

**MINUTES OF COUNCIL REGULAR MEETING – MAY 27, 2014**

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THE WEST VALLEY CITY COUNCIL MET IN REGULAR SESSION ON TUESDAY, MAY 27, 2014, AT 6:30 P.M., IN THE COUNCIL CHAMBERS, WEST VALLEY CITY HALL, 3600 CONSTITUTION BOULEVARD, WEST VALLEY CITY, UTAH. THE MEETING WAS CALLED TO ORDER AND CONDUCTED BY MAYOR BIGELOW.

THE FOLLOWING MEMBERS WERE PRESENT:

Ron Bigelow, Mayor  
Corey Rushton, Councilmember At-Large  
Lars Nordfelt, Councilmember At-Large  
Tom Huynh, Councilmember District 1  
Steve Buhler, Councilmember District 2  
Karen Lang, Councilmember District 3  
Steve Vincent, Councilmember District 4 (Arrived as noted)

Wayne Pyle, City Manager  
Sheri McKendrick, City Recorder

STAFF PRESENT:

Paul Isaac, Assistant City Manager/HR Director  
Nicole Cottle, Assistant City Manager/CED Director  
Eric Bunderson, City Attorney  
Jim Welch, Finance Director  
John Evans, Fire Chief  
Kevin Astill, Parks and Recreation Director  
Sam Johnson, Strategic Communications Director  
Anita Schwemmer, Acting Police Chief  
Dan Johnson, Acting Public Works Director  
Chris Curtis, Acting CPD Director  
Jake Arslanian, Public Works Department

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**OPENING CEREMONY**

The Opening Ceremony was conducted by Lars Nordfelt who expressed hope that everyone had taken a moment on Memorial Day to honor and remember those individuals who served to protect our freedoms and made great sacrifices on our behalf. After comments, he led the Pledge of Allegiance to the Flag.

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**SPECIAL RECOGNITIONS**

During the meeting Mayor Bigelow recognized and welcomed State Representatives Craig Hall and Larry Wiley.

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### COMMENT PERIOD

Upon inquiry by Mayor Bigelow the following individuals addressed the City Council during the comment period:

#### A. PUBLIC COMMENTS

Gary Thornock addressed the City Council and expressed appreciation for the opportunity to speak to the City Council regarding an issue of lasting impact on the community – additional funding for the fiber optic system. Mr. Thornock posed three questions he would like to be considered before moving the project forward: 1) Would it be representing the best interests of residents in imposing an additional financial burden - whether a tax or fee the end result would be the same; 2) Why is the city government becoming involved in a utility venture such as for gas and power and why should citizens provide capital or assume risks for this or any other business. The city should not become a venture capital firm; and 3) Why have members of the Council ignored the magnitude of failures of similar past ventures along the Wasatch Front. Will throwing in additional money be a solution or even a bigger financial fiasco? He stated this time would not be different and encouraged the Council to reject the proposal outright.

Fred Johnson addressed the City Council and expressed agreement with comments made previously by Mr. Thornock. He stated he had respect for Council members and the position they were in based on previous council's actions. He indicated it was time to stop digging ourselves into a bigger hole and government needed to step back and let private industry do what they should be doing. He indicated if there was a market for fiber optics then it should not be supplemented by citizens.

Fred Cox addressed the City Council and stated when he ran personal numbers he spent a certain amount each month for Internet services and they delivered the services he paid for. He indicated under the present proposal he would send money to the City who would then send it to another group. He advised he might actually reduce expenses under the proposal, but those who could not afford Internet access would pay for something with no benefit. He stated there had been a past tax increase because of UTOPIA and taxes would not go down with this proposal. He advised the numbers indicated the proposal would do well for a private group. He stated a monopoly such as a power company was regulated by the Public Service Commission; but if UTOPIA did not perform, citizens would still be on the hook. He encouraged the City Council to make certain there was some way of holding the Macquarie group accountable and the City could get out if they did not perform.

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Walt Sorensen addressed the City Council. Mr. Sorensen stated he had attended a number of meetings in regards to the Macquarie proposal on UTOPIA. He expressed disappointment in UTOPIA and stated the history stood for itself. He indicated the City should do the right thing whether it be the Macquarie proposal or something else. He stated there had to be a better solution and something that could attract tech companies to the City so it would hopefully stand for and be recognized as one of the best cities in the state.

Cameron Smith addressed the City Council and advised he had heard about UTOPIA last year in the news. He stated he had been shocked to hear that Orem was raising property taxes due to this venture. He indicated it would be unreasonable to pour more money into a company that had not produced results and caused problems in other cities. He stated the project should not continue even though being on the hook to some degree and the City should move on and cut losses.

Upon inquiry there was no one else desiring to address the City Council during the comment period.

### **B. CITY MANAGER COMMENTS**

Mayor Bigelow informed that due to time constraints, the City Manager did not give a fiber network update during the Council's study meeting earlier this night.

Councilmember Vincent arrived at the meeting at 6:47 P.M.

City Manager, Wayne Pyle, advised a report on progress of the Macquarie proposal had been scheduled for the Council's study meeting; and he desired to give the update along with addressing some of the comments raised by citizens.

Mr. Pyle stated that all members of the Council were very thoughtful, involved and knowledgeable regarding all issues and proposals presented to them and they would not willingly ever put citizens in a bad position financially. He explained the examination and action scheduled this night (Resolution No. 14-88) would be to continue to study the proposal itself and not to lock the City into a position. He stated the City Council and staff would continue to perform due diligence while considering this proposal. He advised that informal and formal considerations and meetings had been undertaken by the City Council for almost a year regarding service providers and others relating to a utility model to build a fiber network to enable the private sector to provide Internet and telecommunications services. He advised this proposal would not create a new utility monopoly and would allow more participation from private

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sector service providers who chose to use the system. He explained the pipe would be provided by the City for private sector providers to use to deliver services. He indicated private providers could not provide the pipe for their services.

He also discussed information regarding the history of UTOPIA and stated this proposal would be a new organization and not a “bale out” of UTOPIA, thus creating a new and different set of circumstances. He advised this would supersede UTOPIA and be an entirely new organization.

He discussed the status of another city who had moved into Milestone Two and other cities presently contemplating moving into Milestone Two, with all other cities under a 60-day time frame for consideration of the proposal.

He advised representatives of Macquarie were in attendance at the meeting to observe only. The City Manager advised there would be a public outreach program after the proposal had been studied more fully. He indicated Pete Ashdown, CEO of Xmission was also in attendance at the meeting; and had expressed choices that would be given to customers if the project moved forward.

Mr. Pyle advised he had personally worked on the project for the past year in his capacity as City Manager and chair and/or member of the UTOPIA board. He indicated the original vision of the fiber network in West Valley City had not been executed well, but was still a good vision. He indicated this was the most solid proposal that addressed questions posed earlier. He advised of not being at the end of the path but rather to the point of completing due diligence, particularly from a numbers standpoint. He indicated the City Council and City staff welcomed residents and their comments while moving forward with further study over the next few months. He stated the possibility was that residents could become excited about cheaper utility fees for telecommunications services. He advised the City Council would consider making a decision to move forward regarding further examination and study and doing their due diligence.

Upon introduction of information regarding the timeline, the City Manager reviewed a timeline for Milestone One including financial commitments moving into Milestone Two, Milestone Three and Milestone Four. He advised Milestones Three and Four would include contract negotiations.

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Mayor Bigelow informed that the Council would formally consider the proposal later as listed on the Agenda (Resolution No. 14-88).

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**RESOLUTION NO. 14-81, APPROVE AN INTERLOCAL COOPERATION AGREEMENT WITH SALT LAKE COUNTY FOR AN ENVIRONMENTAL STUDY OF 4700 SOUTH BETWEEN APPROXIMATELY 4015 WEST AND 5600 WEST**

Mayor Bigelow presented proposed Resolution No. 14-81 that would approve an Interlocal Cooperation Agreement with Salt Lake County for West Valley City to pay its proportionate share (25%) estimated at \$96,475.54, and not to exceed \$130,000.00, for an environmental study of 4700 South between approximately 4015 West and 5600 West.

He stated the proposed agreement would establish terms for the City and County to share the costs for an environmental study for a roadway reconstruction project on 4700 South Street. He advised the City and County received federal funds under the Surface Transportation Program to reconstruct a portion of 4700 South, a roadway shared between the two entities. He indicated that prior to receipt of these funds, an environmental analysis must be completed to identify potential environment impacts of the project.

He reported Salt Lake County had contracted with HW Lochner, a qualified engineering firm to perform the study. He stated the Interlocal Cooperation Agreement would obligate West Valley City to pay its proportionate share of the cost of the study (25%), in the estimated amount of \$96,475.54 and not to exceed a total amount of \$130,000.00. He also advised the scope of work included extensive preliminary engineering. He stated the environmental study process would include a public open house in the summer of 2014, and it was anticipated the study would be completed near the end of the year. The expense had been included in the FY 2014-2015 Tentative Budget.

After discussion, Councilmember Vincent moved to approve Resolution No. 14-81, a Resolution Approving an Interlocal Cooperation Agreement between West Valley City and Salt Lake County for an Environmental Study of 4700 South between Approximately 4015 West and 5600 West. Councilmember Rushton seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Ms. Lang	Yes
Mr. Buhler	Yes
Mr. Huynh	Yes
Mr. Rushton	Yes
Mr. Nordfelt	Yes

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Mayor Bigelow Yes

Unanimous.

16621

**RESOLUTION NO. 14-82, APPROVE AN INTERLOCAL COOPERATION AGREEMENT WITH SALT LAKE COUNTY FOR INSTALLATION AND MAINTENANCE OF A HAWK HYBRID PEDESTRIAN CROSSWALK BEACON AT 3560 SOUTH 3600 WEST**

Mayor Bigelow presented proposed Resolution No. 14-82 that would approve an Interlocal Cooperation Agreement with Salt Lake County for installation and maintenance of a pedestrian activated High-intensity Activated crossWalk beacon (HAWK) at 3560 South 3600 West.

He stated in order to improve pedestrian safety and traffic flow on 3600 West in front of Granger High School, it had been determined a pedestrian activated traffic signal should be installed at the school crossing. He advised the proposal would authorize Salt Lake County to install a pedestrian activated HAWK signal.

He indicated with reconstruction of Granger High School a new school zone crosswalk had been installed at the new main entrance of the school. This had concentrated a large number of students crossing 3600 West at one point that was uncontrolled. It also resulted in a long continuous stream of students crossing the street that interfered with traffic flow. The HAWK signal would meter the students crossing the street that would improve traffic flow while also providing for a safer crossing situation.

After discussion, Councilmember Huynh moved to approve Resolution No. 14-82, a Resolution Approving an Interlocal Cooperation Agreement between West Valley City and Salt Lake County for Installation and Maintenance of a HAWK Hybrid Pedestrian Crosswalk Beacon at 3560 South 3600 West. Councilmember Vincent seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Ms. Lang	Yes
Mr. Buhler	Yes
Mr. Huynh	Yes
Mr. Rushton	Yes
Mr. Nordfelt	Yes
Mayor Bigelow	Yes

Unanimous.

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**RESOLUTION NO. 14-83, ACCEPT A PUBLIC SIDEWALK, LIGHTING AND UTILITY EASEMENT FROM COUNTRY MANOR INVESTMENTS, LTD, FOR PROPERTY LOCATED AT 5499 WEST 2455 SOUTH AND AT 2522 SOUTH 5600 WEST**

Mayor Bigelow presented proposed Resolution No. 14-83 that would accept a Public Sidewalk, Lighting and Utility Easement from Country Manor Investments, LTD, for property located at 5499 West 2455 South and at 2522 South 5600 West.

He stated the subject easement was for the proposed site expansion and improvements for Pride Transport. He indicated the project was subject to requirements of the 5600 West Gateway Overlay Zone that required wider sidewalks and landscape frontage, together with decorative sidewalk lighting along the frontage of properties abutting 5600 West Street. He explained as portions of the proposed sidewalk and lighting fell outside the public right-of-way, an easement had been required as a condition of approval for the project.

After discussion, Councilmember Lang moved to approve Resolution No. 14-83, a Resolution Authorizing the City to Accept a Public Sidewalk, Lighting and Utility Easement from Country Manor Investments, Ltd., for Property Located at 5499 West 2455 South and at 2522 South 5600 West. Councilmember Vincent seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Ms. Lang	Yes
Mr. Buhler	Yes
Mr. Huynh	Yes
Mr. Rushton	Yes
Mr. Nordfelt	Yes
Mayor Bigelow	Yes

Unanimous.

16623

**RESOLUTION NO. 14-84, APPROVE AN AGREEMENT WITH THE UTAH TRANSIT AUTHORITY (UTA) TO LEASE LAND FOR A PARKING STRUCTURE FACILITY AT FAIRBOURNE STATION**

Mayor Bigelow presented proposed Resolution No. 14-84 that would approve an Agreement with the Utah Transit Authority (UTA) to lease land for a parking structure facility at Fairbourne Station.

He stated UTA owned a parcel of land near the West Valley City TRAX line and the MAX bus rapid transit route in the area of Fairbourne Station and desired to lease it to West Valley City for construction of a parking structure facility. He

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indicated the parking structure would serve the transit hub and related uses immediately surrounding Market Street. UTA and Salt Lake County would transfer funds to West Valley City to finance all or a portion of costs of the parking structure to facilitate Fairbourne Station as a regional transportation and transit hub.

After discussion, Councilmember Rushton moved to approve Resolution No. 14-84, a Resolution Authorizing the City to enter into an Agreement with the Utah Transit Authority to Lease Land for a Parking Structure Facility at Fairbourne Station. Councilmember Nordfelt seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Ms. Lang	Yes
Mr. Buhler	Yes
Mr. Huynh	Yes
Mr. Rushton	Yes
Mr. Nordfelt	Yes
Mayor Bigelow	Yes

Unanimous.

16624

**RESOLUTION NO. 14-85, APPROVE AN INTERLOCAL COOPERATION AGREEMENT WITH THE UTAH TRANSIT AUTHORITY TO FACILITATE DESIGN AND CONSTRUCTION OF A PARKING STRUCTURE FACILITY AT FAIRBOURNE STATION**

Mayor Bigelow presented proposed Resolution No. 14-85 that would approve an Interlocal Cooperation Agreement with the Utah Transit Authority (UTA) to facilitate design and construction of a parking structure facility at Fairbourne Station.

He stated the proposed agreement specified responsibilities of the City and UTA to coordinate planning, design, construction, signage, and use of the parking structure facility on Market Street. He advised the City would take the lead to bid and supervise construction of the parking structure, and during construction would cooperate with UTA to provide shuttle services and parking facilities for UTA patrons at City Hall and in the Maverik Center overflow parking lot.

He reported UTA owned property in the vicinity of the West Valley TRAX light rail line and the MAX bus rapid transit route and had offered to lease it to the City for the location of a parking structure. In exchange for use of the property, the City would reserve 200 stalls in the parking structure for UTA patrons.



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Upon discussion and request of Councilmember Vincent regarding showing design drawings for benefit of those in attendance at the meeting, the project manager, Jake Arslanian, provided explanation of drawings and elevations as they were displayed.

After further discussion, Councilmember Rushton moved to approve Resolution No. 14-85, a Resolution Approving an Interlocal Cooperation Agreement between West Valley City and the Utah Transit Authority to Facilitate the Design and Construction of a Parking Structure Facility at Fairbourne Station. Councilmember Vincent seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Ms. Lang	Yes
Mr. Buhler	Yes
Mr. Huynh	Yes
Mr. Rushton	Yes
Mr. Nordfelt	Yes
Mayor Bigelow	Yes

Unanimous.

16625

**RESOLUTION NO. 14-86, AUTHORIZE THE EXECUTION OF A LEASE PURCHASE AGREEMENT WITH OSHKOSH CAPITAL FOR PURCHASE OF A 100 FOOT PLATFORM FIRE APPARATUS AND ASSOCIATED EQUIPMENT**

Mayor Bigelow presented proposed Resolution No. 14-86 that would authorize execution of a Lease Purchase Agreement with Oshkosh Capital in the amount of \$1,284,089.00, for purchase of a 100-foot platform fire apparatus and associated equipment.

He stated the proposed Resolution would authorize execution and delivery of a Lease Purchase Agreement with Oshkosh Capital and related documents with respect to lease for a new fire ladder truck and associated equipment, authorize the executing and delivery of documents required in connection therewith; and authorize the taking of all other actions necessary to the consummation of the transactions contemplated by the resolution.

He indicated the City found it necessary to replace a ladder truck that had reached the end of its useful life. Favorable terms had been negotiated with Oshkosh Capital to initiate a lease purchase transaction. He stated the financing would be a seven-year term with annual payments of \$139,949.79 and a balloon amount due with the last payment of \$304,440.47. He explained Pierce agreed to purchase the truck after seven years at an agreed price of \$304,440.47 based on

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condition and mileage parameters. He also explained the truck to be replaced would be sold to a small community with estimated value at \$150,000.00.

After discussion, Councilmember Buhler moved to approve Resolution No. 14-86, a Resolution Authorizing the Execution of a Lease Purchase Agreement with Oshkosh Capital for the Purchase of a 100-Foot Platform Fire Apparatus and Associated Equipment. Councilmember Huynh seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Ms. Lang	Yes
Mr. Buhler	Yes
Mr. Huynh	Yes
Mr. Rushton	Yes
Mr. Nordfelt	Yes
Mayor Bigelow	Yes

Unanimous.

16626

**RESOLUTION NO. 14-87, AUTHORIZE THE CITY TO PURCHASE A 100-FOOT PLATFORM FIRE APPARATUS FROM PIERCE MANUFACTURING FOR USE BY THE FIRE DEPARTMENT**

Mayor Bigelow presented proposed Resolution No. 14-87 that would authorize the City to purchase a 100-foot platform fire apparatus from Pierce Manufacturing, in an amount not to exceed \$1,284,089.00, with seven equal lease payments of \$139,949.79, for use by the Fire Department.

He stated the proposed purchase was for a new 100-foot platform fire apparatus for the Fire Department to be obtained from Pierce Manufacturing. He indicated the apparatus would be consistent with current apparatus in the Fire Department's fleet. The apparatus would be purchased on a seven-year turn in lease option. With this option most of the apparatus and mechanical parts would be covered under warranty thus minimizing repair costs.

He explained the platform was becoming increasingly necessary with construction of large manufacturing buildings, business complexes and multi-family residential units in the City. With purchase of the Pierce apparatus, the Fire Department would maintain consistency in the fleet and repairs and maintenance would continue to be completed at the City's facilities.

He indicated the current platform had been built and delivered in 2002 for the Winter Olympics. At the time, this was the first platform apparatus West Valley City had purchased. The apparatus had the ability to protect many of the new and existing structures that had been and continue to be built in the City.

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He indicated the current platform had 145,001 miles and was costing approximately \$41,000 annually to keep on the road. The maintenance costs had increased dramatically over the past five years. During 2012-2013, this vital piece of equipment had been out of service over eight weeks during the year due to maintenance issues.

After discussion, Councilmember Lang moved to approve Resolution No. 14-87, a Resolution Authorizing West Valley City to Purchase a 100-Foot Platform Fire Apparatus from Pierce Manufacturing for use by the Fire Department. Councilmember Rushton seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Ms. Lang	Yes
Mr. Buhler	Yes
Mr. Huynh	Yes
Mr. Rushton	Yes
Mr. Nordfelt	Yes
Mayor Bigelow	Yes

Unanimous.

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**RESOLUTION NO. 14-88, AUTHORIZE THE CITY'S REPRESENTATIVE TO THE BOARDS OF DIRECTORS OF UTOPIA AND UIA TO VOTE AFFIRMATIVELY IN FAVOR OF MOVING FORWARD INTO MILESTONE TWO**

Mayor Bigelow presented proposed Resolution No. 14-88 that would authorize the City's representative to the Board of Directors of UTOPIA and UIA to vote affirmatively in favor of moving forward into Milestone Two.

He stated the proposed Resolution would authorize the City to deposit one-quarter of West Valley City's pro rata share of potential reimbursement exposure for Milestone Two into a separate account to demonstrate the City's commitment to Milestone Two, and direct City staff to cooperate with agencies and Macquarie toward successful completion of Milestone Two.

He explained Macquarie Capital had presented a proposal to UTOPIA and UIA for the completion and long-term operation of the fiber network developed and planned by those agencies. He indicated Macquarie's proposal had been structured specifically to achieve the agency's key objectives of providing an ubiquitous, open access network that would increase competition and choice in member cities, while eliminating the network's existing operating deficit and defraying existing debt service obligations.

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City Manager, Wayne Pyle, pointed out that a “not to exceed” amount of \$350,000.00 price had not been included in the documentation and he recommended the Council give consideration to including that provision in a motion. He also answered additional questions from members of the City Council regarding the timeline and other matters.

Mayor Bigelow called for discussion.

Councilmember Lang requested the review time be spelled out before proceeding. She indicated her preference for a minimum of at least 60 days to review and gather citizen input before moving to Milestone Three. In response, the City Manager advised review periods between milestones were specified in the documentation. The City Manager explained how some confusion had occurred regarding the review periods.

Mayor Bigelow advised public meetings would be held and, therefore, in his opinion 90 days for the review time would be better.

Mr. Pyle recommended 60 days rather than 90 days as there were additional steps to be taken in moving forward and he clarified issues to be vetted in Milestone Two. He stated those issues would not be “new ground” and he again recommended no more than 60 days.

Mayor Bigelow inquired regarding the expected commitment at the signing at Milestone Three. City Manager, Wayne Pyle, advised he would review the pre-development agreement and provide specific questions relating to Milestones Three and Four if desired by the Council.

The City Manager advised the public outreach series of meetings and other forms of contact with the citizenry would take place parallel to the milestones. He indicated the public outreach initiatives would take place along the entire series of milestones.

Mayor Bigelow opened the floor to additional discussion by members of the City Council.

Mayor Bigelow discussed his previous concerns regarding the City Council not delegating its vote or responsibility to one person who represented the City on board. He advised the City Manager had provided some clarification; however, there were still concerns.

City Manager, Wayne Pyle, discussed some examples where the City had interlocal agreements with entities and represented by an appointed City board

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member with voting authority. Mayor Bigelow stated he was uncomfortable with that process.

Councilmember Buhler stated that to date there had been few solutions and no resolution to this problem. He advised this topic had been brought to him by citizens more than any other in his five years serving on the City Council. He indicated suggestions had included selling, but there was no buyer, or shutting it down which would not work because of the debts and obligations involved. He stated the study should be continued because no solution had presented itself or other options available to facilitate paying off the incurred debt.

Councilmember Rushton stated the City Council considered many resolutions that resulted in either “journeys” or “destinations,” and he cited a recent equipment purchase as being one of those “destinations.” He indicated the vote to study this proposal would seem to fall into the category of “journeys” and would direct an affirmative vote to move forward into Milestone Two thereby facilitating further study and appropriating funds. He recapped that approval of the proposed resolution would direct coordination and further study, set aside funding, direct the representative to UTOPIA to vote in favor of further study, and direct further review of this type of utility model. He reminded of previous Strategic Planning sessions where the City Manager had been directed to find solutions to the UTOPIA situation and make it a self-sustaining model that could be built out to benefit all the residents of the City. He stated bringing in a private partner would seem to be of benefit so taxpayers would not bear all the financial burdens.

Councilmember Huynh indicated he had received many phone calls, e-mails and numerous comments regarding UTOPIA. He stated this was a very difficult decision as it ultimately would be a very large contract and expenditure of funds. He also stated as the representative of District 1 he desired to make the best decision for citizens of the City. He expressed the need to further study the project in order to fully gain an understanding of the proposal resulting in the best decision for the City.

Councilmember Nordfelt expressed appreciation for the public comments. He indicated there were benefits of having a plan to inform the public and get more feedback on the project; therefore, he believed additional study was needed.

Councilmember Vincent advised when speaking to residents he had been asked if the City could find a party to be involved or buy the project. He explained that prior to Google coming to Provo City, we (West Valley City) had reached out to Google. He stated the Google system and the UTOPIA system were different types of systems and he believed this one was the better situation of the two. He indicated Provo would have to pay off obligations yet they would not own the system; where the current proposal would allow West Valley City to have some

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ownership and potentially obtain revenues in the future to help pay off the debt service. He indicated more study was needed as proposed.

Mayor Bigelow discussed reasons he would vote against the proposal. He expressed disagreement with binding future councils to actions that could not be undone, specifically with a 30-year commitment. He stated there were other short-term alternatives that could work out better. He explained the debt was there and would not go away. He indicated future revenues could offset the debt but it would not disappear and must be paid. He discussed his work over many years in state government and indicated some lessons had been learned, specifically that some principles worked much better than others had. He expressed belief that making large commitments and binding future councils would not be sound policy. He indicated the best policy was to pay as you go because the more debt incurred resulted in much less flexibility for making sound decisions in the future. He expressed recognition of the difficulty in walking away from the significant investment already made by the City. He advised that for those reasons he would vote against the proposal; however, if the proposal were adopted by a majority of the City Council he would represent and support that decision.

Upon request, City Manager, Wayne Pyle, reported the proposal was a predevelopment agreement with deliverables at each stage for Milestone Two, Milestone Three and Milestone Four. He reported Milestone Two included the final projects' roles and responsibilities of all parties and included full term sheet, selection of the preferred contracts, financing plan with term sheet from lenders, timelines for milestones, updated budgets for milestones, draft proposal of utility fee and impacts on agencies. He stated Milestone Three included parties developing contracts that included final network design and terms, evaluation of bids and execution of contracts, consultant engagement, update of financing plan, and financing model. He also stated Milestone Four included finalizing agreements, audits and due diligence with execution of final concession agreements and associated documentation. In response to inquiry, the City Manager advised at each milestone there was provision for opting out with an obligation for associated costs of each respective milestone with no liability for damages.

In response to additional questions, the City Manager advised no other alternatives were "in the wings" at the present time. He advised other options included continuing with the status quo, closing down the project (or going dark) but that would cost more than continuing, or possible sale/purchase of the system. He advised no possibility of sales had materialized. He mentioned an entity that had not previously been selected for a contract but was still interested in participating in the project and making a proposal that would include the possibility of buying the partnership out or entering into another public/private partnership along the lines of the Macquarie proposal. He reported he had met

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with that entity three times to hear their proposal and did not feel it would be a viable endeavor.

Upon further discussion, Councilmember Buhler advised he did not desire to vote to raise taxes or encumber future city councils; however, he felt a responsibility to the residents to investigate, study and research all possibilities. He stated without this investigation and study the end result would be just “limping along.”

City Manager, Wayne Pyle, advised the City was not without options and if the Council chose to not proceed there would be no collapse. He reflected on the economic downturn of a few years prior and indicated at that time serious concerns resulted in questions of providing some city services. He advised that was not the position of today as the subject debt had been covered. He stated a model had been found to at least “limp along” but the question and problems were how long that model would last and what the options would be in the future.

Mr. Pyle advised no guarantees could be made regarding the status quo nor could a guarantee be made that some other entity would make a proposal. He indicated the fact remained that no other person or entity had come along with the interest and financial abilities for a sale or partnership.

In response to questions, the City Manager advised of his recommendation to focus on and evaluate the current proposal thus providing a fair evaluation. He referenced another entity with which the City had previously had a business relationship and stated he questioned why their interest had not been expressed a year ago. He advised if the Macquarie proposal was not ultimately accepted, a new interested entity or entities would need to be thoroughly evaluated and that would take a considerable amount of time.

Upon inquiry by Councilmember Huynh, the City Manager advised regarding penalties resulting from the City withdrawing from the process. He stated the penalty at present would be \$175,000.00 and the penalty after committing to Milestone Two would be \$350,000.00. He also answered questions regarding if Macquarie “went dark” and how that would affect the City. He advised all performance guarantees would be finalized in a contract including Macquarie surrendering assets while still holding the debt. He explained the City would then move forward and use the system with various options including curtailing the utility fee charge, or remaining “dark,” or continuing to charge a utility fee, and/or bringing a contractor in to run the system.

Upon inquiry by Councilmember Lang, the City Manager advised that the definite cost of a utility fee, what the offset would be for low/fixed income level consumers, and levels of upgrades would all be developed during Milestone Two. He advised some of those answers were already known such as information

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regarding the utility fee. He advised the exact utility fee had not been determined; but based on the 11-member cities participation, Macquarie had made the commitment that the utility fee would not exceed \$18 - \$20 per month, which would be lower than the present provider(s) fees. He stated relief for low/fixed income level consumers would be provided in the same manner as presently allowed by law, or the City could outright provide relief to those individuals. He discussed comparison costs and gave specific examples resulting in savings to the consumer. He advised upgrade cost scenarios were not totally available at the present time, but the choices would remain with the City with upgrades coming out of upside revenues and not utility fees. He also discussed inflation rates at possibly 2.5% based on a CPI adjustment, and advised negotiations were ongoing. He indicated all these questions would be definitively answered by the completion of Milestone Two.

Councilmember Vincent pointed out some residents would elect to upgrade their service to a faster Internet or for services like triple play and pay higher premiums, in which cases additional revenues would be generated. He also suggested if residents took ownership of the system it would result in a successful system.

Mayor Bigelow stated when the system was built out everyone would be on the system for free with revenue generated from those signing up for premium services. He stated not all revenue would come to the City and exact percentages had not yet been determined. He indicated either going dark or selling would trigger a call on the bonds that would result in estimated penalties of \$70,000,000 in addition to the bond debt.

Councilmember Rushton expressed appreciation for the thoughtful efforts of the Mayor and Council members regarding important issues. He reviewed the options previously discussed including passing the proposed resolution to allow further consideration of a bona fide offer, waiting for another scenario, or continuing with the status quo.

Councilmember Rushton moved to approve Resolution No. 14-88, a Resolution of West Valley City Authorizing the City's Representatives to the Boards of Directors of UTOPIA and UIA to Vote Affirmatively in Favor of Moving Forward into Milestone Two; and authorize the City Manager to fix an amount of not to exceed \$350,000.00 and a time frame of 60 days. Councilmember Lang seconded the motion.

Mayor Bigelow called for any further discussion.

Councilmember Lang inquired regarding the time frame of a minimum of 60 days and if it would begin on final submittal of the draft and not during



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negotiation of the draft. The City Manager advised it would begin on final submittal of the draft.

Hearing no further discussion, Mayor Bigelow called for a vote on the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Ms. Lang	Yes
Mr. Buhler	Yes
Mr. Huynh	Yes
Mr. Rushton	Yes
Mr. Nordfelt	Yes
Mayor Bigelow	No

Majority.

THERE BEING NO FURTHER BUSINESS OF THE WEST VALLEY CITY COUNCIL, THE REGULAR MEETING OF TUESDAY, MAY 27, 2014, WAS ADJOURNED AT 8:45 P.M., BY MAYOR BIGELOW.

I hereby certify the foregoing to be a true, accurate and complete record of the proceedings of the Regular Meeting of the West Valley City Council held Tuesday, May 27, 2014.

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Sheri McKendrick, MMC  
City Recorder