

**WOODS CROSS CITY COUNCIL MEETING
SEPTEMBER 18, 2007**

The minutes of the Woods Cross City Council meeting held September 18, 2007 at 6:30 P.M. in the Woods Cross City Hall located at 1555 South 800 West, Woods Cross, Utah.

CONDUCTING:

Mayor Kent Parry

COUNCIL MEMBERS PRESENT:

Mayor Kent Parry
Jennifer Decker
Tamra Dayley

Rick Earnshaw
Jon Hadlow
Donald D. Moore, Jr.

STAFF PRESENT:

Alan Low, City Recorder
Gary Uresk, City Administrator

VISITORS:

Pat Blackley
Karen Painter
Melinda Williams
Chad Curvin
Ruth Hatch
Robert Franklin
Michael Lilyquist

LeGrande Blackley
Bill Harten
Leendert Van Hulten
Thad Van Ry
Justin Strunk
Mindy Lilyquist
Thomas Klc

David Shaw
Troy Bowman
David C. Hill
Athena Dayley
Eric Gridley
Cydney Klc
Chase Lundquist

INVOCATION:

Don Moore

PLEDGE OF ALLEGIANCE:

Gary Uresk

The Mayor welcomed those in attendance and stated this is a regularly scheduled meeting that notice of time, place and agenda was sent to local newspapers and provided to each of the City Council members prior to the meeting.

APPROVAL OF MINUTES

The City Council reviewed the minutes of the City Council meeting held September 4, 2007. After the review, Council Member Earnshaw motioned the minutes be approved as written with Council Member Moore seconding the motion and all voted for the motion.

APPROVAL OF FINANCIAL REPORT

The floor was given to the City Recorder who reviewed with the City Council, the City's financial report for the period ending August 31, 2007. The Council reviewed the City's cash position, sales and use tax report, the transient room tax report, report of the impact fees

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collected for South Davis Metro Fire Agency and an executive summary of the City's funds comparing revenues and expenditures to the budget.

After the Council's review, Council Member Moore made a motion to approve the City's financial report as presented, with Council Member Hadlow seconding the motion and all voted for the motion.

APPROVAL OF CASH DISBURSEMENTS

The City Recorder reviewed the cash disbursements listing for tonight's meeting with the City Council. After the Council's review, Council Member Earnshaw made a motion to approve the cash disbursements as presented, with Council Member Dayley seconding the motion and all voted for the motion through a roll call vote.

OPEN SESSION (BRIEF ITEMS)

The Mayor then opened the meeting to items to those present that were brief in nature. This would be items that would take less than two or three minutes.

There were no items for the brief open session.

CONSIDERATION TO ADOPT AN ORDINANCE AMENDING SECTION 13-06-110 OF THE WOODS CROSS CITY CODE REGARDING THE DISCHARGING OF FIREARMS

The floor was given to the City Administrator who outlined the following for the City Council:

"Given to the Council is a proposed amendment to Section 13-06-110 of the City Code in reference to discharging firearms. We have surveyed the surrounding cities and they all prohibit the use of bows and arrows. Also given to the Council are copies of the surrounding cities' prohibitions. We have changed our Section to read similar to Bountiful's, which specifically mentions cross bows and bow and arrows and eliminates the exception for supervised archery target practice or competition since we feel there is no need for that exception.

I recommend adoption of the Ordinance as drafted."

The Council reviewed the purposed changes to the ordinance and discussion ensued concerning the use of soft pellet guns within the City, which many of the teenagers use for recreational activities. Other areas of the ordinance were discussed as to the judgment of the use of these firearms being in the hands of the police enforcement or the individual person who may be using them.

After the discussion, the Council asked the City Staff to again review the ordinance and amend it based on the discussion at tonight's meeting and bring it back to the Council.

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The floor was then given to Council Member Moore who motioned that this item be tabled for a future City Council meeting. Council Member Decker seconded the motion and all voted for the motion.

**DISCUSSION ON THE FEASIBILITY OF BECOMING A MEMBER OF UTOPIA
(UTAH TELECOMMUNICATIONS OPEN INFRASTRUCTURE AGENCY)**

The City Administrator continued with the floor and advised the City Council that at tonight's meeting was a representative from UTOPIA that would be discussing with the City Council the UTOPIA program and why it would be advantageous to the City of Woods Cross to join the organization.

The floor was then given to Mr. David Shaw representing UTOPIA. He reviewed the following the information with the City Council:

Why Would Your City Want to Join UTOPIA?

Cities have the challenge of being a reliable resource for solving collective problems. One of these problems nationally, as well as here in Utah, is the slow or nonexistent roll-out advanced telecommunications services. Nearly everyone can access the Internet with a dial-up modem and many can access information services with a cable modem, a DSL connection, or through satellite and wireless technologies. But none of these technologies have the capacity to support the high speed, reliable, bi-directional transmission of digital information that is necessary for people to use the truly advanced services, including high-quality audio and video features that are becoming common on Web sites.

Fourteen Utah cities found a solution to this problem in the creation of an Interlocal entity, the Utah Telecommunication Open Infrastructure Agency (UTOPIA). This agency has the assignment to design, finance, build, operate, and maintain a fiber-to-the-home network available for private companies to use in delivering digital services like telephone, television, and Internet as well as advanced services like telemedicine, interactive videophone, real time work collaboration from different locations, full motion interactive distance learning, and other services that have yet to be invented. The founding cities believed that a successful UTOPIA would give them tremendous economic development advantages and would give their citizens access to a world of new services that would enrich their lives. The door is open for other cities to join.

If you are curious about this possibility for your city, perhaps it will help to consider the following answers to the question:

Why should your city want to become part of UTOPIA?

1. Because the economic vitality of your city may depend on how good its access is to high speed telecommunications

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There is a compelling argument for making investments in telecommunications infrastructure to promote economic development. Scholars have discovered that access to high capacity networks is just as important for the economic future of an area as proximity to rivers, harbors, rail lines, and highways have been in times past. The communities that can offer reasonably priced, reliable, high-speed connections will be preferred, other things being equal, over communities that cannot.

2. Because the residents of your community could enjoy a higher quality of life with affordable access to advanced telecommunications services

For homes and business that have reasonably priced access to high speed communications, there is a world of possibilities for learning, entertainment, staying connected with distance family and friends, working without having to commute, engaging in civic affairs, and conducting personal business. But most do not have this big pipe to the world. A US Department of Commerce report on the status of broadband deployment in the country showed that only five percent of homes had the ability to connect with an advanced communications service. The percentage in Utah cities is even lower. The UTOPIA network will correct this deficiency.

3. Because the telecommunications infrastructure that is currently available in your city does not have the capacity to deliver advanced services.

The existing telecommunications infrastructure was designed and built to serve very limited and much less demanding applications. The technology does not have the capacity to carry the volume of information that advanced Internet services like video on demand or interactive videophone require. Very few homes or businesses have access to affordable high speed telecommunications services with the capacity to support bi-directional data streams that advanced services require. The UTOPIA fiber to the home network does not have these limitations.

Among other products, service providers will be able to offer high definition television programming with features like pause, replay, skip ahead, and interactive feedback; videophone; always-on medical monitoring; telework where members of a work team can see and hear each other with broadcast quality images and interactively contribute to computer aided design or financial modeling; and a plethora of other applications that have yet to be launched. The network will have the capacity to support local programming of high school athletic competition, elementary school programs, or civic meetings without having to worry about displacing regular cable channels.

4. Because business imperatives in the industry prevent private companies from making the investment anytime soon that a fiber to the home network will require.

Historically, the telephone company (there was only one in town) operated as a regulated monopoly. The company owned the wires and it provided the service (there was only one-telephone company). To introduce competition, the Telecommunications Act of

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1996 required incumbent carriers to let other companies use their networks and offer competitive services. The competitor has to pay for the use of the incumbent's network but the charges cannot exceed the costs. The problem is that payments for reimbursable costs do not cover loss of revenue to the incumbent when a customer leaves to sign up with the competitor. Consequently, incumbents have been slow to work out the logistics of sharing existing network capacity (that is limited to support the requirements of advanced services, anyway). And they have been reluctant to spend money to replace the network with one that has a higher capacity. Their investment would be an advantage for their competitors.

The competitor's alternative is to build another network serving the same set of customers. There are three major problems with this course of action. First, it usually doesn't make economic sense. Second, two networks double the intrusiveness of telecommunications infrastructure in neighborhoods, as both companies have to tear up streets and roads and dispatch service vehicles. Third, when the dust settles, the two network owners each tend to operate in the same monopolistic way that the incumbent did in the first place. The robust competition that best serves the public doesn't happen.

The UTOPIA model solves these problems by offering a network that is open to a variety of competitors that vie for customers based on the price, quality, and innovativeness of their services rather than on the basis that the customer has no other choice. The system is the equivalent of a public road network or airport where a public agency builds and maintains the infrastructure but does not sell and deliver the shipped goods or operate the airplanes.

5. Because building, operating, and maintaining public infrastructure is a core competency for cities.

There is a strong case for municipal involvement in the deployment of modern telecommunications infrastructure. Owning and managing public infrastructure is, after all, a core competency of municipal government. Telecommunications infrastructure is just as important to a community's well being as roads, bridges, airports, water works, and waste management facilities. Cities are able to take advantage of their lower cost of borrowing, their access to their own rights-of-way, and their ability to move projects through their internal permitting and approval processes.

6. Because Utah law makes it possible for cities to deploy wholesale telecommunications infrastructure.

The 2001 legislative session passed the Utah Municipal Cable Television and Public Telecommunications Services Act (H.B. 149). This statute expressly authorizes municipalities to establish telecommunications enterprise funds and to provide services if citizens give their express consent and the city does not apply to a municipality that acquires telecommunications facilities for its own use or for a private entity to use to

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provide telecommunications services. (Section 10-18-105 (2), UCA 1953). This provision was suspended by the 2004 session of the legislature (SB 66) until July 1, 2007 but the UTOPIA cities were able to proceed under a grandfathering provision of the bill. In addition, the Interlocal Cooperation Act (11-13 UCA 1953) made it possible for cities to create an entity with a large enough population to achieve economies of scale in design, operation, and appeal to prospective service providers.

7. Because it is easier and more effective to solve a regional telecommunications infrastructure problem on a cooperative basis than on a go-it-alone basis.

In the process of creating UTOPIA, leaders of the member cities understood that it made better economic and operational sense to address the high-speed telecommunications capacity problem on a regional scale than on a local scale. Individually, the cities did not possess, nor could they afford to acquire, the technical, business, and marketing expertise that was necessary to implement the plan. Separately, the cities did not represent sufficiently large population to attract the interest of major retail service providers. Neither did they contain a large enough customer base over which to spread the costs of expensive fixed assets and still have reasonably priced services. Collectively, their combined population solved all of these problems.

8. Because the risk to member cities is very manageable.

The member cities agreed to pay for the start-up costs of UTOPIA and for the feasibility studies that were needed to test the economic and technological viability of the concept. The minimum assessment was \$45,000 and the cities had to make this commitment without a guarantee the study would show the network to be feasible within their boundaries. On the other hand, when financing was arranged, these up-front costs were reimbursed to the cities all of the leaders were committed to the idea that UTOPIA had to rise or fall on the strength of its own business case.

9. Because UTOPIA cities are committed to equity throughout the network.

UTOPIA's member city leaders recognized their communities would have a better chance for success if they would think and act for the good of the whole Agency rather than for the individual interests of their own community. The UTOPIA board established the principle that key decisions had to be controlled by business necessity and the sense of what best serves the entire network rather than what serves the political interests of the individual members. The Board also endorsed a guiding principle that service offerings and prices will be uniform throughout the network.

10. Because knowledgeable observers of the telecommunications industry believe the UTOPIA business mode has the potential to become the new standard.

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The UTOPIA business model takes an unusual approach to the creation of a public enterprise. As a result of the legislative debate on H.B. 149, UTOPIA has to compete fairly and on a level playing field with private business. UTOPIA does not exist to make a profit but to promote the economic vitality of its member communities and to bring the promise of advanced telecommunications services to their citizens.

The business case has been subjected to a rigorous feasibility analysis. A nationally recognized consultant with extensive experience in the telecommunications industry has verified the results of the feasibility study. Also, major national firms that may use the network to serve customers have evaluated the concept along with the details of its implementation plans and have concluded that it is a solid idea.

Partly as a consequence of its size compared to other fiber optic projects and partly because of its innovative public ownership structure, UTOPIA has been a subject of significant national interest. UTOPIA's executive director has made presentations at national meetings of most all of the major telecommunications conferences. UTOPIA may be the first major test of an arrangement that separates ownership of telecommunications infrastructure from delivery of telecommunications services. This is an idea that several scholars have advocated to introduce real competition in the industry and promote innovation. The UTOPIA model offers a mechanism for giving local leaders the influence over telecommunications infrastructure that they want while still maintaining an opportunity for private companies to cater to consumer interests. It is a major improvement beyond the individual community-owned networks that have been implemented around the country.

The Council then asked several questions of Mr. Shaw concerning the program. The floor was then opened for questions from the public.

The floor was given to Mr. Bill Harten, a City resident, who spoke in favor of the City joining UTOPIA and the great advantage it would be to both large and small businesses within the boundaries of Woods Cross City.

Next the floor was given to Mr. Troy Bowman, who also spoke in favor of the program and provided to the City Council a handout where he summarized the benefits of the program as he viewed them.

The floor was then given to Mr. Thad Van Ry, a City resident, who also spoke in favor of the program and stated he felt that if the City did not join the program and provide the high speed internet connection, the City could possibly lose businesses from the City to other cities which had the UTOPIA program.

The City Council then gave direction to the City Administrator to gather cost information on what the costs would be to do a feasibility study for Woods Cross City to join the program.

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CONSIDERATION TO APPROVE A LEASE OF .5 ACRES OF PROPERTY LOCATED ON 2300 SOUTH 575 WEST TO MENLOVE TOYOTA

The City Administrator continued with the floor and reviewed the following with the City Council:

“As part of Menlove Toyota’s remodeling project, the owner, Mr. Wes Johnson, needs additional property on the east side of 575 west to provide the necessary setback from his building. We have indicated to him the only way we could let him use the property would be to lease the property to him. Given to the Council is a proposed lease with Menlove Toyota for the lease of ½ acre of property, which is a piece of property approximately 26 feet wide by 970 feet long. I have calculated the lease cost of \$8,000 annually from the documents that Mr. Johnson has submitted to me concerning his lease of property from Slim Olson’s on the west side of 575 West street. I fell the lease adequately addresses the issues and allows Menlove to use the property for their setbacks and the City is being fairly compensated for the lease of the property. I recommend approval of the lease as drafted.”

Following the review by the City Administrator the floor was given to Mr. Wes Johnson, the owner of Menlove Toyota. He expressed appreciation to the City Staff for working closely with him as they prepare for the expansion of his auto dealership. He asked the City Council to give consideration in allowing him to lease the property as outlined.

The Council then reviewed the lease after which the floor was given to Council Member Moore who motioned the City Council approve a lease of .5 acres of property located at 2300 South 575 West on the east side to Menlove Toyota. The motion was seconded by Council Member Earnshaw and all voted for the motion.

CONSIDERATION TO ADOPT A RESOLUTION REQUESTING THE RECERTIFICATION OF WOODS CROSS CITY JUSTICE COURT

The City Administrator went over the following with the Council:

“Given to the Council is a copy of a proposed resolution requesting the State recertify our Judicial Court. Also given to the council is an opinion letter from Ms. Lisa Romney of the City Attorney’s Office supporting the recertification of our Court. Every four years we are required by statute to have the court recertified by the Justice Courts Standards Committee and the Utah Judicial Council. We believe everything is in order and would ask the Council to adopt the Resolution requesting the State to recertify the Court.”

Following the outline by the City Administrator, the floor was given to Council Member Earnshaw who motioned that the City Council adopt resolution 2007-434, a resolution requesting the recertification of the City Justice Court. Council Member Moore seconded the motion and all voted for the motion.

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UPDATE ON CURBSIDE RECYCLING

The floor was given to Council Member Decker who reviewed with the City Council the progress that is being made on having curbside recycling in the City of Woods Cross. She noted the contract is being worked out by Mr. Nathan Rich, the manager of the Wasatch Integrated Waste District, and that he is soliciting bids from recyclers to handle the curbside recycling in Woods Cross City and the contract is not yet ready for the Council to review.

She then handed out to the Council a Waste Management Recycling America story of recycling prepared by Waste Management of Utah. This document is a Power Point presentation supplied by Waste Management of Utah encouraging the program of curbside recycling.

This concluded her report.

OPEN SESSION

The floor was then opened to items from those present that they would like to bring before the City Council.

The floor was given to Mr. Rob Franklin, a City resident living in the City Towne Centre condominiums. He asked the City Council to view some pictures he had taken of the Towne Centre Park. He noted the park is in disarray and is not being maintained properly in his opinion. He said the Council could note from the pictures there is standing water in the park, as well as, weeds that are knee high. He also said they have observed snakes in the park area. He asked the Council if something could be done to make the park more favorable for the use of individuals and families.

The floor was then given to Mr. Mike Lilyquist, also a resident of the Towne Centre. He said the Towne Centre spends considerable amount of money to maintain and beautify the surrounding yards in their area by the homeowner's association and the weeds that encroach from the Towne Centre Park are causing undo hardship on the maintenance of their property. He also asked if the City Council could have the park be brought up to standard.

The City Council asked the City Administrator to look into the problem and to see that the park is properly maintained.

The floor was then given to Mr. Rob Franklin a second time. He also said the vacant lot in their area, which is owned by Proterra, is in need of attention and that there are weeds growing in the vacant lot. He asked the City if they could contact the owner and have them clean up the vacant lot.

Direction was given to the Staff to look after this matter.

There were no other items for the open session.

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REPORT FROM THE DAVIS MOSQUITO ABATEMENT DISTRICT

The floor was given to Council Member Moore who is the representative on the Board of Directors on the Davis Mosquito Abatement District. He reported there have been two cases of West Nile Virus in the area and he also reported the district was able to return to Davis County some unused funding that had come from the County and is not needed by the district.

This concluded his report.

REPORT FROM THE SOUTH DAVIS METRO FIRE AGENCY

The Mayor reported on the activities of the South Davis Metro Fire Agency as follows:

1. At their board meeting he said it was business as usual and there were no special items brought to the attention of the board.
2. He noted on September 26 at 9:00 A.M., would be the ground breaking for the new fire station to be built by the agency on Eaglewood Drive on the Wood property.

This concluded his report.

MAYOR'S REPORT

The Mayor reported to the City Council that he had received word from the EPA's representative, Mr. David Allison, that the Five Points plume contamination has been put on the EPA's registry for cleanup.

This concluded his report.

PLANNING COMMISSION REPORT

The Mayor reported on the Planning Commission Meeting held September 11, 2007. Please see the minutes of that meeting for the details of his report.

CITY ADMINISTRATOR'S REPORT

The City Administrator advised the City Council the City Staff had prepared a bid request for janitorial services for maintenance of the City Hall and the bid request would be going out in the next ten days.

This concluded his report.

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ADJOURNMENT

There being no further business before the City Council, Council Member Earnshaw motioned the Council adjourn the meeting at 8:30 P.M. with Council Member Moore seconding the motion.

Kent Parry, Mayor

Alan T. Low, City Recorder