

1 Minutes of the Centerville **City Council** meeting held Tuesday, June 17, 2014 at 7:00 p.m. in  
2 the Centerville City Hall Council Chambers, 250 North Main Street, Centerville, Utah.

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4 **MEMBERS PRESENT**

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6 Mayor Paul A. Cutler

7  
8 Council Members Ken S. Averett  
9 Tamilyn Fillmore  
10 John T. Higginson  
11 Stephanie Ivie  
12 Lawrence Wright

13  
14 **STAFF PRESENT**

15 Steve Thacker, City Manager  
16 Blaine Lutz, Finance Director/Assistant City Manager  
17 Lisa Romney, City Attorney  
18 Neal Worsley, Centerville Police Chief  
19 Marsha L. Morrow, City Recorder  
20 Jacob Smith, Management Assistant  
21 Katie Rust, Recording Secretary

22 **VISITORS**

23 Interested citizens (see attached sign-in sheet)

24 **PLEDGE OF ALLEGIANCE**

25  
26 **PRAYER OR THOUGHT** Councilman John Higginson

27  
28 Mayor Cutler explained that Marsha Morrow, City Recorder, and Jacob Smith,  
29 Management Assistant, were distributing comment cards that could be filled out with a name  
30 and comment regarding UTOPIA/Macquarie, and could specify a desire to speak during the  
31 public hearing. The Mayor stated that during the public hearing he would call the names in the  
32 order in which the cards were received.

33  
34 **PRESENTATION BY POLICE CHIEF**

35  
36 Neal Worsley, Centerville Police Chief, introduced two police officers recently hired by  
37 the City, Kael Jackson and Doug Fackrell. Chief Worsley also recognized Councilman Ken  
38 Averett for graduating from the Davis County Citizens Police Academy, and invited interested  
39 citizens to participate in the Academy in the future.

40  
41 **OPEN SESSION**

42  
43 No one wished to comment.

44  
45 **BID AWARD – WOODS PARK PDO WATERLINE**

46  
47 Councilman Higginson made a **motion** to award bid to HD Supply in the amount of  
48 \$58,633.95 (includes tax) for materials and to Kapp Construction in the amount of \$77,739.75  
49 for construction of the Woods Park PDO waterline. Councilwoman Fillmore seconded the  
50 motion, which passed by unanimous vote (5-0).

51

1                   **FY 2014 BUDGET (CURRENT FISCAL YEAR)**  
2

3                   Blaine Lutz, Finance Director, presented the Interim Financial Report for May 2014, and  
4 explained proposed amendments to the FY 2014 Budget. Mayor Cutler opened a public  
5 hearing regarding the proposed amendments at 7:22 p.m., and closed the public hearing seeing  
6 that no one wished to comment.  
7

8                   Councilwoman Fillmore made a **motion** to accept Resolution No. 2014-14 amending the  
9 Fiscal Year 2013-2014 Budget of Funds and Accounts for Centerville City. Councilwoman Ivie  
10 seconded the motion, which passed by unanimous vote (5-0).  
11

12                   **ORDINANCE ADOPTING RESTRICTED AREA FOR DISCHARGE OF FIREWORKS**  
13

14                   Steve Thacker, City Manager, explained the Fire Chief's recommendation that the same  
15 areas as last year be designated restricted areas for the discharge of fireworks: east of Main  
16 Street north of Chase Lane, and east of 400 East south of Chase Lane. Mr. Thacker added that  
17 the Council could choose to either make the restrictions temporary for this year or permanent.  
18 Mayor Cutler recommended making the restrictions temporary. Councilman Wright pointed out  
19 that the suggested language seemed to prohibit use of residential backyard grills and fire pits.  
20 Councilwoman Ivie added she spoke with the Fire Chief and was told that language exempting  
21 residential backyard cooking from the restriction was inadvertently left out.  
22

23                   Councilwoman Ivie made a **motion** to adopt Ordinance No. 2014-12 designating a  
24 restricted area within Centerville City for the discharge of fireworks due to hazardous  
25 environmental conditions, with the addition of language to allow residential backyard cooking  
26 within the area. Councilman Higginson seconded the motion, which passed by unanimous vote  
27 (5-0).  
28

29                   **UTOPIA/MACQUARIE PROPOSAL**  
30

31                   Mayor Cutler assured those in attendance that the City Council understands the gravity  
32 of the decision regarding UTOPIA and the Macquarie proposal. The Council will be deciding  
33 whether to agree to commit additional funds to participate in negotiations and obtain further  
34 information in Milestone Two.  
35

36                   Presentation from Macquarie  
37

38                   Duncan Rammage, Senior Vice President with Macquarie, expressed appreciation for  
39 the community members in attendance. He stated that from Macquarie's point of view  
40 broadband and fiber look more and more like an essential service. In looking at UTOPIA,  
41 Macquarie saw an opportunity to introduce more competition to the market; something that Mr.  
42 Rammage said has made the incumbents nervous. Mr. Rammage admitted that the Macquarie  
43 proposal is not perfect, but tries to solve two problems: (1) not enough investment and  
44 competition; and (2) UTOPIA's history. Macquarie proposes to re-brand UTOPIA with a new  
45 name, managed completely by the private sector. Macquarie would finance a complete build-  
46 out to every address across all member cities, assume all operating costs, all refresh costs, and  
47 risks of performing as contracted for 30 years, creating a platform for competition in an open-  
48 access network, and then return the asset to the cities at the end of the contract period. The  
49 cost of build-out, refresh of the existing network, and operating would be funded by the utility fee  
50 equal to approximately \$20 per month per household. Mr. Rammage continued that a basic  
51 service would be included in the utility fee. For many citizens the basic service would not be  
52 enough, and the option to upgrade would be available through the service providers. Mr.

1 Rammage stated that at least half of the amount collected from the service providers by  
2 Macquarie for use of the network would be returned to the cities. He showed examples of  
3 Comcast bills from Provo residents showing that prices went down when Google brought more  
4 competition. Mr. Rammage expressed confidence that residents would get a lot of savings for  
5 the \$20 per month. He stated that Macquarie is an easy target, and he hopes citizens will look  
6 past negative headlines and see good value for the money. Partnership with Macquarie would  
7 improve the community's competitiveness, close the digital divide, and help pay down the debt  
8 while building for the future.

9  
10 Report from Citizen Advisory Committee

11  
12 Dan Ditto, representing the Citizen Advisory Committee, introduced the other members  
13 of the Committee. He explained that the Committee has spent many hours determining the  
14 facts of the issue, with four subcommittees to analyze the financial, technological, legal, and  
15 community aspects. Mr. Ditto stated that the Committee is not unanimous in its  
16 recommendations, but is unanimous regarding the facts they will present. A copy of the  
17 Committee's presentation is attached.

18  
19 Mark Oligschlaeger, representing the financial subcommittee, listed six options available  
20 to UTOPIA moving forward. He explained that the UTOPIA bond debt averaged over the next  
21 25 years represents \$9.44 per household per month. Sale of the network would result in an  
22 additional early termination fee. The UIA bond debt represents \$1.71 per household per month,  
23 plus early termination fees if the network were sold. Mr. Oligschlaeger pointed out that the UIA  
24 debt is currently funded by revenues of the network and is not paid by the cities. The UTOPIA  
25 operating deficit is equal to approximately \$2.50 per household per month, and the expense to  
26 refresh the existing network would equal another \$2.50 per household per month. He stated  
27 that continuing UTOPIA as it is now is not a viable option.

28  
29 Mr. Oligschlaeger stated the second option, to restructure UTOPIA management and  
30 engage in new business ideas, would require a vote of confidence in the new management and  
31 additional bonding, which would be difficult in the current environment and may require a third  
32 party. The option to sell the network would not eliminate the bond obligations, and would  
33 include early-termination fees. Mr. Oligschlaeger continued that the fourth option, to go dark,  
34 may seem tempting, but would eliminate revenues that are currently helping to pay down debt,  
35 and would likely involve litigation. UTOPIA cannot go bankrupt, since sales tax revenues of the  
36 cities are pledged for the next 25 years.

37  
38 The fifth option, a Public Private Partnership (PPP) with Macquarie, transfers the cost  
39 risk to Macquarie and includes the possibility of debt repayment through revenue sharing. The  
40 sharing formula would be a key component of Milestone Two. Mr. Oligschlaeger stated the  
41 Committee is curious to know what the sharing formula would be. The last option, to invite other  
42 proposals, would not be discouraged by the Committee. However, Mr. Oligschlaeger  
43 emphasized that it would be a lengthy process and would require further agreement between  
44 the cities to continue funding the operating deficit and refresh of the network. He pointed out  
45 that Centerville is a significant revenue contributor, but has less than a 4% vote in UTOPIA and  
46 does not have the ability to operate the assets independently.

47  
48 Nannette Smith, representing the community issues subcommittee, expressed  
49 appreciation for comments from the community. She stated the Committee has spent more  
50 than 100 hours researching and discussing the issue. The overriding message she has  
51 received in talking to members of the community is how much the citizens love Centerville. She  
52 added that the Committee feels the same way. Everyone is looking for the best solution for

1 Centerville. If the Council chooses to opt in the Committee feels community education will be  
2 very important. If the Council votes to opt out the City will need to resolve how to pay  
3 Centerville's portion of the debt, resolve existing problems with UTOPIA, and consider legal  
4 risks and the impact on businesses.

5  
6 Randy Burgoyne, representing the technology subcommittee, listed the pros and cons of  
7 copper cable, wireless and wireless mobile, and fiber optics (included in the attached  
8 presentation). Jennifer Decker, representing the legal subcommittee, reviewed the legal issues  
9 and Committee legal recommendations for the different options moving forward (attached),  
10 including the recommendation that Centerville hire its own legal counsel to assist in the  
11 negotiations if the Council chooses to move on to Milestone Two. Ms. Decker expressed the  
12 opinion that having a seat at the negotiation table during the information gathering stage is in  
13 Centerville's best interest. It is unclear if the information negotiated by other cities during  
14 Milestone Two would be available to Centerville if the City opts out.

15  
16 Mr. Ditto reviewed some of the pros and cons of proceeding and not proceeding to  
17 Milestone Two with Macquarie. Negotiations between Centerville and the other cities will  
18 continue whether the City moves to Milestone Two or not. Mr. Ditto suggested opting in would  
19 create the goodwill to negotiate the best outcome for Centerville. The Committee feels being an  
20 active participant during negotiations of the key issues would be to Centerville's benefit.

21  
22 Mr. Ditto stated that the majority of the Committee believes that it is beneficial to go to  
23 Milestone Two with Macquarie. However, proceeding to Milestone Two should not be construed  
24 as an endorsement of the Macquarie proposal, but as a means to secure the best outcome for  
25 Centerville. He stated that, given the complexity of the legal issues, financial commitments and  
26 the amount of UTOPIA/UIA debt at stake, the additional information and options Centerville may  
27 obtain by proceeding to Milestone Two, and having a seat at the table, likely outweighs the  
28 approximate cost (\$31,000) of opting out before Milestone Three.

29  
30 At 9:01 p.m. Mayor Cutler opened a public hearing.

31  
32 Clark Johnson – Mr. Johnson worked in the telecommunications industry for 25 years,  
33 building fiber networks for many years. He stated that technological changes over that period of  
34 time were astounding, increasing exponentially every month. Mr. Johnson said he is very  
35 skeptical of the chances for long-term viability and success of the UTOPIA network. Certainly  
36 the connection may last for years and years, but it is possible that another option will be  
37 available in the future making a connection to each home unnecessary. He also expressed  
38 concern with the anticipated take-rate. He suggested the City should look at the most cost-  
39 effective way to correct the problem and get out of the situation in the most economical manner.

40  
41 JP Damron – Mr. Damron stated that twelve years ago he worked for Comcast and  
42 stood before the Council questioning the UTOPIA business model and finances. He said he  
43 feels he was given smoke screens. Mr. Damron stated he feels the City is essentially being  
44 held hostage. He said that by calling the charge a utility fee, other providers would be able to  
45 charge the same fee. He asked what other fees would be associated with or added to the utility  
46 fee. He asked what the future costs will be and what other portions of the business model are.  
47 Mr. Damron continued that at this point, as sad as he is to say it, to not go through with  
48 Milestone Two is to subject the City to further costs.

49  
50 Rick Bingham – Mr. Bingham, speaking for a friend who was unable to attend,  
51 encouraged the Council not to accept and continue with the Macquarie proposal. He stated the  
52 opinion that the Advisory Committee is considering the wrong issue and will make the wrong

1 recommendation. Mr. Bingham continued, saying that the City should consider if it should be in  
2 the internet business at all. He stated the issue is whether or not the internet is a utility and  
3 should be provided by the City. He stated he does not think it is an appropriate role of  
4 government. For himself, Mr. Bingham stated he does not understand how a city-made  
5 monopoly will bring competition and reduce prices.  
6

7 Patricia Hedrick – Ms. Hedrick expressed appreciation for the work of the Advisory  
8 Committee. She expressed the opinion that the biggest problem is mandate, which should not  
9 be part of government. Ms. Hedrick stated business should not be connected with a utility. She  
10 said she feels community education will be important, and that the City should find a different  
11 way, possibly a tax. Ms. Hedrick stated that a 30-year mandated monthly utility fee charged to  
12 each household and business is not okay.  
13

14 Paul Capinski – Mr. Capinski stated he is strongly opposed to the way the City is going  
15 because he feels it is a forced solution on citizens that smacks of dictatorship. He said he feels  
16 citizens would be forced to pay for something they don't need, don't want, or can't afford. Mr.  
17 Capinski continued that if the Macquarie proposal was unsolicited, UTOPIA should solicit other  
18 proposals. He asked what has happened to the cities that have stopped paying UTOPIA  
19 operating assessments, and what would happen to Centerville if the City stopped paying. He  
20 said he does not believe the City should accept the plan as it is proposed.  
21

22 Lad Marshall – Mr. Marshall thanked the elected officials for their service. He expressed  
23 that he feels obligated to voice his opinion given his experience selling UTOPIA for the last five  
24 years. As he worked selling UTOPIA in Centerville he became sold on Centerville as a  
25 community and purchased a home here. He said he has learned that: (1) fiber to the home is  
26 better - superior in capacity, performance, and value; (2) competition is better, and UTOPIA  
27 facilitates competition; and (3) the opportunity to keep money local is important. Mr. Marshall  
28 said he feels \$31,000 is a small price to pay for more due diligence and to have a robust  
29 understanding of the issues.  
30

31 Amy Hancey – Ms. Hancey thanked the elected officials and the Advisory Committee for  
32 all the time they have given. She stated she was originally against UTOPIA, but she now has  
33 UTOPIA and has changed her opinion. She feels the City needs more information and the only  
34 way to get it is to go to the next step. Ms. Hancey reported that in the three years she has had  
35 UTOPIA she has saved \$2,880, including the \$2,700 connection fee. If she had originally  
36 signed up with the proposed utility fee model rather than the connection fee, she would have  
37 saved an additional \$600. She said she feels fiber to the home raises the value of the homes in  
38 the community. Ms. Hancey suggested it would be worth setting up a booth-type situation  
39 where citizens could bring their various telecommunications bills and see how much money they  
40 could save with UTOPIA.  
41

42 Robert Rosier – Mr. Rosier stated he is upset about the whole thing. Referring to the  
43 Pledge of Allegiance that was repeated at the beginning of the meeting, Mr. Rosier stated he  
44 wonders what "liberty and justice for all" means if the City can put the citizens of Centerville in  
45 financial bondage to something they shouldn't have been involved in to begin with. UTOPIA  
46 was originally presented as an option available if citizens want it. Now it is being presented as  
47 required. Mr. Rosier stated he feels citizens should have a choice. He asked how charging  
48 citizens \$20 per month is funding with "private money". He also asked why, if the network is  
49 such a valuable asset, Macquarie would want to give it back to the cities at the end of the 30  
50 years. Mr. Rosier continued by asking why it needs to be refreshed if fiber has no  
51 obsolescence. He said he is opposed to moving forward to Milestone Two.  
52

1           Dale McIntyre – Mr. McIntyre stated he is a UTOPIA customer with service from  
2 XMission. He expressed his objection to a letter sent by the previous Mayor and Council during  
3 the previous election. He also expressed objection to the exclusivity agreement between  
4 UTOPIA and Macquarie.

5  
6           Mark Coon – Mr. Coon stated he has experience with fiber optic technology, which has  
7 changed over the years. He stated his predictions for where the technology will go. Mr. Coon  
8 said he expressed to the Council five or six years ago that he did not feel the City should go  
9 forward with UTOPIA. He emphasized that the City has a debt responsibility that must be paid.  
10 He said that in his professional experience prices are lower for businesses that have UTOPIA.  
11 Mr. Coon stated he feels UTOPIA should be going after businesses rather than residences. He  
12 believes revenue sharing should be a must. Mr. Coons stated the City should spend the  
13 \$31,000 to continue looking into it. He continued that options may change in the future, but right  
14 now this is the best we have.

15  
16           Rob Oakes – Mr. Oakes quoted from the Preamble of the Constitution and stated that  
17 government is supposed to provide and promote the general welfare. He quoted statistics that  
18 show Centerville is an affluent community with high internet use. He feels internet use is  
19 important for the education of children. Mr. Oakes added that the current incumbent providers  
20 are among the least liked companies in the Country, and the situation is ready for government  
21 to come in and protect the general welfare. He believes that competition will bring down prices.  
22 Mr. Oakes stated the fact that he is able to compete in a global marketplace is a significant  
23 benefit. He and his employees live, work, and pay taxes in Centerville, and he strongly  
24 encouraged the Council to continue with due diligence and move to Milestone Two.

25  
26           Janet Duncan – Ms. Duncan asked the Macquarie representative what portion will be  
27 distributed to First Solutions. She also asked what will keep the ISPs from charging outrageous  
28 fees and raising prices. Ms. Duncan said she was told outside of the meeting that Macquarie  
29 would be borrowing a lot of its financing. She asked what would happen if Macquarie pulls out.  
30 She is happy for people who already have UTOPIA and like it, but she does not want it. Ms.  
31 Duncan pointed out she feels the number of households that have not signed up for UTOPIA  
32 sends a message of what public sentiment is. She also stated she has a problem with those  
33 who already have UTOPIA not having to pay the utility fee and share the load.

34  
35           Mark Allred – Mr. Allred stated that with UTOPIA he has speeds that allow him to work  
36 from home. He appreciates that he is not locked contractually to any provider, and agreed with  
37 Ms. Hancey that it enhances the value of his home. Mr. Allred expressed the opinion that some  
38 of the anti-UTOPIA material he has received in the mail is offensive. He said he thinks that: (1)  
39 if it is treated as a utility it should be of value to every citizen; and (2) there should be open,  
40 respectful dialog looking for the solution that best serves the citizens going forward.

41  
42           Greg Call – Mr. Call stated he feels spending the additional amount to continue with the  
43 evaluation makes sense to make the best decision. He asked what would happen to Centerville  
44 if Macquarie fails, and what kind of incentives will be offered to those not currently connected  
45 with UTOPIA to use the system. Mr. Call asked what will ensure that promises made will be  
46 kept, and stated the opinion that the utility fee may actually reduce property values. He added  
47 that technology is changing fast, and the system may not be needed in 15-20 years.

48  
49           Al Phelps – Mr. Phelps stated he does not agree with paying \$30,000 for an evaluation  
50 that will make Macquarie a lot of money. He said he is connected to UTOPIA to save money,  
51 and he feels he will continue to save money whether the City goes with Macquarie or not. He is  
52 not convinced there would be more competition with a Macquarie partnership. Mr. Phelps said

1 he is against another tax and is concerned about what it would mean for other people. He  
2 asked if the City is aware of all the ramifications of adding another tax.

3  
4 Debbie Putnam – Ms. Putnam stated she has worked in telecommunications for 37  
5 years. She sees UTOPIA as the gift that keeps on costing. She expressed the opinion that the  
6 tax would never be removed, but would continue and be used for something else after the 30  
7 years. Ms. Putnam stated that living in America means she should have the right to choose the  
8 services she has. Those who want it can pay for it and those who don't want it should not have  
9 to pay for it. She said she is against the tax in any form.

10  
11 Gary Landsaw – Mr. Landsaw stated that a city either grows or dies. He said he thinks  
12 the fiber optic system is the way of the future and is a good idea. He doesn't know if Macquarie  
13 has the best proposal, but he feels that if the City passes it up and waits for something better,  
14 the same arguments against will be heard then that are heard now. He believes the fiber optic  
15 system is a good thing for Centerville. It may not have been set up right to begin with, but he  
16 does not want the City to be behind the curve. He expressed the need to have faith in the  
17 elected officials and vision of what can be in the future. Regardless of how it works out, he feels  
18 the community needs to work together.

19  
20 Robin Mecham – Ms. Mecham expressed disappointment that, with all the effort to keep  
21 money in the U.S., taxes would be collected and sent to Australia for this. She said she did not  
22 think it would work from the beginning and still does not think it will work. Ms. Mecham asked if  
23 there would be a cap on the \$20 utility fee. She disagreed that it would make homes worth  
24 more. Ms. Mecham said the City should cut its losses and move on, and asked why Macquarie  
25 would charge the cities for Milestone Two.

26  
27 Kevin Rawlins – Mr. Rawlins asked why Macquarie's unsolicited proposal is the only  
28 proposal being considered. He said he believes there must be other companies willing to  
29 submit proposals.

30  
31 Ronald Freeman – Mr. Freeman asked how many members of the Council are UTOPIA  
32 customers. He asked if the Macquarie proposal could possibly create a monopoly, and  
33 commented that Comcast already has fiber optics in the area. Mr. Freeman quoted a Tribune  
34 article that argued charging a fee with anything like a municipal subsidy for telecommunications  
35 is illegal in Utah. He suggested the City call the Utah Attorney General's office before taking the  
36 vote.

37  
38 Lee Skabelund – Mr. Skabelund expressed the concern that community members no  
39 longer have the ability to make the leap from Sunday principles to weekday practice. He  
40 expressed disapproval that the matter will not be put to a public vote. Mr. Skabelund stated the  
41 community is not homogenous. He added that the government has the responsibility to  
42 promote the general welfare, not provide it. The Constitution has a provision to protect  
43 minorities, and the community needs to be respectful of different circumstances. Mr. Skabelund  
44 expressed the City needs to get back to the proper role of government to maintain financial  
45 flexibility for the future. He stated he does not see a big problem with paying a small amount of  
46 money for additional, objective study.

47  
48 Royce VanTassell – Mr. VanTassell, Vice President of the Utah Taxpayer's Association,  
49 stated there is no basis in State Code or the Interlocal Agreement to charge a parity fee of cities  
50 that choose not to participate.

51

1           William Ince – Mr. Ince is a member of the Planning Commission. He encouraged  
2 Council members to vote against proceeding to Milestone Two. He gave three reasons: (1) the  
3 complexity of the contractual obligations is almost unimaginable; (2) he does not feel moving  
4 forward would represent limited government; (3) he believes that freedom of choice is more  
5 important than general welfare.  
6

7           Earl Stanbridge – Mr. Stanbridge stated he does not feel this could be called a utility  
8 since the fee would be charged whether used or not. He said he feels it should be put to a vote  
9 and added legally as a tax.  
10

11           Kim Samuelson – Mr. Samuelson stated he would like to see other proposals, but he  
12 feels the City should spend the \$31,000 for further information if no other proposals are  
13 available. He asked which cities have decided not to pay the operating assessments, and what  
14 the fallout will be. Mr. Samuelson suggested there should be a greater effort to acquaint people  
15 with the benefits of UTOPIA rather than relying on Macquarie.  
16

17           Greg Larson – Mr. Larson stated that all those who are saving money with UTOPIA are  
18 able to save money because the City is subsidizing. He said he feels there will be a lot of  
19 change in technology in the future and the City should not be obligated to one option for the  
20 next 30 years.  
21

22           Pete Ashdown – Mr. Ashdown is a representative of XMission, one of the service  
23 providers with UTOPIA. He stated that competition is a large group of companies competing  
24 against each other, and on UTOPIA he is competing against more than a dozen other  
25 companies. Customers can easily switch between the different competitors. He believes  
26 UTOPIA represents infrastructure and competition. Mr. Ashdown pointed out that citizens do  
27 not always get to choose what mandatory tax dollars are used for. He said he wishes a better  
28 offer were available, but he does not think one is coming.  
29

30           Reva Johnson – Ms. Johnson stated she believes the City should pay its financial  
31 obligations, but not put any more money into the Macquarie proposal. She believes  
32 participation should be a choice, not mandatory. Ms. Johnson said she does not view fiber  
33 optics as a basic utility.  
34

35           Steve Allen – Mr. Allen stated he has been in the telecommunications business for 50  
36 years. He said that since 1968 the Federal Government has been trying to make sure there are  
37 no monopolies. He feels this particular deal would undo all of that effort by creating a true  
38 monopoly where everyone has to pay. He added that the competition would have to go on top  
39 of the mandatory fee. Mr. Allen said he feels it is wrong and goes against everything the  
40 country has been trying to accomplish in telecommunications for a long time.  
41

42           Richard Johnson - Mr. Johnson expressed appreciation for the efforts of the Advisory  
43 Committee to make the presentation. He commented on the great expansion of technology  
44 over the years, and encouraged the Council members to vote in favor of moving to the next  
45 step. Mr. Johnson said he feels the \$31,000 would be worth the effort.  
46

47           Frank Mulder – Mr. Mulder commented there are many options available for connectivity.  
48 He said the proposed situation scares him in terms of contractual matters. He recommended  
49 Centerville have legal counsel involved and hire a professional negotiator to be at the table. Mr.  
50 Mulder said he is moving away from Centerville, but he loves the City and the community  
51 members.  
52

1           George McEwan – Mr. McEwan announced that Lindon City unanimously voted no.

2  
3           Mayor Cutler closed the public hearing at 10:24 p.m. The Council took a short recess  
4 and returned at 10:36 p.m.

5  
6           The Mayor recommended the Council continue to receive written comments until  
7 Monday, June 23<sup>rd</sup>, and vote next Tuesday, June 24<sup>th</sup>. Comments can be sent to:  
8 [citycouncil@centervilleut.com](mailto:citycouncil@centervilleut.com). Councilman Wright recommended staff compile all comments  
9 together in one file. Councilman Averett asked the City Attorney if emails sent by citizens are  
10 necessarily considered public comment. Lisa Romney responded that emails sent to a  
11 “centervilleut.com” address are public record, and it is good practice to create and retain a  
12 record of comments. Mayor Cutler invited Lee Skabelund to lead everyone in attendance in a  
13 show of appreciation for the members of the Citizen Advisory Committee.

14  
15           Mayor Cutler asked the City Attorney to respond to the questions regarding a public vote  
16 of the matter. Ms. Romney stated that State law restricts what can be put on a ballot during an  
17 election, and in her opinion this type of issue does not qualify to be put on the ballot. The City  
18 could distribute an informal poll or survey. The Mayor asked if there is a way the issue could be  
19 put on a ballot. Ms. Romney responded that under the Utah Telecommunications Act, if the City  
20 wanted to provide telecommunications retail services to the public it could be put to a vote of the  
21 people.

22  
23           Mr. Rammage responded to the last public comment stating that every city other than  
24 Lindon that has voted, has voted in favor of proceeding to Milestone Two. He emphasized that  
25 the PPP would not be a monopoly. Mr. Rammage said the current situation is a government-  
26 sponsored monopoly, but the proposed open network would not be a monopoly. He continued  
27 that a nondisclosure agreement was in place for a short time for initial discussions of the deal,  
28 but Macquarie has been completely open with information since December of 2013. Macquarie  
29 chose to relax the exclusivity agreement to allow discussions with First Digital and others. Mr.  
30 Rammage stated that the UTOPIA Board and other committees have been looking for other  
31 options for a long time. Mayor Cutler said that First Digital has exercised a GRAMMA right to  
32 keep information private. Nothing can be acted on until information is made public.

33  
34           Mr. Rammage responded to the questions regarding a guarantee of pay-down of the  
35 debt stating that Macquarie’s proposal involves revenue sharing from day-one. The details of  
36 the sharing arrangement will be worked out during Milestone Two. He stated that the utility fee  
37 would be escalated by an agreed upon inflation index, and Macquarie would take the risk of  
38 operating within that amount. There would not be a connection fee for receiving the basic  
39 service. Councilman Wright asked if refresh or upgrade of the network would find its way into  
40 the utility fee. Mr. Rammage responded that no, the utility fee already includes a refresh of the  
41 network to provide one gigabit of service. If over time it makes commercial sense to upgrade,  
42 the cities would be receiving the bulk of the revenue and could share in the upgrade costs out of  
43 revenues. Councilman Wright commented he knows the cities will have some latitude to modify  
44 the utility fee as it is collected. Mr. Rammage agreed that Macquarie proposes to collect an  
45 availability payment from the cities. How it is collected from citizens is left up to each city.

46  
47           Councilwoman Ivie asked what is specifically involved in the refresh. Mr. Rammage  
48 responded that refresh involves replacement of equipment and electronics as needed. In  
49 response to the questions regarding soliciting other proposals, Mayor Cutler responded that  
50 Centerville asked the UTOPIA Board to initiate a formal RSP, but the Board did not choose to  
51 act on the request. A number of proposals have been informally solicited, and individual cities  
52 have been researching other options on their own. Mayor Cutler explained that the need to look

1 at other options was felt when a couple of the larger cities chose not to pay the operating  
2 assessments. All of the mayors committed to ask their councils to pay the operating  
3 assessments, and most have resumed paying. If all cities stop paying the operating  
4 assessments, UTOPIA would go dark. Ms. Romney emphasized that all of the cities are  
5 obligated to pay the debt pledge, which is separate from the operating assessment.  
6

7 Mr. Rammage responded to the question of why Macquarie would want to return the  
8 asset to the cities at the end of the agreement period, by stating that the arrangement would be  
9 a partnership in which Macquarie would manage the network for the cities. Macquarie is in the  
10 business of delivering assets, not owning them. Councilman Wright pointed out that Centerville  
11 does not actually own any of the network. The network is owned by UTOPIA, in which  
12 Centerville has a 3.3% share. Mr. Rammage responded that if the asset were sold in the future,  
13 Centerville could expect to receive a share of the profit.  
14

15 Mr. Rammage explained that First Solutions is a partner of Macquarie with expertise in  
16 delivering these types of networks. He stated it is anticipated that First Solutions would have an  
17 ongoing role moving forward. In response to the question of what will ensure that Macquarie  
18 follows through with commitments, Mr. Rammage stated Macquarie would not structure the deal  
19 to fail. If Macquarie does not deliver as contracted the availability payment would be discounted  
20 or withheld. UTOPIA cities would never be responsible for any of Macquarie's debt. Individual  
21 UTOPIA cities would not be responsible for the availability payments of any of the other cities.  
22

23 In response to the comment about those who have already paid a connection fee not  
24 paying the utility fee, Mr. Rammage explained that the UIA customers were set up differently.  
25 The details need to be worked out with the lenders, but the goal would be to put everyone on  
26 the same program and compensate the UIA customers somehow for having already paid.  
27

28 Mr. Rammage explained that the fee that would be charged for opting out at the end of  
29 Milestone Two would cover the cost of consultants and lawyers during Milestone Two, with  
30 approximately 20% compensation for Macquarie to recover internal costs. Councilwoman  
31 Fillmore commented that the PPP is more like a merger than an acquisition, and she feels it  
32 makes sense for both parties to share in the cost of going forward. Councilman Averett asked  
33 what would prevent Macquarie from selling the service contract with UTOPIA. Mr. Rammage  
34 responded that the contract negotiated during Milestones Two and Three between UTOPIA and  
35 Macquarie would dictate the limitations and parameters of sale. Mr. Rammage added that if the  
36 service contract were sold, it would most likely be to a different Macquarie entity or Macquarie  
37 co-investors.  
38

39 Mayor Cutler stated it is his understanding that the cities would be directly responsible to  
40 Macquarie for the availability payments. The availability payments would not go through  
41 UTOPIA. A new interlocal agreement would be worked out as part of Milestone Two.  
42

43 The presentation prepared and given by the Citizen Advisory Committee will be posted  
44 on the website. Councilwoman Fillmore made a **motion** to table the decision regarding  
45 Resolution No. 2014-18 to the Council meeting scheduled for June 24, 2014, keeping the public  
46 hearing open until Monday, June 23<sup>rd</sup>, to receive electronic comment through official City email  
47 addresses and website. Councilman Averett seconded the motion, which passed by unanimous  
48 vote (5-0).  
49

1                    **FY 2015 BUDGET**

2  
3                    Blaine Lutz explained that the Certified Tax Rate has not yet been provided by the State.  
4                    The State Auditor has recommended the City adopt the Budget with an estimated amount that  
5                    can be amended if necessary when the Rate is provided.  
6

7                    Councilwoman Ivie made a **motion** to adopt Ordinance No. 2014-10 approving the  
8                    compensation plan for employees, including appointed employees. Councilman Averett  
9                    seconded the motion, which passed by unanimous vote (5-0).

10  
11                    Councilwoman Ivie made a **motion** to approve Ordinance No. 2014-11 adjusting  
12                    compensation of elected officials. Councilman Averett seconded the motion. Mayor Cutler  
13                    stated his recommendation that the Council postpone implementation for one year. Councilman  
14                    Wright stated he feels it should be effective immediately. The motion passed by unanimous  
15                    vote (5-0).

16  
17                    Councilwoman Ivie made a **motion** to adopt Resolution No. 2014-16 approving  
18                    compensation for the Centerville Justice Court Judge. Councilwoman Fillmore seconded the  
19                    motion, which passed by unanimous vote (5-0).

20  
21                    Funds for a new full-time police officer were included in the Tentative Budget. After brief  
22                    discussion by the Council, Councilwoman Fillmore made a **motion** to approve Resolution No.  
23                    2014-17 approving the Centerville City FY 2015 Budget of Funds, including adjustments  
24                    recommended by staff, with the change that the \$68,000 allocated for a new police officer be  
25                    moved to a special contingency fund until further information is presented and a decision made.  
26                    The Council will wait for further information before making a decision. Councilman Wright  
27                    seconded the motion, which passed by unanimous vote (5-0).

28  
29                    **MINUTES REVIEW AND ACCEPTANCE**

30  
31                    Councilman Wright made a **motion** to table approval of the minutes of the June 5, 2014  
32                    Council meeting and work session until Tuesday, June 24, 2014. Councilwoman Fillmore  
33                    seconded the motion, which passed by unanimous vote (5-0).

34  
35                    **MAYOR'S REPORT**

36  
37                    Mayor Cutler reported that the Executive Committee of the UTOPIA and UIA Boards has  
38                    continued to meet sporadically to review the First Digital proposal. The details have not yet  
39                    been made public.

40  
41                    **CITY MANAGER'S REPORT**

- 42  
43                    • Mr. Thacker reported that the Parrish/Main Intersection Project will not be completed  
44                    in time for the July 4<sup>th</sup> parade, and explained the level of completion expected for the  
45                    holiday. He expressed confidence that Main Street will be serviceable for the  
46                    parade. Mr. Thacker also reported that Rocky Mountain Power will not be able to  
47                    provide a permanent power source to the new signals for eight weeks. Temporary  
48                    power will be drawn from the same power source as the street lights along Parrish,  
49                    causing the street lights along Parrish to be on 24 hours per day for that period of  
50                    time.  
51                    • City Manager Thacker explained the community education process planned by the  
52                    Community Development Department and Planning Commission regarding

1           accessory dwelling units. He expressed their desire to provide a small incentive for  
2           citizens to attend a public forum with panel discussion. The Council seemed to  
3           indicate approval for use of less than \$100 of the Community Development Budget.  
4           Councilman Averett expressed a hope that citizens would be able to fill out a  
5           questionnaire online.

6  
7           **ADJOURNMENT**

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9           At 11:58 p.m. Councilman Wright made a **motion** to adjourn. Councilman Higginson  
10          seconded the motion, which passed by unanimous vote (5-0).

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16          \_\_\_\_\_  
17          Marsha L. Morrow, City Recorder

\_\_\_\_\_  
Date Approved

18  
19  
20  
21          \_\_\_\_\_  
22          Katie Rust, Recording Secretary