The details of how the City would subsidize those that cannot pay would be discussed later.

- Eric Ivy- Loreen Place

Mr. Ivy is a research assistant professor of computer science at the University of Utah and has been a Murray resident for ten years, and a UTOPIA subscriber as long as it has been available. He urged the leaders to accept the Macquarie proposal as it is the best chance for the UTOPIA network to succeed. He wants UTOPIA to succeed and to make Murray City the best it can possibly be, in terms of a place to live and to locate a business. In the 21<sup>st</sup> century, access to infrastructure includes access to information technology that is high speed, high quality and low cost is vital. He compared it to a City where, for example, the Post Office owns the road and that is the only access. If he likes the Post Office, then the system is good but if he doesn't really like the Post Office then it isn't. If the Post Office decides to raise the rates, then there is no choice. This is not the situation with UTOPIA because the cities own the network. The cities essentially contract with information trucking companies and it is much easier to work with them than to lay the fiber, etc. This is where the competition comes in; a lot of providers are willing to offer service and even more would if UTOPIA succeeds. This will bring high quality and low cost to help UTOPIA succeed. The Macquarie proposal preserves this aspect of the UTOPIA network as an open access network and this is what the future needs and he urged them to adopt it.

- Eric Sorenson- Roanoke Circle

Mr. Sorenson stated that he loves the idea of fiber and has been very jealous of those that have had it. He has been frustrated at the idea of subsidizing those that have UTOPIA, because he doesn't have it and pays roughly double what those customers pay. He currently has Comcast and has been nagging UTOPIA to get the service to his house. Obviously that is not happening and he is subsidizing those "fiber bigots" that have it. Right now he is getting about 18 MB through Comcast and doesn't like the idea of dropping down to 3 MB and having to pay more, not including an approximate 2% annual increase for the next thirty years. He would love to have UTOPIA but doesn't see the numbers working out with this proposal. The whole idea of paying someone to give a bid isn't his understanding of how business works. Typically if a business wants your dollars, then they front the cost of the process of the bid.

- David McCarty- Lucky Clover Lane

Mr. McCarty is a UTOPIA customer and loves it. He isn't crazy about the network being partially privately owned but sees the necessity of it. It is a large capital investment to get everybody connected. He is concerned with the net neutrality issue and if all the network traffic is going through Macquarie's privately held network, in addition to an external ISP. There are two opportunities for net neutrality and that is a concern. He would like to see something in the contract that prohibits any sort of filtering or preferential treatment for internet traffic. He agreed with the sentiment that 3 MB is pretty dismal but if the upgrade price is reasonable then that is fine. He is also concerned with that price being unknown. Currently, he has 100 MB symmetrical bandwidth for about \$66 per month and would like to remain at that level, but is concerned that the upgrade price is unknown.

- Will Stanley- 5946 South

Mr. Stanley has lived at his residence for fifty years and is opposed to a thirty year contract. He stated that thirty years ago, Taylorsville High School, where he was a teacher, received the first set of computers and there was no internet. If you sign a 30 year contract, probably 25 years would be wasted.

- Nate Warda- Kingston Way

Mr. Warda is a lifelong resident of Murray and believes Murray is a great place to be with its central location, great power, water, sewer, and internet with UTOPIA. When you ask your children and grandchildren what kind of world they want to live in, the answer will be that internet is just as important as clean water. He said the City, with its hospitals and restaurants wouldn't be where it is now, if Murray had decided to stay on a septic system. The future will require internet.

- Jeff Lofgren- Walden Park Drive

Mr. Lofgren asked about the network fee and stated that he currently has UTOPIA and pays about \$35 per month to Xmission, and another \$12 to UTOPIA. He asked if the \$20 per month would be in addition to the UTOPIA fee or replace

them. He said UTOPIA has been extremely reliable for him and has concerns about whether Macquarie would have the same service level and reliability and would that be in writing on the contract. He said the information shows that fees would be required for upgrades and asked if there was a periodic upgrade plan put into writing. He commented that UTOPIA is great and believes that it is needed in the same way that sewers and roads are needed. It is similar to paying for schools, etc. He has dealt with Comcast, CenturyLink and others and UTOPIA has been a breath of fresh air. If this plan is the least risk to keep UTOPIA then he would vote in favor of it. He would love to see the data, but if that is not forthcoming then he hopes the Council will make the best decision as possible.

Mayor Eyre stated that they understand that the \$20 fee would be supplanted and anything above the basic service would include the \$20 fee in the upgrade fee. The security level would be the same security level as offered by the competition in order to compete. If additional blocks or security walls are desired, then they would be at an additional cost.

The additional service levels have not been defined but Macquarie has said they would go up to one GB top speed. Macquarie has also stated that they would take the existing network which is ten years old and refresh it to the maximum level. The fiber doesn't deteriorate but the nodes and other electrical components do, so there would be a 10 to 15 year refresh done. They also guarantee that the system will be as refreshed as possible at the end of the thirty years when they hand it back to the City.

Mr. Tingey added that there would be contractual obligations related to the service level that they would provide.

- Keith Jorgenson- Avalon Drive

Mr. Jorgenson said that everyone in the room currently has access to the internet. He chooses not to go with UTOPIA because of the minimum charge of \$60 per month for the slowest speed. The speeds that others have talked about, he can't get for less than \$100 per month. This is simply for internet service, he asked others to look and see how much the different speeds cost with UTOPIA. The other issue is with government being involved in private enterprise. The Legislature has passed a law that no one else can enter into this besides these eleven cities. If any of those eleven cities bail, then Murray City could be asked to cover their costs also. The numbers state that Murray is one of the higher participants which also gives Murray more on the line if the other cities should bail. This is free enterprise and he wonders why this meeting is even occurring. These things should not be voted on and the citizens should be protected from these decisions by those that they elect. Democracy is mob rule and two foxes voting over breakfast. A republic guarantees the right of the sheep stated Mr. Jorgenson. He visited a person that couldn't afford the heat in their house and doesn't want this attached to his home forevermore. He believes the rate of \$18-\$20 per month will double or triple, and that is simply for the connection. He thanked the City leaders for their hard work.

- Barbara Whiteley- Rothmoor Drive

Ms. Whiteley just came from the hospital but wanted to be there to state her opinion. She resisted UTOPIA in 2002 and no one on this panel has said this was a quasi-governmental agency. UTOPIA was created in 2002, under Governor Leavitt noted Ms. Whiteley. She asked Claire Geddes to speak in her behalf, but stated that it is wrong to charge every home.

- Claire Geddes

Ms. Geddes stated that this was the kind of deal that Warren Buffet would make, not part-time Council Members, although she appreciates their expertise. Ms. Geddes has worked in the utility industry and believes this is an unregulated monopoly. Rocky Mountain Power has to go to the Public Service Commission. There isn't anything equal to the Public Service Commission in this case. How would anybody know if they are prudent in their building operation, she asked. Murray would give this company a customer base, a monopoly, and then pay for it after it is built-out. Macquarie has nothing to lose and Murray has everything to lose. Will the rate of return be negotiated, will the company be audited she asked. Other utility companies are audited by the Public Service Commission. This company will ride over the cities all of the way. This discussion is not about whether the citizens want high speed internet, but about Macquarie creating an unregulated monopoly.

- Bill Hogan- Rodeo Lane

Mr. Hogan is a retired University professor teaching networking and security. UTOPIA is not UTOPIA he stated. Centurylink has fiber to his house. They are not putting fiber into the home, but to a box on the home. He stated that telephone wire carries a high speed data rate, and Murray can have fiber network from other places than UTOPIA. He asked if it was fair for companies such as Centurylink that have installed fiber to be denied customers. Big Cottonwood Canyon has installed fiber all the way up the canyon, and Little Cottonwood Canyon is next by private industry. If you have poor service, he suggests looking at your ISP. UTOPIA is a carrier, not a provider. He is tired of having fees in Murray, and would like the fees stopped.

- Dave West- 6230 South

Mr. West bought his home in 1968 in Murray. He said his road is crumbling and falling apart and bandages are being put on bandages. He has been on Sumo Fiber which provides the service for UTOPIA. He paid UTOPIA a \$1200 one-time fee. They placed equipment in the basement. He purchased the equipment on contract rather than pay \$3000 up front. Now, 10 to 12 months down the road, they say they aren't receiving the checks and he has to take checks down to UTOPIA. He has had to provide them with photocopies of the checks. He said UTOPIA needs to take a hike and the City should run it or privatize it. Sumo fiber has been great and the fiber optic is great but UTOPIA isn't. Get rid of UTOPIA he stated.

- Grant Martelly – 6437 South 700 West

Grant said he resides in District 5. He believes that pencils need to be sharpened and more work needs to be done on the contract. He moved to Murray because of the schools and because of UTOPIA. He has had it in his home since the day he moved in. He gets very fast speeds and his cost is down significantly. He believes it is a fast, reliable and cost effective service. There seems to be an underlying effort to kill UTOPIA. Internet service needs to be good for this global community. Private companies have all benefitted from government subsidies. Telecom companies get benefits from the government, as well as television companies. He doesn't agree that this is government competing with private industry. His service is much better with lower costs. He would say to work hard on this plan and support it. He would like a good decision made from good leadership, rather than just try and kill UTOPIA.

- Tim Anderson- Hillside Drive

Mr. Anderson has lived there for almost ten years. He loves UTOPIA provided by Xmission. He said the concept of allowing certain income levels to not be burdened by this hardship of the monthly fee is a huge factor. He doesn't like forcing the hand of the people that do not have the money to pay it. He would like the people that can afford the service to pay a little bit more and would happily pitch in a few more dollars a month to cover that. He loves the UTOPIA model in that the software layer is very competition based. The hardware layer however, is a monopoly and does need to be addressed. He said with a thirty year contract, a company could certainly drop the ball and leave the City without any recourse. He also agrees with the net neutrality issue and that if Macquarie decided not to honor that, then the ISP's wouldn't have a lot to say on that issue. The single point of entry makes the NSAPS (Network Service Access Point) a nightmare as well.

Mr. Tingey thanked the citizens for their input.

Mr. Zollinger said that UTOPIA has asked Murray City for additional money to cover their operational shortfall. That currently is an additional \$400,000 per year that they are asking for. Murray has chosen not to pay that at this point in time. That does not remedy the problem that they have an operational shortfall. In terms of operations, a solution needs to be found in the very near future. Either way, it could be additional costs to the City so it is imperative to determine the best way to go forward.

Mr. Hales added that the question of charging everyone or allowing those that want it to pay more is a tough question.

Mayor Eyre stated that whether you were for or against this Macquarie proposal, the spirit of this meeting must validate to everyone what makes Murray such a great City. He had the opportunity to meet with representatives from other cities and one city had 35 people attend their town hall meeting. Murray City is smaller than the previous city mentioned and yet over 300 people showed up tonight for the meeting.

Mayor Eyre noted that everyone on the panel tonight was either an elected official or a Department Director. In all of the meetings with other Mayors, he often hears that he should appreciate his Department Directors in Murray that have made the City so great. Murray has a

great reputation throughout the valley for its superb Department Directors. These people have done their job so well and have the responsibility of this UTOPIA issue added on top of their regular duties, accounting for countless hours of extra work over the last five months. This also applies to the City Council Members. The City Council Members are stated as part-time employees, he guarantees the citizens that he works with them on a full-time basis. They also have jobs, families and other responsibilities, but have dedicated all of their time to this City. These leaders represent the City so well.

Mayor Eye said tonight reiterated the reason why he wanted to run for Mayor of Murray City.

Mr. Tingey announced there are opportunities for additional input. He asked that attendees please fill out the surveys, send emails and welcomed them to meet with the Mayor the following day.

Council Administrator II  
Kellie Challburg