Murray City Municipal Council Chambers Murray City, Utah

The Municipal Council of Murray City, Utah, met on Tuesday, the 31st day of August, 2010 at 6:30 p.m., for a meeting held in the Murray City Council Chambers, 5025 South State Street, Murray, Utah.

Roll Call consisted of the following:

Jeff Dredge,	Council Chair
Krista Dunn,	Council Member
Darren Stam,	Council Member - Conducted
Jared Shaver,	Council Member
Jim Brass,	Council Member

Others who attended:

Dan Snarr,	Mayor
Jan Wells,	Chief of Staff
Michael Wagstaff,	City Council Director
Carol Heales,	City Recorder
Frank Nakamura,	City Attorney
Doug Hill,	Public Services Director
Patricia Wilson,	Finance Director
Kurt Sudweeks,	CFO, Utah Infrastructure Agency
Todd Marriott,	Executive Director of Utah Infrastructure Agency
David Shaw,	Legal Counsel, Utah Infrastructure Agency
Scouts	
Citizens	

A. <u>OPENING CEREMONIES</u>

1. Pledge of Allegiance - Mr. Stam

2. Approval of minutes of August 03, 2010.

   Mr. Brass made a motion to approve the minutes.
   Mr. Shaver 2nd the motion.

   Call vote recorded by Carol Heales.

All ayes.

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

None given

Public comment closed

C. CONSENT AGENDA

None scheduled

D. PUBLIC HEARINGS

None scheduled

E. UNFINISHED BUSINESS

None scheduled

F. NEW BUSINESS

1. Consider a Resolution authorizing the City to enter into an Interlocal Cooperative Agreement to form the Utah Infrastructure Agency and to become a member of the Utah Infrastructure Agency.

Todd Marriott, Executive Director of Utah Infrastructure Agency (UIA)

Mr. Marriott stated that this is both a very exciting time, and a very tough time for a lot of things happening in Murray as they understand. He comes tonight to explain some of the great positives that he feels are associated with membership in the Utah Infrastructure Agency. As noted recently, UTOPIA, a sister agency, was successful in obtaining a $16 million Federal Grant, which will help establish some additional infrastructure here in Murray, in places where there is no infrastructure; that infrastructure will reach throughout much of the sector north of here, and through a lot of the business sector here in Murray where they are not currently available. That will also allow the UIA, and Murray's involvement there, to continue to build this fiber optics to the premise of both residential and businesses throughout the remaining portions of Murray.

The next five year plan won't provide a complete ubiquitous build as of yet, but will provide significant build and allow those consumers who are right now in those areas where the infrastructure will be placed by the grant, to receive on a voluntary basis, this incredible infrastructure.

The Utah Infrastructure Agency was created to do a number of things: It was created so that the cities that are interested in establishing this infrastructure could, cooperatively, bond and create a mechanism to further the interests of the network. They have a lot of outside interests, who are very excited about joining and working with us, in both business parks and municipalities, both nationally and locally. UTOPIA infrastructure, with its current debt structure and so forth, was unable to really work under those same situations; it's also an opportunity for cities to create a parity between the efforts that have gone on before. The effort that we are specifically addressing tonight is the membership in the UIA; we are not referencing any bonding for the five year plan that has been reviewed with the Council, Mayor and staff of Murray. Tonight, they are hoping that Murray will join its membership into the UIA, so that they can have a seat at that table and make the critical decisions to advance that network.

As they get everyone assembled, they will create a feasibility study, to look at the five year plan that they are presenting, and then they will come back and look at how to fund that plan. In the Murray strategic outlay, they are going to be putting together over 50 anchor institutions, it represents an opportunity for Murray to receive over $1.5 million in federal funding to help in this cause. They are also working on other efforts for Murray, in terms of helping with some of the other infrastructures and utilities in the City; the fiber is far more reaching than just the 'triple-play' or being able to surf the internet faster. It is a critical infrastructure that is not shared, it is dedicated access that will allow these technologies to be enabled, for the efficiencies of the cities to be realized.

The UIA will also allow, once executed, Murray City the opportunity to have about 1/3 or more of the existing tax pledges covered under the strategic plan - that is compelling. As they execute the five year plan in UIA, which is that they build where there is demand; historically, UTOPIA was built where they thought there would be demand, and where it was sometimes the best and most efficient way to put it in the ground. Over the years they have learned that they need to put it in where there is demand; no more 'build it and they will come,' but they build it where they have already come. As they go into communities, both business and residential, they go in where there is already existing demand and they don't build until they can build where there is an instant return on that investment. This is substantial for Murray because in the first phases of this plan, and he had to say this- Murray's residents bills for the incumbents will drop significantly-as we come into the first phase into Murray, and with all of the existing infrastructure, Murray will receive a significant portion of that effort.

They have found through their focus studies that nearly 54% of Murray's citizens still do not know what UTOPIA is; that also represents a significant opportunity for them from a marketing standpoint. Properly funded, utilizing their new strategy of supplying the demand, Murray will receive a significant portion of that funding and will be able to advance the network here and its efficiencies. They are really excited about what will happen to Murray, both in terms of the stimulus, in terms of the five year strategic plan; your sister cities are waiting for you. They have held off doing their feasibility studies until you could join them, and they are anxiously underway, putting those plans in place. Mr. Marriott introduced David Shaw, Legal Counsel for UIA, and Kirt Sudweeks, CFO; and invited public response and questions.

Mr. Stam opened the floor to Council discussion.

Mr. Shaver stated that he feels that fiber optic is the way to go; he feels that the communities need it, Murray needs it, and he has no difficulty with the fiber optic at all. He does have some questions though:

In talking about the grant infrastructure that will be provided by that $16 million grant- it is also his understanding that there is a matching fund. Where do they propose that those matching funds come from?

Mr. Marriott said that the matching funds are built into the strategic five year plan that they have put into place for the cities; so it will come from the bonding that they will do going forward. He clarified: it *can* come from that; Murray is certainly welcome to match it in any way it wants, but they have anticipated the possibility that you can do it in that manner.

Mr. Shaver said that Mr. Marriott described UTOPIA and UIA as ‘sisters’ and that his understanding is that the executive structure at UTOPIA and the Board are exactly the same.

Mr. Marriott stated that yes, they are the same, but the Board of Directors are different for each entity.

Mr. Shaver asked how the board members are chosen for UIA.

Mr. Marriott said that, if you were to join the UIA, you would receive then, as part of your initiation coming in, that you would direct somebody to sit on the board of the UIA.

Mr. Shaver asked if every community that is involved has someone sitting on the board?

Mr. Marriott answered yes.

Mr. Shaver asked Mr. Marriott to clarify the funding; the granting or stimulus money was given to UTOPIA, yet it is going to be used for UIA?

Mr. Marriott said that the grant was provided to the cities of UTOPIA, and the grant was written from the cities of UTOPIA, and assembled by UTOPIA; UTOPIA is nothing more than an extension of its cities, so the grant is coming back and is allocated specifically and respectively to its cities for the grant that they put out there. It’s not as if they could apply, for example, West Valley’s portion to Murray or back and forth. They have a specific build, and that grant was allocated to each city respectively.

Mr. Shaver said that the question he has, is if the money was given to the cities of UTOPIA as a whole, and one of those cities decided not to join the UIA, that money would then not be available to you for UIA?

Mr. Marriott said he was not certain what Mr. Shaver is asking, but somehow, that match has to be accomplished. He feels that there is a way that can be accomplished through the five year strategic plan, unless of course you have other mechanisms that you would like to do.

Mr. Shaver said it is not that, but understanding how grants work- if he applies for a grant, that grant has to be used by him in a very specific way. If UTOPIA applied for the grant, and it is then being used by UIA, how is that possible?

Mr. Marriott stated it would be used by UTOPIA. The grant will come through to the cities of UTOPIA, and that asset will be put in the ground by UTOPIA.

Mr. Shaver: But the matching funds, 30%, are going to come from the UIA.

Mr. Marriott: The matching funds will come through the cities, from each city respectively. But that will come through the five year effort currently under way and through the ability to bond for that effort.

Mr. Shaver: But is that five year effort a UIA effort?

Mr. Marriott: There is both a five year effort for UTOPIA and a five year effort for UIA. It is a symbiotic relationship, there is no doubt about it; UIA doesn't have any network operations capability, doesn't have engineering, doesn't have outside plants or much of the administrative purposes. They have an Interlocal agreement between the two agencies so that can operate; over time, UIA will be significantly different than UTOPIA, that it will assemble and put together many more partners – they already have other municipalities that are currently visiting, very seriously, and entertaining their fiber and infrastructure needs within their city, and they are coming on board. They have other entities that are business park entities, and those that are national entities that will ultimately pier.

So where the UIA and UTOPIA look very similar today, they are in fact two separate agencies with two separate mandates. One of prioritized mandates from the UIA is to get infrastructure built among its residents, and the five year effort that it has undertaken is a plan that has been reviewed with Murray City and others. It is based on demand and supplying that demand.

Mr. Shaver asked what that demand number is.

Mr. Marriott said that those numbers do fluctuate, depending on cost to build and demographics, densities, and so forth. They will range from 0% need in places where there is an over build, to as high as 35% bench mark and anywhere in between.

Mr. Shaver: You talked about a significant build in certain places; you talked about a significant build in Murray, what percentage of that would come into Murray?
Mr. Marriott: They think that represents about 10% of the grant, if he does it off the top of his head.

Mr. Shaver: Is that proportioned to the allotment, like each city has a percentage that they are responsible for?

Mr. Marriott: The way that the grant was put together, officials and staff got together from the respective cities and really, what Murray's share in the grant was, was not based on Murray's size but what the involvement in the grant process. It had to be something that had not already been done, but it was new projects that would be underway. The stimulus effort that was put out there was to create job, which this does in an overwhelming fashion-there are a lot of jobs that will be coming to Murray from this effort and there are over 200 jobs that will come overall from the stimulus effort. Your grant was accomplished from your Murray staff who put out critical institutions that are currently underserved and that is how that was put together.

Mr. Shaver: You talked about outside interests, would you mind telling some of those that might be involved? You said outside interests national as well as local.

Mr. Marriott: Yes, we are working with a lot of those entities and he does not know if they would want him to share those efforts; a lot of those are done confidentially, as they do their own private builds. But, they are working currently with several national entities and he would suggest a number of local entities.

Mr. Shaver: I am confused by one of the statements that Mr. Marriott said, saying that they would be joined on a voluntary basis.

Mr. Marriott: Yes, the opportunity to join the network is voluntary, and so people join up by a neighborhood saying 'we want it, we are sick and tired of sharing aggregated fiber to the node, Docsis 3.0, technologies. We can't do it anymore; we don't have the ability to have definite data delivery that bogs down.' It's only getting worse; as my phone sits over there, these 3G and 4G phones and wireless overlays are simply an extension of fiber. I jokingly say, and get in trouble every time I do, that it's very similar to when I am at a BYU game and watch BYU trounce Utah, and everybody makes those phone calls all at one time, it bogs down the network.

As we get to be more dependent on devices such as Mr. Brass has, the Ipads, phones, and wireless, and so forth. It is all fiber and so it becomes very crowded, and people want dedicated access; in fact, in a recent Newsweek article, they said that by the year 2020 communities will require and need 200 meg-how many of you have 200 meg today? As we see technologies develop we know that is the case; recently Google's effort is to put 1 gig to every home and as we build now, we are 1 gig enabling every home already, and that is simply very expensive infrastructure and that is why we built it – we are poor plumbers, but we build roads.

Mr. Shaver: If we join, does it not include, in the agreement, the fees, the bonds, and the appropriations?

Mr. Marriott: Yes it does. It is your fees for maintaining your portion and your ability to go forward.

Mr. Shaver: You talked about the return on investment percentage, and as I have read through the model, I am not quite certain what that is; can you help me to understand that? You said that as you build, UIA builds out, the point is that 1/3 of the tax pledges would be covered.

Mr. Marriott: Very analogous, if you will allow, simply an anecdote that we have used before, to a dairy farm; we build a great dairy farm- we have the pasteurization, the barns, the corals, the farms, the tractors. We have this wonderful farm, but only have 10 milk cows; we need a lot more milk cows to reach scale. Right now, we sell it for $1 per gallon, and it costs us $1.50, but as we produce and execute on this plan, we have over 500 people a month who call in and ask, many from Murray, ‘can I please join this network’ to which I have to say, I’m sorry, but I can’t afford to put you on. As we capitalize now on that demand, plus the pent up demand that is already here, and over 17 service providers that have come to bear sway on this network, we now have the ability to get where we can produce that milk for $ .60 per gallon rather than that $1.50 and still sell it for $1.00.

As we get our experience in increasing returns to sales, we will create margins and the ability to create those margins that can go back towards investing in the network and contributing to the already existing tax pledges that the cities will be obligated to.

Mr. Shaver: You are talking about the debt structure? How quickly do you see that happening?

Mr. Marriott: Yes. The five year plan is just that-once executed that will produce $3 - $4 million a year plus now, depending on how the stimulus affects that.

Mr. Dredge asked Mr. Marriott to clarify if he was talking about the new debt, or the current debt structure.

Mr. Marriott: With UTOPIA right now, we are in debt $185 million, and so the city is obligated to about $1.5 million per year. But Murrays ability going forward under the five year plan, would allow about 1/3 of that to be taken out in the next five years under this plan; conceptually, if you will, in five years I would be able to write a check back to Murray for $500,000 or your pro-rata share of what we would have in the coffers of UIA. You can assimilate that into your books any way you want, but I would assume you would help cover that existing tax pledge.

Mr. Dredge: One of the concerns that I have with that, or a question that I have regarding that is that we are making the assumption that other cities are going to join, and that hopefully that there are going to be a lot of people signing up, which is going to generate some revenue and there is going to be a margin, net profit, fall to the bottom line; some of those cities that could join, may not want their share of the profit to go back and help to cover the debt that was incurred by the people who stuck their neck out in the first place. How are we insured that not a disproportionate share of the profit goes into building for people that are coming on in the future versus covering the tail-end of the people that started this whole thing?

Mr. Marriott: That is a good question; now you get into an area that is above my pay-grade, because it is now at your level. That will be determined by your board, of which you will be a member, and the cities have always worked together in common pursuit with common goals and objectives; you have very good partners that way. So, I guess you are right, I make that assumption but it may be in your five, lets pour more of that money into the infrastructure so that we can pay off the bonds quicker; that is certainly something that could be said at that time. Whatever it would be, it would be anticipated it would be something that would benefit Murray City from a financial standpoint at some point.

As I stand up here tonight, I know that I am a big target and I am glad I sit with my back towards the wall, but I will say this: two years ago, when you brought me on board, I sat down with all of those involved and told you that in two years, we will provide, through a six-phase strategy, a replicable, sustainable, and profitable model. One that could be put through all of the cities and could do what is what intended to do from the very beginning, to establish this critical infrastructure, and to produce a way for us to ultimately and financially be sustainable. At that time, we had four service providers; two of them immediately left to go down to the I-Provo buyout situation; one of them was happier than punch, because they didn't ever pay their bills. The biggest problem I have in Murray, in regards to public relations, is that people think that Mstar and UTOPIA are the same. I emphatically state for the record that we are not Mstar; we have nothing to do with their company, except that we provide a system for them to ride on, and they never paid their bills.

We had a really great company in XMission, who just didn't know what to think about the status at the time. We had so many customers at that point, we had to cut ties with all of our outside vendors who may not have had our best interest at heart, or at least had theirs first. That is where we were two years ago; so when people look at UTOPIA and its frustration, there is no doubt and they are justified because it had struggled through. In fact, it's not just here locally, but nationally; I have found and discovered that there are so many efforts that were thwarted to provide open-access systems, because UTOPIA struggled so far. A lot of that was due to outside influences, such as the rural utility service, who indeed did breach their contract with you. Today, I will tell you this: the reason you should go forward is that in two years, we have a track record of keeping our promises; we have met our obligations, we have produced a sustainable, replicable and a profitable model that, if propagated throughout the remainder of the cities, will produce over 1/3 of the tax relief. We have 17 service providers; we may lose one or two here and there as they go as some will make it, some won't make it, but we have 60% of them that are good Utah companies. We just signed Paytech, which is the fifth, and one of the largest national, telecom companies in the nation; we have Integra, we have Cloud Computing, Next Generation Video, it is a plethora of awesome opportunities for your businesses and your residents.

When we look, historically, at UTOPIA's track record, I tell you that the hard knocks and the diploma that your doctorate from the school of hard knocks was learned, you have fulfilled your commitments. When we refinanced the $185 million, and cleaned out the few dead bodies in the closet, we were left with $8.9 million to do what we have done. We have added 50% as many customers with that money, as you ever did before; you are on a good track. It is succeeded- the model is successful and it works. It is simple, it is based on demand. As we go forward and we ask you to take other sacred and precious tax resources and dollars of Murray City to build this infrastructure, we will do so knowing that we return on that investment and I think that is what you asked. We come back with a return; it is better to go forward under this model, than to shut it all down and go home, and pay for a dead horse for 30 years. It is working, it is successful and it is a great effort; nationally, you are being recognized. This summer you received, for your efforts, a cornerstone award; you are going to receive some more soon. You are being recognized for all of your great efforts that you have put in, and now that when you are closest there, when you have a model by your fingertips that works and returns, that will produce jobs in Murray, that will help inefficiencies and indeed and return on investments in a true cash sense, this is the time to go forward.

Mr. Dredge: I appreciate that, and having been on the board I have seen what you have done and have the utmost respect, especially for the executive committee and the time that they have taken. My concern is that now we are dragging an anchor behind us here, as are the other cities that are first end, and as you build this tremendous model, that hopefully is rolling off profit, I'm not sure that it is sufficient to hope, hope that the members of the board at that time are willing to help take a little of that anchor away from us. I would feel better if it was more well defined-how the initial members debt service was going to be taken care of, as their profits…

Mr. Marriott: I think that is a good point. My recommendation would be then is to get involved with UIA as soon as possible, get your board member on there. You have so many good, qualified people that can do that, and in your Resolutions you are working, specify that as a board and give me that directive.

Mr. Brass said that he agrees with Mr. Dredge, and that he has said this before: We have our nice little piece of the $185 million debt; we have a network that we owe $185 million on, but new cities are going to come into UIA and have access to that network, with virtually no risk, no cost, no return to us, and the answer is join UIA. Right now, while we may not at this instant be talking about any money that we would bond later, all the stuff we have talked about, once UIA, and UIA has clearly been formed, but if we sign the agreement, in 7.1.6, some of the things that UIA is permitted to do is: “borrow money or incur indebtedness, liabilities, or obligations and to issue bonds.” My concern, as a Council, is that takes away our ability, other than having a vote in their weighted votes, which is in 9.1, to say no, we do not want a bond. Joining UIA to get the answers to Mr. Dredges questions and others, says ‘ok, we are willing to take the risk on bonding,’ even if we are not.

Mr. Marriott: that is a good point, and it has been brought up by other cities that have become involved with this, and I think you are referring, in part, to the weighted vote and the ability to have others assess the situations going forward that may not be what you want to do. As I understand it, you will have, constitutionally, you have the appropriations ability as a council to say yes or no, that trumps any of that anyway. You still hold that power, regardless of what UIA decides to do or not to do, and that will be done on an annual appropriations basis. I do know, that as anticipated, that the existing cities in will probably tweak that language to recognize that fact; I know many cities that have joined – 2 or 3 cities that have joined – have added in the Resolution portion, language to that effect simply saying ‘contingent upon appropriations from the Council members.’ That is an excellent point that you bring up in protecting your city.

Mr. Brass: You have mentioned 17 providers, you need to update your website.

Mr. Marriott: We do, but some of those providers aren’t listed there yet because they are waiting for press releases or they don’t want to be profiled out there, they just want to be able to use the network and so forth. I would, at this time, tell you that we would officially again at this time…I notice that we have a Quest representative in the audience…would officially invite them to ride this network where it made sense for them and would do that as well again for Comcast. The new model is fantastic, by the way, because it simply allows them to use it, really, without charge from us. That will be paid through the model, so Quest could, conceivably, if they have consumers here in Murray that wanted to use them and not have shared access, could use Quest if Quest wanted to provide that, and we would make that again, wholehearted and heartfelt invitation to them.

Mr. Brass asked how many provide video.

Mr. Marriott: We have three content video feeds currently on the network; of that, another three or four buy that as white-label, so that would five to seven service providers that could provide triple-play; three of those providers provide content today.

Mr. Brass: Three providers; so if I wanted to chuck my video provider, I have three options?

Mr. Marriott: You have three options and you actually have more than that. You could chose a service provider who doesn’t have video and they are buying that video from those other service providers, so you could, for example, XMission doesn't have their own video content but they do white-label it from other providers, so you could use XMission as a triple-play provider if you want, and you just don't find many better service providers than XMission. That would be an option for your citizens.

Mr. Brass: My biggest concern, and I don't think this comes as any surprise to you, is that you mentioned that 50% of our citizens don't know about UTOPIA, and that has been the burning issue for a lot of us over the last six years; six years and we are still under 10,000 customers in the entire network and we are looking at going to just under 30,000 in the next five years, yet 50% of our citizens don't know that it's available and 60% of the city is built out. That is a huge leap of faith, and I am a big believer in faith, but I also don't go to Wendover and chuck all of my money on black, because it always comes up as red. My other concern, along with that, is that we have a lot people that we already pass, and the five year plan says let's chuck more fiber in the ground and hope like crazy that we will sign up people. Why are we not investing money in putting stuff in the ground and going after the people that you are already passing? I would be really comfortable testing the model in a less dramatic, financial fashion, than I would be even risking our percentage of the first $20 million in bonding. If the model works, the model is going to work.

Mr. Marriottt: You're right. As we look at going past homes that already have fiber in front of them it is significantly less money to hook those homes up, and we have a lot of areas that don't meet our already prescribed take rates; it is probably a good thing that 54% of those people don't know all the mistakes and problems that UTOPIA has had over the years, so it provides us the opportunity to put our best foot forward with those people now, and there are many that we are going to have to go back to and beg forgiveness and say, well, now we have our act together.

But, you are exactly right-and that is where we will be concentrating our efforts-nearly ¾ of our efforts nearly is in existing over-built areas where we don't have the cost of new construction. We also have areas where we have stranded infrastructure where we need to go and ransom that infrastructure from the ground, where it is nothing for us whatsoever.

Ms. Dunn: Back when you held your summit, a statement was made, and I wrote it down at the time and asked about it two or three times, and haven't really ever been answered; the statement made was: 'a 25% take rate pays for 50% of the cost.' Is that correct?

Mr. Marriott: What we have found, through our model, is that in a brand new, Mayberry, USA, if you can hit 25% of your residential market that will cover over 50% of the build of that network.

If I see where you are going, you are saying 'that's great, but what about the other 50%?' We also, with that other 50%, have in that model, we try to figure it as the worst-case scenario; e make the very least on residential, so if the model can work with residential, then we can overlay on top of that business other institutions in the community and also as consumers buy goods and services, we take margin out of there so that we are able then to cover the other 50% on an average. Sometimes it is significantly less, and sometimes a little more; so, as we do that, and go back over those areas and back-fill, that back-fill then becomes…to give you an idea, if everyone in this room were a home, and Mr. Snarr and Mr. Stam signed up, but nobody else signed up, it is $1,100 it costs the system for everyone who wants to sign up, to pass them and not sign them up. So the higher the take rate, every time now that we go back and we sign up Mr. Dredge now, and we sign up Mr. Brass, we recoup a lot of that investment. We very quickly bring back and return on that investment; so if we get 25% of the residential market, we will cover 50% of the cost to build. It doesn't take another 25% to get the other 50%, it takes marginally more.

Mr. Dredge: And that goes to my question: who does the marketing for UTOPIA?

Mr. Marriott: We do have an in-house marketing director who works with outside agencies, and has been very successful over the last couple of years in meeting strategic objectives and goals. We work with a number of agencies to do print, marketing, and PR, but we do have an in-house marketing director who has 25 years of experience in the cable industry.

Mr. Dredge: No doubt about the experience, and I appreciate that I do, but if 25% take rate gets you 50%, and maybe it is just that I am a lousy business man, but it makes more sense to me to go after those that have it available, than to build new, in order to get the same 25%.

Mr. Marriott: We agree, and that goes to what Mr. Brass said earlier, you better dog-gone get on the existing areas because that is where you will get your return on your investments the soonest; that is correct, but we also have an obligation to build infrastructure over the next five years into other parts of the city. You have parts of the city that I can't currently get to, and they want it; as we do that, it will be more expensive. As we capitalize, we have areas in UTOPIA where we have 6% take rate; I have an area with a 3% take rate, and we spent a lot of money and got 3% and 6% take rates. For example, in the area where there is a 6% take rate, we should have hit 17 or 18 in that particular area, so that is an opportunity for me to go out and get that. As we get those areas where there is over-build, remember, every time we add a home in those existing areas, they help subsidize our effort to go get new build in Murray. Everybody who signs up in an existing area helps me build new areas in Murray; so if I were running this as a private business today, I would come in here and I wouldn't concentrate on anything else. I would take my margins out of it and be as happy as punch; but you have directed me to get your city built out, and give everybody an opportunity.

Frankly, you are going to need it, because with power grid opportunities, with wireless situations, with city needs that are coming down the pike and in technologies that will require this type infrastructure, you are going to need 220 meg by 2020. You are not going to want to share it, and what they are seeing now nationally, is not a propensity to give you more, but a propensity to gate-keep. Type that in Google, "gate-keeping," because it's occurring right now where large telecom industries are restricting access to communities because they want to give it to more profitable 4G and 3G, things that make more money and not access to your homes and businesses. They gate-keep, they rate limit, and then they'll charge you for going over those limits; this utility is special. So, you are right-we do need to concentrate, especially in the first phase of this five year plan, so that we can recoup quickest, our return on investment. Over time, you are going to expect me to get it to areas that don't currently have it.

Ms. Dunn: As you touched on that, you talked about people, about the homes you have already passed, the 60% build-out in Murray City and 40% of people that are out there-and I hear it almost daily-that cannot get it; but, and this isn't going to be a surprise we've talked about it 100 times, those 60%, everyone who took it, we got it for free and now we are going to charge anyone else that comes on. Please explain it.

Mr. Marriott: what is worse is that many people have read that I may have to put a major lien on my home; when you provide communications service, take telecommunication services with any other provider, part of the bill that you pay-I take Comcast because I cannot get UTOPIA in the area where I live-part of that cost that is built into that is for me to lease the construction or capital cost of putting that to my home at some point, in what they hope, I believe, is that some point when that is paid off that they can continue to charge and create those margins for their business. All we say is that we are very transparent about it, in saying that when we come through Murray and ask you to join, it's not that you got it for free, because you are paying for it on your bill. The difference will be, we believe that as you see the equation, you are going to want to be in their shoes not them in yours; at some point a significant portion of their bill will go away as they pay off that capital expense that goes in there, because we are also not a non-profit company and we are building infrastructure.

When we build that capital outlay to your home, and you pay it off, you own it just like you would a sewer line, water line, or irrigation system. That cost will eventually go away and if I were to have UTOPIA and I were paying the same $80, I would have significantly more access and service than I do today, but at some point my bill would drop by $30 when I got done either paying initially up front, or over time. That won't happen anywhere else because it is very expensive to put this infrastructure in place and that is how private companies make money. I think that at some point, they're getting a better deal, not you.

You could pay the $3,000 right now, and drop your bill immediately; if you look at, it would only take you four or five years to pay that off.

Mayor Snarr commented that those who have it will be able to use it as an asset on their house when they sell it, over those who do not have it. Mayor Snarr also asked if they are tracking the area where they are getting the most bang for their buck?

Mr. Marriott said that yes they do. When they go into those areas, they can go to those people first.

Mr. Brass: I buy my connection, you build it to the house; fiber is fiber, it isn't going to change for a while, but our ability to use that fiber continues to change. You can put a variety of signals on there, but it is just how many ways can you split the spectrum and how sensitive is your equipment to read that. So, I buy the tap off the line and technology improves in five years, and I have paid off my connection, but I want to take advantage of the new technology so I have to change my tap into the main line. What is the cost going to be to me? The neat thing about whether you like Comcast, Quest, or Dish Network, is that the beauty of renting your equipment is that you get new equipment. The problem with owning it is that eventually you have to replace it and that stuff is still expensive; it is probably the biggest expense that you have, to hook me up.

Mr. Marriott: We have built into the models the ability to maintain and replace the equipment on a needed basis as we go. We have built that into the model so that every five to seven years is the turnaround on that type of equipment; for us to maintain that connection you will not have to pay for it as it is built into your fees to have the service. However, today we do have some consumers who are residential; I know one who is a movie producer who has to come here to do his work because it is quicker than living in LA to do his work and his downloads. He is purchasing a 1 gig connection and in that case, it is over and above and if you wanted a 1 gig symmetrical connection you would pay-I think his portal is $500 - $600 in addition. But to maintain your normal circuitry, we have built that into your service fees so that we can replace it as we need to.

Ms. Dunn: I know that you are used to us being skeptical and asking tough questions, but we have to represent people and let them know why we are doing what we are doing. Looking at the past two years, versus the previous years, I have seen some really good things happen during that time; I would say that the management is 1000% better, and the ideas and direction has been 1000% better as well. We want to make sure that when we go somewhere, we are going in the right direction and of course we'll never know that for sure, but at least we will feel more confident when we vote.

We sent a list of questions to you guys, maybe you went into shock when you saw how long the questions were, but I thought we had great participation from the administration from some of our staff and council members, that were some pretty insightful questions, and some pretty important questions to us. When I read the answers, I was a little disappointed because I didn't feel like some of the questions didn't really get answered. On the other hand, we have this whole issue of openness, of what we can and can't say, when can we say things, how many people can be in the room when we say things, all of those things. What I would say, I guess, at this point is I think it's time to open things up because no matter where you go, to what city you've gone to, you've got people saying: "I don't have a clue what's going on" and others that know everything that's going on, and yet others somewhere in the middle. As things change, we don't know what's changing, and to your credit, I told you I don't know what's going on and you invited me to attend some of your executive committee meetings, which were fantastic, except that my employer doesn't think I can give a day a week to going to those meetings; at what point do we become open enough to

where we can sit and talk, or you can just come and present to the City Council that this is where we are going, and everyone knows? Where everybody, like in this meeting, can sit and ask you the questions that we need to ask?
Mr. Marriott: I agree; we know that, we answer to sacred money. The only thing that we ever get concerned about, in terms of being open, is more strategic-where we are going next, what numbers we need to hit there. We have influences that would like to thwart that and outside of that, I don't think that there is a whole lot that can't be completely transparent in any way. It is true that Murray holds our feet to the fire, both staff-your legal counsel, your financial advisors, to your city management and that side of the ledger-I have been called up to answer to all of you, and each of you in your respective way. I know of no city that holds my feet to the fire more than Murray; you ask the tough questions and, indeed, we had over 70 questions that were submitted to us. I would not want you to be disappointed in any answers, and we did return them within 24 hours. We met with staff within about 48 hours, and revised the questions in another 24. We also sat down and offered for anybody that wants to come…we have entertained and had community advocacy groups come in where we have opened up and demonstrated the models and things that we are doing. If there is anybody that would like to do that, even the citizens of Murray, I work for them and 16% of everything I do is on and behalf of your citizens.

We welcome and encourage…it is difficult, I will tell you, there is over 187 public officials that I serve, 80 Council members, 16 Mayors. We produce a monthly newsletter, we do hold board meetings, but you make a good point, it is difficult for me to disseminate the information and often times, even those closest to the project, we think you should spend every waking minute on this and you have other things, we know. It does take one of those things where you have to constantly get clarification and answers, and we are happy to answer for that; we know that it is our job and our duty.

Ms. Dunn: I am not saying that you guys hid anything in the answers, but you can't write down everything you think, and you can't know everything that goes into that question. I guess my point to that is it would have been a whole lot easier for us to send you those questions, and then have a meeting with you for you to answer them, so that we can ask you more about it with all of us there instead of five of us and ten of them coming back and going 'oh but, answer this and this.' It would have been so much easier to come to a Committee of the Whole meeting and say, 'ok, you've received our answers, what questions do you have to that?'

Mr. Marriott: You have a good point because I have had almost everyone of you call me and make me clarify specific points, and hold my feet to the fire on some of those answers where you needed more clarification.

Ms. Dunn: It would be a whole lot easier for you, too, to meet with eleven cities once, and to take our questions and answer them for everyone else too. That is one thing I am looking for in the future.

Mr. Marriott: We are going to hold a second annual summit and I think we can do that a little different this time too.

Ms. Dunn: One of the biggest issues we have had with UTOPIA, is on the bonding; we went with swaps and they are killing us; hence we have go this way. Is there any end to that, or any answer to that problem in the future? And how do we insure that doesn't happen to us if we move forward in the direction you are talking?

Mr. Marriott asked if Ms. Dunn would allow Mr. Shaw to answer that question.

Mr. Shaw: You have raised a great question; a little bit of historical perspective might shed some light on the answer. In 2008, with the refinancing, UTOPIA's debt was variable rate debt; it had been previously. Previously there had been a swap in place to swap 50% of the variable rate debt to fixed rate debt, and as a condition of the refinancing, one of UTOPIA's lenders required UTOPIA to swap 100% of the variable rate debt to fixed rate; we hired advisors who were skilled in swap transactions who actually saved us quite a bit of money, even on the 100% swap. At the time, UTOPIA's financial advisor vehemently proposed to the lenders that it was wiser to swap 50% of the debt, not 100%. She was right in hindsight, she was right in foresight. Looking back on it now, that is what they certainly would have preferred to have done, although there was not another option; it was either refinance the debt or simply let the system collapse. The cities who participated at the time moved forward with the only financial transaction we had available to us.

On a going-forward basis, we have more control over that under the UIA. More to the point of your question, how do we make sure that doesn't happen? In two ways:

1. We don't have to enter into variable rate debt ever again. We can structure the debt as fixed rate from day one.
2. We can seek out lenders, who, starting with a clean slate under the UIA, will allow us the flexibility of listening to our financial advisor and heeding her advice. That will help offset that as well.

Is there an end in sight? That depends upon the markets; the swap transactions are tied to the markets and as the markets reverse their positions from where they are today, conceivably those swaps could come in to the money- the term of art used for swap transactions-right now they are significantly out of the money. If we were to break the swap transaction today, it would cost significant amounts of money; on paper, we show that deficiency, if we were to break it, it would cost real cash. If the markets reverse, as inevitably someday they will, and we come into the money, that is the point in time where we can reconsider a restructuring of UTOPIA's debt to remove the swap transaction and put UTOPIA on better financial footing, from just a pure financing perspective.

Mr. Marriott: I will add that there have been interested parties that have looked into refinancing that debt, but unwinding the swap is always the issue. It is not as if that effort isn't on-going, I think it is, but no answers today.

Ms. Dunn: What happens if Murray City says no?

Mr. Marriott: We lock all the doors; Murray is such a good partner, and there is about a 57% build here, so when we talk about the opportunity to create revenues the quickest, Murray is one of those areas in which we will concentrate on right off the bat because you have so much infrastructure and unmet expectations. The second thing is that there are so many people here that were disappointed with Mstar, that they cancelled their service and they already have infrastructure to their homes; we need to go and mia culpa with those customers.

It would be a significant blow to our efforts, but we would go on. What would happen with your infrastructure, I am not sure; those policy decisions and how that would work. It would also mean that Murray wouldn't participate in the benefits going forward that would be produced through the UIA and would still maintain its obligations to both operationally keep UTOPIA growing and alive as well as the stimulus and other efforts. The thing that you have to look at this plan going forward is that if you decide to join, what we would be asking is to approve up to a certain amount-say its $60 or $62 million, we are not going to go out and bond for that money right off the bat and have it in the coffers and go out and spend it. It will be incrementally done; if it were in the $20 million range to start with, that money also doesn't just come into the coffers and we spend it willy nilly, it's spent strategically and targeted on demand. There are controls and benchmarks that are set in place so that we have to meet that demand. Those that go forward and execute that plan, will be spending money only, outside of maintaining the effort going forward, on capital outlay that will produce revenues. If Murray wouldn't go forward, they wouldn't participate in the benefits that will come, inevitably, by such a program.

I think that the other cities, in the other aspect, have confidence in you as a partner; they have joined forces going forward on this project because of their commitments to you and to each other, and I think that's a big part of it. I think keeping and maintaining those commitments and that strength through what is a difficult time. We realize that Murray is, like many of the cities, financially challenged as to how this economy and everything is going to work going forward, we don't bring something that is continuing to add to Mr. Dredge's anchor, but is a solution to help you going forward. It is also a mechanism to fund other efforts that are underway. If that helps to answer your question; if Murray wouldn't be able to participate, it would have to meet its obligations anyway, operationally to UTOPIA to keep the lights on.

Ms. Dunn: Just qualifying on this, what if we join UIA, but then down the road determined, if the group determined they were going to bond, determined that we weren't going to appropriate the money?

Mr. Marriott: Same answer, only different in that you would received the benefit of going forward on the first tranche or segmented market, but like I said before, there is nothing that would compel you legally to do so. I guess I would say this: if we get down the road and we haven't met the obligations, and we got you in a worse not just liability but risk factor, you are not going to, nobody is. If we have met what we've been doing all along and we continue to meet it, you are going to want me to come back and have you fund additional efforts because it is going to meet those objectives. If we find ourselves an additional $65 million in debt as an entity, it will be producing a positive not a negative.

Mr. Brass: I don't know that that is actually accurate, and I have the same question; working capital, annual dues, bonding-all subject to approval by the city, and if we chose not to approve any of that, then how is that going to work? You go out and bond, you are going to bond for $20 million, roughly in the first go-around, so our risk is roughly $2.6 million, spread out over however many years that is going to be spread over. A lot of money. You are saying that we can say 'no, we don't want to pay it?"

Mr. Marriott: No, that is not what I'm saying, you would be obligated; once we bond for that initial $20 million, you are obligated for the money that you have approved. What we will be looking to do is to implement a plan that bonds up to a certain amount, so it is like building a home-your home is going to cost $100,000 to build, we want to build the first $20,000 of that home. If you take out the money to build the foundation, you will be on the hook for that $20,000, But not the additional $80,000 to build the home. You would be subject to that.

Mr. Nakamura: The bond was not subject to appropriation of funds; once you bond, you have pledged that revenue stream, the same you have on our original pledge, so you can't get out. We know that because we can't get out of the other one.

Mr. Shaver: If my understanding is correct, with the $20,000, there is a benchmark that you are saying before we do the second portion, we have to reach this benchmark?

Mr. Marriott: Yes, we have outlined a set of objectives that have to met by that $20 million to go forward. I would hope that I would be sitting in front of you, sooner than a year, to say that yes, we are meeting our objects, we are meeting what we want to do, so we need to start anticipating and then we would approve an additional incremental draw down on that approval, which would require everybody to say yes again. As we meet those strategic objectives, that is what would occur; if we don't meet those, then you probably won't have me sitting here talking to you, it will probably be somebody else. You would go a different direction then, but this is intended to incrementally draw down based on success; but within the incremental draw down, it is intended to be segmented based on success as well. I wish we would have done that from the start, but we are there now, and it is working and will work.

Mr. Stam: The way I'm gathering this is, you bond for $20 million; you use that to build your infrastructure and you realize enough income to pay that $20 million bond, so that the cities do not have to pay that.

At that point, you need more money to go additional infrastructure, so then you need to go after the second $20 million, let's say, to be able to be able to continue building that infrastructure to get profit to then pay that bond so that cities don't have to come back and then pay that bond.

Mr. Marriott: But there is about a two and a half year process to cover all those obligations as we go through.

Mr. Stam: Theoretically, that is the incremental bonding that you are talking about. You go to the second set of bonding, not to cover the expense of the first one, but to cover expense of additional build because we are to the point where we are paying for the first one with the profit where we are at.

Mr. Marriott: Now, there will be some changes in our model, depending on the stimulus and its timing and so forth, but yes, that is exactly correct.

Mr. Stam: So, theoretically, if we have 50% take rate instead of 25%, we don't need to go to the next set of bonding.

Mr. Marriott: Well, we might need to go there faster because it will cost more money, but it will return on investment quicker.

Mr. Dredge: One of the concerns that I may able to voice, in talking amongst ourselves, for those of us who have been here since the inception, we've been promised metrics before we have been promised information coming back. That really, quite frankly, has not flowed to well. Have those metrics been established? Have you determined how that information is going to be disseminated, who is it going to be disseminated to? I would imagine that we get into some areas where Ms. Dunn is asking for more transparency, but we get into the competitive nature of your business, and would make some of those metrics difficult to disseminate.

Mr. Marriott: That is where it is difficult to get that information out there, but I would say that each of you have that, in terms of the model we've given you; it is tabbed down there where it talks about the footprints. You can see a sequenced foot print row out which is very, very detailed and it provides for what percentage take rate for each of those footprints, what the cash requirement will be, what it should return on, investments, etc., and that is what we are going to need to meet per footprint; it is prioritized according to cost to build, and projections. Now, those could all change, for example, now that we have a loop going here in the stimulus, we now have that middle mile paid for and it allows us to get there. Those will move, but as we go into footprints under that section of the plan, it is prioritized and the different elements of that build are detailed in more detail than you'll want to see.

Mr. Shaver: My question is down to: are we going to see budget actual variance?

Mr. Marriott: Yes, and it will be moving very quickly. We won't release money into those markets-we will release money into our awareness campaigns, to get people aware of what is going on, their consents, and participation-that will go ahead; but the capital cost to construct won't go in until the parameters of that footprint have been met. That is your matrix, and we have to hit certain numbers on a monthly basis, which has been established; now, that said, because I have to meet these numbers, I simply warn that if you expect me to hit those numbers from a cold start, on December 19th 2010, my wheels are going to spin on the ice a bit. It is important from a timing perspective that I can get started, at least rolling the truck along, very quickly in the near future.

Mr. Shaver: When you talk about the reporting structure, how often do you see that? That gets back to Ms. Dunn's question about openness, it gets to Mr. Dredge's question as to how fast we get that information. How often do we see that? You have a benchmark that you are planning to meet, and I appreciate that, I have gone through that matrix, I've gone through the model, and I see those footprints and I see that- I know that there is going to be variances; being in business I appreciate that. I appreciate what you have gone through to create that, it is a lot of work; but the question for me is going with those two: how often do we see that, when do we see it, and how do we see it. In order for us to get to that next place, yeah, your wheels are going to spin-I understand that-that is just part of business. But, when those start to grab and when those things start to happen, if its six months or a year before I see any of that, it's not quick enough.

Mr. Marriott: I answer every Monday to the Executive Committee, and Mr. Dredge has suggested, and I have been trying to do that where there's availability to meet with interested parties to go through the summary of what has happened in those weeks. We maintain financial committee meetings and your board of directors will likely meet at least once a month going forward, so the reporting mechanism goes like this: I will be providing reporting on a weekly basis to the Executive Committee members, to anybody interested and to the financial committees. I will then be providing on a monthly basis, to the board, those numbers. I'd do that today, but we do not have an ongoing effort; when we've done that, that's how it reports.

For example, in your particular case, I work for you and if you're interested in participating on a weekly basis, they will wear you out. We encourage, love, and very much want your participation-or anybody's participation-who wants to roll up their sleeves and bail water and build things to get it done.

Mr. Shaver: Are those reports verbal or written?

Mr. Marriott: We provide written reports on a weekly basis.

Mr. Shaver: Why is that not disseminated then?

Mr. Marriott: Well, it is; we disseminated it to board members, executive board members first, anybody that is interested thereafter, and monthly to board members.

Mr. Shaver: I also agree with you that Murray is in the process of putting in utility verification systems that would benefit from the fiber optic; just as a personal note, that would be something I would like to see connected quicker.

Mr. Marriott: Not to give away too much information, we are working on that as we speak and there are ways to save Murray a significant amount of money by combining those resources.

Mr. Dredge: Could one of you explain..we had talked earlier about the dues, whether or not, if we chose not to join UIA but don't want to go dark in Murray, that we would pay directly to UTOPIA. Could you clarify that if we stay and pay those through UTOPIA, they are not reimbursable but through UIA they are?

Mr. Shaw: Let me start with the premise that it is not a one-to-one ratio, necessarily. Mr. Marriott made mention of the agreement between the UIA and UTOPIA for services; that is a service contract that provides revenue from the UIA to UTOPIA. That's services in anticipation of bonding; those services constitute legitimate things. I've held Mr. Sudweeks feet to the fire to make sure that he is not padding those numbers in any form or fashion. That services contract gets funded from the dues and working capital assessments of the UIA, which come from the member cities. The dues component is not reimbursable; the working capital component, which represents about 90% of the combined obligation between the two, is reimbursable from the proceeds of the UIA bonds.

The benefit that it provides to UTOPIA is that it provides an ongoing revenue stream to help offset some of the operational deficit that UTOPIA is experiencing. If UTOPIA does not cover that operational deficit, at some point that cash flow turns negative to the point of no return so we are left, effectively, with one other option and that would be for the member cities of UTOPIA to contribute to the operational expenses of UTOPIA, forgetting UIA and setting that completely aside. That could be done through an Interlocal Agreement, to fund those obligations, but that has nothing to do with the UIA debt and can in no way be reimbursed out of the UIA bond proceeds, so that would be cash straight in to UTOPIA, to ensure that the network stays alive.

Mr. Nakamura: The key difference is the bond is a 20-year obligation that is not subject to appropriation of funds whereas the other one is whatever term you decide, and subject to appropriation of funds.

Mr. Brass: I would be curious to weigh in on public comment and then continue this further, if nobody objects. No objections noted.

Public comment (Due to potential public interest)

Craig Hancey, 5258 Pinemont Drive, Murray

Mr. Hancey: I'm just trying to come up to speed with what is going on here, and I've appreciated the few minutes that we have had here to get some of the history. You guys have a problem-you are on the dance floor and have $185 million anchor; $18,500 per user was not a good investment, and I don't think that you guys would ever do that again, and so now it seems, to me, that what you have to do is figure out a way to get out of this the best economic way that you can with the least cost, and the first thing ought to be to make sure that you don't have any new debt obligations that are built around budgets, forecasts and assumptions that you don't understand. I think you have to get in there and get through this veil of secrecy and find out what they are; Mr. Shaver, you indicated that you have seen these assumptions, this model, and how they are going to spend the money to take the steps that is going to go to have them build out. Mr. Dredge is a CPA, maybe he can take a look at these things-I certainly wouldn't invest in something that I didn't understand the assumptions and didn't agree with them 100% and see that they are going to work.

My comment is that, I think, the model is flawed. You need to get in and make sure that it is not flawed to the extent that you are going to commit more of the public's money. The focus- the build out- that you have right now, that you have 57% in Murray city and not very many users, so it seems to me that you should focus on bringing money in to the stream by getting a better penetration with what you have, before you run anymore distance to get somebody who may or may not come on. I have to pay $775 to hook up, and I think that is a flawed model; it doesn't make any sense for me to pay $775 to hook up and to pay $80 a month to get more usage that I may not use. It is a subsidy for people who may need it, but the people who don't need it don't see it that way so they don't sign up. The model is flawed, it is too expensive and so somehow, you have to look at the cost of getting new users on, even if you have to subsidize that to get the revenue up so that they don't have such a shortfall. I don't know how much money it takes for equipment infrastructure, but if they are trying to make it all back on the front end, I don't think that is a good idea; they need to get the usage up, and maybe you need to drop the cost of entrance down a little bit.

Maybe you need to look at the role of government in providing competition against business, and decide who works and who doesn't work. The Quest guys and the Comcast guys are going to be out of work, and we are going to bring 200 new jobs in for the UTOPIA guys; that is just government deciding on who works. I don't know that it is really new jobs, to the extent that jobs are lost in these other infrastructure areas, that is not new jobs, and it is not net growth. This money that is coming in, this $16 million, as I understand it, is coming from TARP money, which is another borrowing from our future to take care of bailouts of bad deals, such as this infrastructure deal. We need to ask ourselves, should we take this money? Everybody wants to take the money because we all have to pay it back, and everybody wants to take their share, but it really is a bailout on our future generations of something that may or may not work. One of the options you have is just to let the dang thing fail and bite the bullet and spend $1.5 million a year and finance your share of the anchor. I would think, that before you go in, you do what you are doing and ask a lot of tough questions and understand exactly what they are going to do and how they are going to spend your money, and what you can do to get revenue in to cover the immediate shortfall that they have, without having to run more infrastructure, hoping that it will bring in more revenue. I know that the model is complicated, and I haven't had a chance to look at it, but you better find a way to maximize expenses and just not listen to these guys-this is your money that you are spending, and somehow, you have to get in there and roll your sleeves up and figure out the money aspect of it, and whether it makes any sense or not; just like you would if you were spending your own personal money.

Public comment closed

Patricia Wilson, Finance Director

Ms. Wilson: The last thing that Mr. Marriott said puzzled me a little bit: when he was talking about the 90/10%, the numbers that I have seen projected for Murray City on the UIA was not a 90/10%. What I was given was a monthly amount for capital assessment of roughly $21,000 and dues of roughly $5,600, and I don't think that is a 10/90. I would like to ask for clarification on that.

Mr. Sudweeks: The numbers that I gave you, are the correct numbers; Mr. Marriott was going off memory, and did not have those numbers in front of him, but the numbers you have in front of you are the appropriate allocation between those two assessments.

Mr. Marriott: If I may, I will respond to the first gentleman, who sounds like he is a good business guy; if he would be interested in looking at the business model, we would love to have you take a look and offer up your suggestions on it.

This is one of the things that I will note, that I hear a lot as I go to council meetings, and for good reason; I hear 'them' and 'us' a lot, and I really work for you sir, and you should, not only them, hold me accountable, but you are welcome to do so at any time. We have always gotten where this is UTOPIA, and this is the City, and we are not a separate entity. Where it may seem sometimes that there is secrecy amongst, there is none, it is just very complicated. It is extremely nuanced, and it is very difficult to do this deal-that is why the government is involved. I was in the private sector, providing services in the telecom industry for 17 years; I worked very, very ardently and I am extremely conservative by political nature, so I am never in favor of government interfering where it shouldn't.

Eight years ago, when the cities of UTOPIA foresaw this need to have this type of infrastructure; they did so and begged the incumbents to please do this-they offered to pay them to do this, and they didn't. This infrastructure had to be put in place, and so this effort went underway. It is so very expensive to put a piece of glass into a yard, or into a business or through a driveway; it costs a lot of money, and to return on that investment does take 20 years and is very difficult for a private business to have its stockholders be patient for that long. The roads that we build, the infrastructure that you put into place, this is exactly analogous, and we have a lot of business development going on right now, in terms of those entities that need to use this infrastructure. They are bringing jobs, not just jobs-I agree that if Quest loses a sector of business because they provide shared access and people would rather have this-it is a movement of jobs, you are right. I could demonstrate to you that this is a net gain, but what this infrastructure does, is it allows economic development to occur, and I could show you where that is happening in significant ways.

Some great points have been brought up, and whether you agree, and you are right with the free money that people seem to print and give away at times, that is part our money and we need to fight hard where we don't politically agree with things to change the systems, but where our money sits out there and it could go to Arkansas or Texas, we should want to get as much of that back to here in Utah as we can in the meantime. Lastly, if I'm keeping track of the things that you said, you said two things; you said, that we shouldn't 100% based on the assumptions and the variables that we put forward in the business model were based on things that we are already doing, not on things that we think we can do, which have been the problem before. As we go forward, we are not saying ‘we think we can get 500 customers here, so trust us that we can do that’, and then we come back and say ‘doggone it, we only got 140 this time, but we will do better.’ But it says we will spend a little bit of money to make sure, but before we go spend the real money in that area, we have to get 500 customers. It is a whole different concept and some of those assumptions are aggressive, but they are realistic and based on things that we have been doing.

To Mr. Dredge, I didn’t answer this earlier, we talked about matrixes over the last two years, I set forward a six-phase strategy that was subsetted into many different benchmarks, and we have met that, and have been very successful to the point where we recently had an effort up in Brigham City that we missed by about two weeks; now we have missed getting it implemented by about two and a half months, but it was a brand new effort. We are always accountable, we are not always right, and we are not always perfect, but I believe that what we put forward-this isn’t a bunch of slick salesmen up here trying to sell you down the river, it’s a bunch of your coworkers-and in the case of Ms. Wilson and others, it is people who work for you, and work on your behalf. We just roll up our sleeves, get dirt under our fingernails, and like I say all the time, we are just part-plumbers.

If you were to come, and I shouldn’t even probably bring this up in a public meeting, but I’m going to and will probably hear about later, but when I got to UTOPIA, we needed extra room to build for some offices and a place to have another conference center and a war room; they wanted $186,000 to build to code and so forth; instead, I got on KSL.com and I found a conference table for $400, with all the chairs. I went out and bought a plywood piece of board and made a door out of it, put old inventory that we will never be able to use and we stacked boxes up and made walls. That is how we use our money; that is how we use our money, we spend every dime as if it were our last one, the last dime we are going to see. We are very efficient in how we spend the money and stand accountable for every dollar that is spent. I am always careful not to be here saying ‘we didn’t get you here’-we are all part of this; it doesn’t matter if we were here eight years or only two-it is an all out effort. It is critical infrastructure; what you’ve done is the right thing, it is the right technology. Copper technology-if we try to push that it just isn’t going to work; this fiber optic is here for another 80-100 years. We see that one out of every four high paying jobs are going to be a necessity to be done from home, you see super HD TV that is coming, that will be more holographic; again, watching BYU in a fourth and 18th situation, but it’s not just about watching TV, it’s about an engineer in his home, looking at a model, in a 4-D situation. It’s about not having to worry about if the kids all came home from school and they are all playing gaming on-line, and I don’t know if it’s going to continue to work or if there is gate-keepers that are ratcheting it down.

It is about public infrastructure and the freeway system. How often are you frustrated? Today when we were coming down to Murray, we got on the freeway and we wanted to grab a bite to eat right before this meeting, and there was a big accident where the traffic was backed up all the way from 7200 South, and we had to find other avenues down here; that is similar as to what occurs in our bandwidth, but today there is a 50-lane freeway that goes right to your home. You bring up excellent points and we would encourage you to come over anytime, we would love to sit down and show you, to get your take and see what you think. We would definitely use any professional time that we can get for free.

Mr. Brass: I have told you, I believe in technology-I think I'm addicted to technology; I don't dispute what this network does, it is the fastest thing out there that I have seen available at this time. I have a lot of concerns with the agreement; I have a lot of concerns with the concept of UIA. The biggest issue I have right now, Mr. Shaw stated and it has been eluded to, we owe our piece of the $185 million to UTOPIA; UTOPIA is built, it is the network that exists now that UIA, when they add their infrastructure, is going to have to hook up to get a head-end, to get access to all that information and we are being told here tonight, that if we don't sign on to UIA, our investment in UTOPIA is not worth anything and we might go dark. I hope that somebody would clarify that, because the original thing that this council agreed to was fiber past every home. We are not getting that anymore, and that is a sound business decision.

My first question, and my last question, have continued to be: Why do you run fiber to the home when you can't pay for it? It is how we got where we are today, you said it's a 20 year pay-back, it's expensive to do. Yes, you get speed, but we have now broken that promise, or the promise that we had to our citizens by saying we will go into areas that we are going to get a return on our investment. Good business decision-not exactly what we agreed to. Now, if we don't agree to this, we are not going to have use of the network that exists? I find it hard to believe that you would walk away from a 60% build out that has the potential to add more people.

Mr. Marriott: Let me clarify: UTOPIA is such an interesting entity because it is amongst this nation, one of the only-and its largest flagship-open access entities; one of the only ones in the world. When you talk about an open market entity, it is wonderful. The 57% or so of Murray, we would hope would stay lit for the duration; we want to see it thrive and go. The problem that UTOPIA faces today is the inability to fund additional growth, or significant additional growth, just the nature of that expense because there were mistakes made; there were also advances made, but it is what it is. For me to supply the demand, based on the promises that were made, I have to have some, for Murray specifically, I have to have some way of doing that and currently there is a limit to what I can accomplish with UTOPIA, because of the way it is set up.

Your involvement there is, and will be, very beneficial; where I see UIA benefitting, even if you didn't join UIA, you are benefitting from being a member of UTOPIA because it will bring additional funds in and because UTOPIA is the only animal of its kind, we need that UTOPIA to run the network. You will benefit in that regard as the load lessens and lightens in terms of our operation. As you are aware Mr. Brass, we are not able to live off of what we kill, we still have a deficiency on a monthly basis from an operation standpoint, and that is our first objective, then we get to the tax pledges. No, I think that you, regardless of your involvement with UIA, will be benefit in

UTOPIA by UIA's involvement and other peoples involvement because if you look across the country, where can you find this many service providers in one group? Eventually there will be this peering. You talk about a ubiquitous build-I don't know how to couch it any different than saying we have a voluntary ubiquitous build, and in areas where it is available you simply raise your hand in enough numbers and we build. The promise to build is still there, the methodology is just a bit different in that there has to be, like you say-I don't know why we would ever put fiber out there that we can't pay for anymore. We should have thought about that before; but the fact of the matter is that you are right, but where we see the benefit come in is that UIA is going to experience a lot of benefit from this new methodology and how we build; those involved in that will receive, not only a lightened burden with UTOPIA, but a positive cash situation at some point in UIA.

Mr. Brass: Again a concern with the agreement: the Board of Directors-I understand how they are appointed-they internally can appoint an executive committee as UTOPIA did, which would consist of five people; the Board of Directors it says, "can delegate through UIA's by-laws, all of its powers and duties as outlined in this agreement, with the exception of election of Board Chair and Vice Chair representatives to the Executive Committee, powers to adopt or modify by-laws and dissolving the UIA" nothing in there about finances. Essentially, five people could receive the power to bond; its 12.14. My problem is that I actually read these things, but it is in there.

Mr. Marriott: There is more to the financing story than simply the power to bond, and that is the ability to bond; while they may have the power and may vote to bond, unless there is financing capability to do so, it is meaningless.

Mr. Brass: But they are representing the Board of Directors though, and they have that power.

Mr. Marriott: That is a good point; that delegation has the power, but not necessarily the ability. The ability under what is planned, would come from the cities, through the next round of meetings that we would have with you, as councils. You as councils would have the ability to adopt the next agreements, which would give the UIA not just the power, but the ability to float bonds. Right now, if the UIA went out to the bond market and said we have a bunch of bonds, nobody would buy them; it is only through the structure that would come, vis-à-vis the relationship with the cities, that would allow that financing to actually happen. But you are correct, the board could, in theory, designate that authority to a subset of the board. I guess some of the only place to go for a historical perspective on that would be UTOPIA, where there is an executive committee with the same power to delegate powers and authorities to the executive committee and other standing ad-hoc committees. To date, with respect to decision making, the only decision making authority that has been delegated from the UTOPIA board to the executive committee, is delegation over personnel matters, with respect to personnel policies; not even with respect to hiring decisions. I think there is some historical precedent for that, but you are correct that in theory that could happen.

Mr. Brass: Refresh my memory again: If a city wants to join UIA six months from now, a year from now, what is the process?

Mr. Marriott: It costs five times as much; we hope that there are those members that will be adding to it on a regular basis. I think that the process would be, and Mr. Shaw can correct me if I'm wrong, that cities like yourselves or entities would accept and approve, and then the Board of Directors would have to accept that member into the agency.

Mr. Brass: The reason that I ask is that, conceivably, if we said no tonight, six months from now, we could say we would like to join.

Mr. Marriott: Sure, with the caveat being, of course, that this current effort would be well underway. It still may have the same effect if you do that.

Mr. Brass: Again, my concern is that we have a lot of debt obligations already in the city, as everybody knows, all cities are struggling-sales tax revenues finally crossed the line into positive numbers, but are not *that* positive. All of this affects our ability to bond for other things that we do need-roads and infrastructure, above and beyond glass in the parking strips. That has always been my concern, the tough economic times.

Mr. Marriott: We are very cognizant of that; I guess I would say that the time for us to strike on this is now, and as we do so, the benefit comes quicker, and helps to alleviate some of that tax burden. I think it is inherent to ask those questions, I believe that I am here because the case is such that if you go forward tonight and join this membership, you get a seat at the table; it doesn't obligate you to any of that bonding that we talked about, the dues we explained. My recommendation, as your staff member, is to go forward and join that entity and get involved and we will have continued discussions in terms of that bonding mechanism in some of the future efforts that will be underway fairly shortly. Nevertheless, my strongest recommendation is for you to go forward tonight to get involved with that because we need Murray in those discussions and decision making of many of the items that you have addressed here tonight.

Mr. Dredge: First of all, I would like to commend our City Attorney, who has worked tirelessly on reviewing this process, and let him know publically that we appreciate his efforts. One of the concerns that he has raised here, in writing for us, and I have discussed this with Mr. Shaw, is this alter-ego issue, if you could address that; and if you could also address is: if we should opt in and join UIA, to which would allow you to go in and do your study and proceed forward, would we be able to opt out, should we decide that we don't like the way things end up in the bonding process?

Mr. Shaw: I will echo your comments about Mr. Nakamura and his tireless efforts; you have a diligent City Attorney and it's been very pleasant to work with him and his pointed questions, and I think we have become better through this process for it.

To the alter-ego doctrine: the alter-ego doctrine comes about where two agencies, entities, sister companies typically arises in the corporate sense, are so closely aligned so as to no longer be separate entities. So, one of the questions that have rightfully been asked is: are UTOPIA and UIA so closely aligned that they are in fact the alter-ego of each other. The Utah Supreme Court has ruled on the alter-ego doctrine, specifically in the context of local governments; there was a case known as the 'The Iron County' case, where a municipal building authority was created for the establishment of a jail. The jail was established through the municipal building authority, because the elected officials put on the ballot the question to the voters of should we build a jail with public funds. The voters said no, you shouldn't. Using statutory mechanisms available, the elected officials created a building authority to bypass that referendum and voting process, so as to build the jail with public funds. A suit was brought by a group of taxpayers, questioning whether or not the alter-ego doctrine had been violated, among other things, in the establishment of the building authority such that the building authority's actions became the actions of the local political subdivision and therefore were not an independent act of the building authority.

The Supreme Court established a two-prong test in the Iron County case, to determine whether or not alter-ego is violated. The first prong is that there must be a unity of interests, such that the corporate formalities typically incumbent with separate legal entities are no longer formalized and used. Here is no question that there is a unity of interests between UTOPIA and the UIA; the end purpose after all, is to build telecommunications infrastructure in the member cities. There are distinctions in the corporate formalities between the two entities; the UIA membership is not identical to UTOPIA's. UTOPIA has 16 members, the UIA, today, has seven. If the Murray Council votes to join, you would be number eight. There remain a significant number of UTOPIA cities who are not members of the UIA, nor do they plan to be; including at least, one or two pledging member cities-Tremonton and Perry City. Are they so closely aligned such that there is a unity of interest and there is no corporate formality? I think that the answer is yes, on the unity of interest, but no, on the corporate formality side. The Board of Directors, while established similarly, does have different membership; there are some cities that appointed different board members from their cities to be on the UTOPIA board versus the UIA board. The executive committee from the UIA, while they certainly have the right to create and appoint one, may not look the same as the UTOPIA executive committee; there are arms-length transactions already in place between the two. That is the first prong of the Iron County test.

The second prong of the Iron County test says: Not only must there be a unity of interest, which even if we agree, arguably, that there is on here, that unity of interest must be conveyed and pursued as to commit a deceit or fraud upon the public. As we have looked at that very closely, the intent here is not to commit any deceit or fraud upon the public, the intent is to legitimately raise additional capital to continue a telecommunications project; the project will be owned by the UIA, it won't be owned by UTOPIA, and while there may be symbiotic relationships between the two entities, they will be distinct entities and there will be separate audits, separate financial statements, there will be separate corporate formalities, and they will have separate purposes. It is also conceivable, as Mr. Marriott eluded to, that there could be additional members of the UIA that have absolutely nothing to do with UTOPIA. There also could be, and I think this is a bit of a longer shot given the debt structure, but UTOPIA is structured in such a way that additional cities could join UTOPIA; again, the debt structure makes that a little prohibitive, but it is conceivable. Under the Iron County test, as we have looked at that, while prong one may have been met-and I use cautionary that I use the term may and not has been-prong two has not. There is no intent to deceive or defraud the public here, and everything is being done in open meetings, that is why we are here tonight; when we come back to the cities, hopefully Murray included, that will include public hearings where the public has the opportunity to comment as they have tonight. Given the current state of the Supreme Court law, on the alter-ego doctrine, I don't think it's being violated here.

Mr. Dredge: One follow-up question: when I started working on this UTOPIA deal, I had more hair-I have lost a significant amount in the intervening years-Do I have a case against UTOPIA? I'd like a formal legal opinion. (Humor)

Mr. Shaw: Not unless they've supplied the rusty razors. (Humor)

Ms. Dunn: Clarify one more time: If Murray City, tonight, says no to UIA, is UIA going to be viable?

Mr. Marriott: In my opinion, if you say no tonight, the UIA will proceed with or without you. It will definitely change, significantly, what we do because many of the cities that are invested in the UIA tonight, that are there right now, have already invested heavily in Murray; they need your significant help. These cities are dedicated to the citizens, to provide this infrastructure, and many of them are in as bad or worse shape than Murray. They are going forward because they have vetted the model, they are in need of that infrastructure, they are dependent on one another, and they are going to remain good partners, and they are going to fulfill their commitments that have been made to their citizens to get this built out, and they feel that this is ultimately the best way going forward. I see Mr. Loader in the audience, who is a chairman of the UTOPIA board, but it would be a big blow because there has been so much investment made here in Murray, and you have such wonderful citizens and good demographics, and need for this infrastructure.

Mr. Brass: As I've said before, I would sure love to see the model tested before we committed to more debt. Mr. Marriott, you have given me plenty of time to sit down to talk to you, and I appreciate that, and I believe in what you are doing but as I've said, I'm concerned about our debt load. Ours as a City, and even if the risk isn't that much, it's still another $2.6 million in risk.

Mr. Marriott: I would like to be able to produce additional modeling based on this, as you know I'm broke and that is the biggest problem. Two years ago I could foresee this and as we looked at the $8.9 million we had, and the obligations that we would have over the next few years, we partitioned off about $3 million into phase III or Operation Prime. We did model, so there is that modeling, it's been tested, validated and worked through with the widows might, and everything we had. I would love to be able to have another $5 or $6 million to have produced even better results, but I didn't have it. The modeling and the testing we have going forward is in effect going to happen in terms of incrementally moving through incremental tranches. We will continue to adjust, tweak and work; and we have produced some new business modeling that should throw shudders out there in the telecom world once it gets put out there, and we will be significant. We continue to sharpen that pencil and refine that model. I would like to have more time and more money.

Mr. Brass: I would have less heartburn giving you money to go test it in Murray as opposed to saying ok, let's go play with another $2 million plus. It's been a lot of years, and it keeps coming back.

Mr. Dredge: You talk about a study that you are going to do. What is it that you are looking for out of that study?

Mr. Marriott: Well, we're going to have to have bond counsel provide their opinion amongst others, including yourselves, as we go forward on the bonding; so we are obligating ourselves as well to have, although this has been vetted by financial advisors, accountants, CPA's, attorneys-we've held I don't know how many attorney meetings-and yes, your legal counsel has been very good at refining that process through here. Without Mr. Nakamura, we would never have gotten to the point where this is really viable and so we are indebted to Mr. Nakamura. What we are going to do is, we already have people who have provided us bids, who are outside professionals, that will come in and vet the plan, work through it, and see if in fact it is feasible. They are bidding to provide a third party, arms-length analysis that what I'm telling you, will work.

Mr. Dredge: So you are saying that the UIA is going to hire a study done, that is then going to come back to the board and say, here is what we see as an outside source.

Mr. Brass: What if we are willing to fund the study, then consider joining the UIA?

Mr. Marriott: The feasibility will take into account those members that are already in. I know tonight we are tip-toeing a little bit, what we are providing you is the best way forward; I have found in life, not to wax poetic, when there is pain, if you go around it, you will never get rid of the pain. You have to go through the pain productively in order to make it work; we are all in a painful mode, and that pressure squeezes, and I know it is on you and each of you have expressed concerns and worries and all those things, but if we go through with this plan, and execute it as we have said we would do, it is the right way to go through this pain. The feasibility study will provide that recognition of that fact, or the advice that you better run for the hills.

Mr. Brass: The pain is gain analogy-I subscribed to that one for a long time, now all it gets me is more hardware in my joints. I worked through the pain, and there is more pain.

Mr. Shaver: I will go to my comment, and that is this: If there is a 54% in the

City of Murray, that has no idea of what UTOPIA is about, and you add to that the percentage of the people that participated in UTOPIA that didn't have a good experience with UTOPIA, add to that those that, even if they didn't have a bad experience with UTOPIA, have some understanding of it and don't like it, as someone who represents a constituency it gets back to that reporting. What I am asking you, not just Mr. Marriott but that board and the executive committee, is that if I am going to vote for it, I will not be left stranded. In other words, I have to go back to that constituency and say that it is working, it is here. When I get the phone calls from people saying why did you, or why didn't you, I need to know with a clear conscience that the choice I am making, I have the ability to look at it and present it to them in a way that is understandable. Please know that I get phone calls from people who say 'just stop participating' and as Mr. Nakamura said earlier, we don't have that option- we're stuck in it, a rock and a hard place from what I've heard now, from every person I have spoken with who has a knowledge of this particular issue. Those people represented ask me to represent both them, and the money- that sacred trust you talk about, and I take that very, very significant as my own choice in the decision I made in saying that I want to run; but I have to be able to go back to them and say it was a good choice because….. and when I don't hear, or I'm not aware because something happens in secret and I hear about it later, it makes me distrustful, and I can't do that. I can't do that personally, and I won't do that to them.

Mr. Marriott: I am open to any suggestions that help that transparency and that information flow. I tell you, one of the biggest problems that I think we have is engagement from everybody, because you have so much to do; but we are very anxious to see those who have offered up that engagement, that involvement, we are very hopeful that that indeed occurs because more hands makes for lighter work. It is not just the reporting, but the feedback we get from each of you, and I've received great input, that we assimilate every day into our thinking, our processes and how we do it; so it is not just a matter of just saying it, if we did what we said, but here is some better ways to do what you said you would do. We really hope that occurs.

Ms. Dunn: We have beat it to death already, but what I would say tonight is something that I am very concerned about, and I know all of the Council is concerned about, and that is the people we work with every single day in Murray- our employees. They make the city, they are the backbone of our city and we could not provide any of the services we provide without them; unfortunately, and I think we are wrong in this, but that is just my opinion, I think we should have been providing a whole lot better information to our employees all the way down the line. I have talked with a lot of employees in the last little while, and they are concerned about this. I will also tell you that 80-90% of them have said exactly what the constituents say- let's just get out of it, let's just leave it. That is wrong on our part; we need to do, just like they need to a better job, making sure that we know what's going on, we need to do a better job in letting our employees know and letting our constituents know about this. Granted, we have been kind of lost in the whirlwind of it all too-the information comes slowly and is understood even more slowly; not only do we need to do a better job of communicating with our staff at UTOPIA, but communicating with our employees and with our constituents on what is going on. I would love to see, whether the vote is positive or negative, at least every few months, a UTOPIA report on our Committee of the Whole agenda and get some real information along the way.

The other part to this is: we have heard a lot of things about UTOPIA and UIA will die if we don't join, the whole system will go dark, we've heard all kinds of things and it's comforting to know that whether it is or not, that you plan on it going forward whether we vote in favor or not. To be really honest, nobody here has told me how they are voting here tonight, and I think I told you that earlier. No one here has told me that, but to that point, it is comforting to know that you guys plan on succeeding either way and I was a little concerned about that.

Finally: we are in this, like it or not. We are in for $1.5 million in pledges, we are in for another $312,000 per year in dues and other costs, if we decide not to go. And we are in, because we voted to, on the legal issue, which puts us up to about $2 million, like it or not. If we vote yes, and you take away the $300,000 leave the other ones in there, and put the $300,000 plus into going into the long term. It was also comforting to hear tonight, for sure, that because I don't think it was really clear and I know the issue has been raised and you guys have been good to say 'yes it is subject to appropriation by the council', that we have the chance, once we've seen a little more with the independent study, we have the chance to say no, we're not comfortable going forward. I was glad to hear that this evening.

Mr. Dredge made a motion to adopt the Resolution to join the UIA, but not to long-term fund.
Mr. Shaver 2nd the motion.

Call vote recorded by Carol Heales.

Mr. Brass: You guys gave it your best shot, but I still have real problems with the agreement; one of my big problems is that I feel like I'm signing a blank Check-we don't get to see it unless we join. I would rather see the feasibility study before I commit to go down any road, as there is a dollar commitment, so I have to vote nay.

__N__ Mr. Brass
__A__ Mr. Shaver
__A__ Ms. Dunn
__A__ Mr. Dredge
__A__ Mr. Stam

Motion passed 4-1

G. MAYOR'S REPORT

None

H. QUESTIONS OF THE MAYOR

None

ADJOURNMENT