

1 Minutes of the Centerville City Council **work session** held Tuesday, August 19, 2014 at 5:30
2 p.m. at the City Hall Council Chambers, 250 North Main Street, Centerville, Utah.

3
4 **MEMBERS PRESENT**

5
6 Mayor Paul A. Cutler

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

12
13 **MEMBER ABSENT** John T. Higginson

14
15 **STAFF PRESENT** Steve Thacker, City Manager
16 Lisa Romney, City Attorney
17 Jacob Smith, Management Assistant
18 Katie Rust, Recording Secretary

19
20 **STAFF ABSENT** Blaine Lutz, Finance Director/Assistant City Manager

21
22 **CITIZEN ADVISORY** Mark Austin
23 **COMMITTEE** Dan Ditto
24 Ann Fadel
25 Mark Oligschlaeger

26
27 **UTOPIA BUSINESS**

28
29 Mayor Cutler reported on matters discussed in recent UTOPIA Board meetings. The six
30 cities that opted to move forward with Macquarie have proposed putting the utility fee question
31 on a ballot. FirstDigital has requested access to additional information from the UTOPIA Board
32 in order to complete its proposal, which is not yet public. The UTOPIA Board is divided on the
33 issue of whether or not to dedicate a portion of the limited UTOPIA staff time and resources on
34 the FirstDigital proposal while still entertaining the Macquarie proposal. Mayor Cutler stated that
35 some Board members, particularly those motivated by a desire for a ubiquitous network build-
36 out, consider the FirstDigital proposal to be a distraction. The UTOPIA Board has twice granted
37 a delay to give some of the cities time to evaluate the FirstDigital proposal, but the Board is
38 scheduled to come to a resolution soon regarding whether or not UTOPIA will continue to spend
39 time on the FirstDigital proposal. Individual cities can continue to meet with FirstDigital and
40 learn more about the proposal.

41
42 Councilman Averett asked how the individual cities can conduct discovery with
43 FirstDigital if the proposal is still protected under GRAMA. Mayor Cutler responded it is difficult.
44 It is his understanding that FirstDigital has agreed to start meeting with individual cities and
45 more and more details will come out. No action can be taken until the information is made
46 public. The Mayor emphasized that individual cities can talk to FirstDigital and consider the
47 proposal, but action must be taken by UTOPIA as an organization to move forward with
48 FirstDigital. He said he feels there is comparison value in understanding the FirstDigital
49 proposal. Councilman Wright pointed out that the cities can direct their representatives on the
50 UTOPIA Board to reflect what the cities would like to do. Councilman Wright expressed a
51 desire to pursue the FirstDigital proposal.

52
53 Mayor Cutler stated he feels the Predevelopment Agreement would allow UTOPIA to
54 pursue both the Macquarie proposal and the FirstDigital proposal at the same time. However,
55 there are others who believe a change would need to be made to the agreement with Macquarie

1 to allow consideration of both proposals. Macquarie allowed a cursory exception for a first level
2 examination of the FirstDigital proposal. The network and assets are owned by UTOPIA. It
3 would be very difficult for UTOPIA to break up. Councilman Wright suggested the cities that
4 want to move forward with Macquarie could assume the debt in the network of the cities that do
5 not. Lisa Romney, City Attorney, stated the question of whether or not a city could break off of
6 UTOPIA has been raised. It would be possible, but complicated, costly, and unlikely to happen.
7 The goal of the UTOPIA Board at this point is to find a solution that could work for all of the
8 cities.

9
10 Councilwoman Fillmore commented on the possibility of backtracking and issuing a
11 Request for Proposals (RFP). She said she feels one of the thresholds of the RFP should be no
12 new debt for the cities, something she feels is unclear in the FirstDigital proposal. Mayor Cutler
13 responded he thinks it would be useful to have FirstDigital meet with the Council to answer
14 questions. Councilman Wright suggested the possibility of different cities able to adopt different
15 models moving forward. Mayor Cutler responded that some cities are insisting that the structure
16 of UTOPIA requires all the cities to move forward with the same plan. It is difficult to come to a
17 consensus with eleven cities involved.

18
19 Mayor Cutler explained that the six "opt-in" cities have decided that the utility fee model
20 is so controversial that it would be better to put the issue on a ballot and get the public vote up
21 front, expecting that any decision will be contested. Ms. Romney has previously expressed her
22 opinion that non-binding issues cannot be placed on a ballot. She reported that the Lieutenant
23 Governor's Office and the Davis Count Election Clerk have said the issue cannot go on a ballot
24 as a non-binding question. A bill proposed last year to allow cities to put non-binding questions
25 on the ballot failed in the House of Representatives. Ms. Romney added that informal polls,
26 surveys, or fliers are still options. Mayor Cutler said the Lieutenant Governor's Office has stated
27 that a special election could be held for the non-binding question, but it would not be backed by
28 the State. Ms. Romney stated that special elections can be held in June or November.

29
30 Mayor Cutler stated he feels a special election would have value in terms of public
31 education. The City Council needs to decide if there is enough value for Centerville to pursue
32 working with other cities to put the question to the people. Councilwoman Ivie stated the most
33 recent primary election for the Republican Party had a low percent of participation. She said
34 she feels citizens have already made the effort to speak against the utility fee model. Ann
35 Fadel, a member of the Citizen Advisory Committee, asked if putting it on a ballot is intended to
36 pass the responsibility of a bad decision to the people rather than the elected officials. Mark
37 Austin, a member of the Citizen Advisory Committee, commented that people would need to be
38 well educated about the issue for the poll to be constructive. Public education would most likely
39 be funded by the Utah Tax Payers Association on one side and Macquarie on the other.

40
41 Councilman Wright stated that in 2004 the City Council decided to make an executive
42 decision regarding UTOPIA, to not put it to a public vote. He said he does not think it would be
43 helpful at this point to involve the whole community. The question will not be looked at the
44 same by the different cities. He expressed he would not want it to become a big marketing
45 event. Councilman Wright said Centerville does not want to have a utility fee, and the Council
46 members have been elected to make this decision. Councilwoman Fillmore pointed out that it
47 could be confusing to the public that the majority vote from the ballot or opinion poll would not
48 necessarily be the same as the final decision made by the UTOPIA Board. She added that it is
49 easy to say no to the utility fee model, but it is important to remember that the issue is not
50 simple, and a solution is still needed. She said she feels the City needs to push for getting other
51 options on the table. Councilwoman Fillmore stated she feels a poll would need to be able to
52 include the pros and cons of several different options.

1 Councilman Wright commented that each city is facing different political environments
2 and would approach a poll differently. He said he does not see a poll as something that would
3 benefit Centerville. Councilman Wright continued that if conceptually there were a proposal that
4 allowed cities to choose between different models, he could see where having an opinion poll in
5 the individual cities would be valuable. He said he feels the bigger problem is the governance
6 model currently driving the decision process at UTOPIA. Councilman Averett stated he is not in
7 favor of a vote because the Council does not have the power to implement the will of the
8 people. Ms. Romney stated it is true that some cities could move forward with Macquarie
9 without the other cities with a new interlocal agreement, but they would still be part of UTOPIA.
10 The majority of the UTOPIA Board would have to approve any group of cities moving forward
11 with any of the scenarios.
12

13 Councilwoman Fillmore expressed concern that the cities intent on entering into a
14 partnership that would have a huge impact, seem to be approaching the partnership without
15 negotiation. She expressed her opinion that other proposals would add to the negotiating power
16 and give a better result. She said it seems they are fearful that Macquarie will walk away. The
17 Mayor responded that there is a lot of interest from the other cities to try to find a solution that
18 works for the most people, but their primary concern is to have the network fully built and self
19 sustaining. He said there is a desire to get the final proposal and then negotiate the details.
20 Councilwoman Fillmore responded it would be beneficial to have the two groups doing separate
21 research, one focusing on the Macquarie proposal, and one researching other options, and then
22 have the representatives on the Board come together and share what has been learned. This
23 would only be beneficial if the majority vote holders are open to listening to the other options
24 and negotiating with that information. Councilwoman Fillmore asked for the Mayor's opinion on
25 if that is the case. Mayor Cutler responded to a question regarding the amount of information
26 requested, stating that FirstDigital has requested more exhaustive information than was
27 requested by Macquarie.
28

29 Councilman Wright stated he likes the direction the FirstDigital proposal is headed, and
30 suggested the Council communicate to FirstDigital that the Council will not discuss it further until
31 the information is made public. Dan Ditto, a member of the Citizen Advisory Committee,
32 commented that it seems like a conflict of interest that the same cities with the majority control
33 of the UTOPIA Board are the cities that would choose the utility fee model. Mayor Cutler
34 responded he has not felt any malicious intent on the part of other cities, but it is natural for
35 them to put their interests first. Ms. Romney added that the UTOPIA Board is obligated under
36 the Interlocal Agreement to operate the network. Councilwoman Fillmore asked if there is an
37 obligation for money made with the network to go toward paying the UTOPIA bonds. Ms.
38 Romney responded that those arrangements would need to be addressed in contractual
39 arrangements with UTOPIA and Macquarie. Councilman Wright stated he feels the Board
40 should be taking the message that they should be looking for another solution that would involve
41 all of the members. The Mayor said he believes those cities would respond that the UTOPIA
42 cities have been trying to achieve consensus on a solution for a number of years and they are
43 leading the group to a solution.
44

45 Mayor Cutler said he feels the UTOPIA Board will be reasonable about listening to
46 information gathered, but some of the Board members will not view the FirstDigital proposal as
47 solving the whole problem. Mayor Cutler stated that the majority of Council members seem to
48 not be in favor of putting the utility fee issue on a ballot in Centerville.
49

50 Mark Austin stated he is in favor of pursuing the FirstDigital proposal. Mark
51 Oligschlaeger stated he feels several options need to be explored, and education is important,
52 but a vote at this point would be an exercise in frustration. Mr. Oligschlaeger said he would be
53 supportive of a ballot process when the time is right. He added that he does not understand the

1 UTOPIA Board's reticence to make information available if they intend to put the issue on a
2 ballot. Mr. Ditto said he is in favor of getting more information from FirstDigital. He agreed that
3 a ballot would be confusing at this point, but there may be a time for it when more information or
4 options are available. Ms. Fadel stated she is suspect of Macquarie putting deadlines on a
5 decision. She said she does not believe Macquarie will negotiate, and she thinks the other
6 cities will be surprised with the negative response from citizens on the poll. Ms. Fadel said she
7 would like to hear what FirstDigital has to say.

8
9 **ADJOURNMENT**

10
11 Mayor Cutler adjourned the work session at 6:57 p.m.
12
13
14

15 
16 _____
17 Marsha L. Morrow, City Recorder

18
19 9-2-2014
20 _____
21 Date Approved

22 
23 _____
Katie Rust, Recording Secretary

