

**TREMONTON CITY CORPORATION  
CITY COUNCIL MEETING  
January 15, 2013**

Members Present:

David Deakin  
Diana Doutre  
Jeff Reese  
Byron Wood  
Roger Fridal, Mayor  
Shawn Warnke, City Manager  
Darlene S. Hess, Recorder

**CITY COUNCIL WORKSHOP**

Mayor Fridal called the January 15, 2013 City Council Workshop to order at 5:05 p.m. The meeting was held in the City Council Meeting Room at 102 South Tremont Street, Tremonton, Utah. Those in attendance were Mayor Fridal, Councilmembers Deakin, Doutre, Reese, and Wood, City Manager Shawn Warnke, Recorder Darlene S. Hess, City Attorney Dustin Ericson, Public Works Director Paul Fulgham, Police Chief David Nance, Treasurer Sharri Oyler, and Finance Officer Curtis Roberts (arrived at 5:36 p.m.). Councilmember Holmgren was excused.

1. Presentation regarding UTOPIA operational shortfall Kirt Sudweeks, UTOPIA Chief Finance Director and Laura Lewis, UTOPIA Financial Advisor

Mayor Fridal welcomed the guests from UTOPIA, Kirt Sudweeks and Laura Lewis.

Laura Lewis stated that she is the Financial Advisor with Lewis, Young, Robertson & Birmingham, and she has been associated with UTOPIA since the onset. In the beginning, for various reasons, the financing advice Ms. Lewis suggested to UTOPIA originally was not followed. Ms. Lewis reported on where UTOPIA is today, and, from a financial aspect, why she doesn't recommend trying to sell UTOPIA. There may come a time when it is more advantageous for the member cities to try to sell the fiber optic network.

Ms. Lewis explained that a SWAP is basically a contractual agreement to protect against interest rates going too high. It is what is referred to in the industry as a synthetic fixed rate transaction. If it is decided to break the SWAP agreement, depending on the yield term on the day it is broken, one of the parties is going to pay the other one. Based upon today's market conditions, if the SWAP were broken today, UTOPIA would have to pay the lenders the cash differential. Based upon today's market conditions, that would be \$97M. Ten years from now, some of the principal will have been paid down, and if the SWAP is broken then, the reverse happens. The lenders would pay UTOPIA member cities, assuming the interest rates are higher than 5.64% (which is the SWAP Rate).

Ms. Lewis stated that, UTOPIA has \$185M in bonds outstanding and approximately \$125M in reserve assets. The \$60M (which is the difference between the \$185M in bonds and the \$125M in assets) is referred to as non-asset bonds. The \$60M went to things like capitalized interest - paying interest on the bonds while UTOPIA was trying to get up and going, and toward operations and maintenance expense.

Assuming that UTOPIA fiber optic network could be sold today for \$0.50 on the dollar based upon existing assets, UTOPIA would end up with \$62.5M in cash. For every dollar that is called in principal on that bond, the SWAP that is associated with that principal has to be broken. Ms. Lewis calculated that there would be \$26.9M in SWAP break fee (the cost to break the SWAP related to that amount of principal reduction). After the sale, UTOPIA member cities would have \$149.4M in debt related to the bonds and zero dollars in assets.

Ms. Lewis said, from a financial perspective, she would rather UTOPIA member cities have \$185M in debt and \$125M in assets than \$149M in debt and nothing in assets. No one loves this situation. In Ms. Lewis' mind, the most feasible thing to do is to figure some other option rather than selling the UTOPIA fiber optic network because, at least then, UTOPIA has their assets.

Ms. Lewis explained that if UTOPIA decided to sell out ten years down the road, if interest rates went up to or above 5.64%, and if UTOPIA has more customers, then the lender would have to pay UTOPIA. So, it may make sense to sell at some point.

Mr. Sudweeks stated that he spoke with Manager Warnke and he asked that UTOPIA come up with a couple of scenarios of what UTOPIA might do. The UTOPIA Staff has met with the UTOPIA Executive Committee over the past nine months or more to determine what would be the best solution going forward. Several scenarios were presented to them for them to make a decision.

One scenario was to "go dark". That means that the debt service payments associated with the \$185M bond that are being made today would continue to be made until the end of 2040 when the bonds are paid off. For the UIA member cities it is even worse than that because these cities pledged another \$29.5M and today, UIA revenues have been sufficient to cover the debt service. If UTOPIA went dark and shut the network down, UIA member cities would have to start making those payments which are about \$2.1M a year on top of their pledge payment.

UIA has not been as successful as it was hoped, but the UIA fiber optic network has generated enough revenue to make the first debt service payment in October in the amount of \$1.4M in principal and interest. Enough revenue has already been generated out of the UIA network to cover the interest only payment of \$700K which is due April 1<sup>st</sup>, and almost half of what is needed for the October 2013 payment. It is expected that enough revenue will have been generated by June to make the October payment. UIA is generating sufficient revenues to cover the debt payments. If UTOPIA were to go dark, UIA would have to make that payment on top of the pledge payment.

Councilmember Wood asked if all the UTOPIA money was being used to pay UIA off. It seems like the UTOPIA members are being robbed to pay UIA.

Mr. Sudweeks stated that that is not the case. UTOPIA and UIA are separate legal entities. The UTOPIA and UIA financial accounts are kept separate and each has their own financial statement. Actually, UIA has made payments to UTOPIA. There is an IRU (Indefeasible Right of Use) that allows UIA to use the UTOPIA assets, but those assets are still UTOPIA assets on UTOPIA's books. All the customers that were UTOPIA customers before are still UTOPIA customers. Any revenue generated there belongs to UTOPIA.

Councilmember Wood asked if UIA is paying money to UTOPIA to lease those assets, and Mr. Sudweeks replied that that is correct. If it were not for the cities that formed UIA, UTOPIA would be in a lot worse shape than it is today. UIA is actually benefitting UTOPIA and the UTOPIA member cities are benefitting from having UIA. No assets have been transferred to UIA. The customers have been kept separate as have the revenues of each entity.

The only difference between selling UTOPIA and going dark is what Ms. Lewis explained earlier. With a sale, there would be some cash coming in, but not enough to pay off the debt.

Manager Warnke asked Mr. Sudweeks to talk about the various contractual obligations. Mr. Sudweeks explained that the UTOPIA legal council put together a brief on potential litigation from service providers, businesses, and other customers who are on UTOPIA's network. Probably the worse scenario is Brigham City where they actually did SAA (Special Assessment Area) financing and the residents in Brigham City put liens on their homes. If these residents don't have a network and they still have a lien in place, one can imagine that they would be upset with the situation. It is hard to classify what a potential litigation would be, but it is known there would be some. Going dark would only mean making the pledge payments that are being made today but there would be legal costs.

A couple of years ago, stimulus money was received from the Federal Government stimulus program. Stimulus assets would probably have to go back to the Federal Government. There is potential litigation, but it is hard to put a dollar amount on it.

Ms. Lewis commented that if the UTOPIA member cities shut down the UTOPIA fiber network and she has to go back to the other options, she will complain. For those who have the benefit of a UTOPIA fiber network, going back to other options would be a big deal.

Manager Warnke asked about UTOPIA contracts with out-of-state users that haul data on UTOPIA's fiber network. Mr. Sudweeks stated that UTOPIA does some of what is called a "back haul" or a "long haul" tracking where a business user wants the capacity to move large pieces of data between data centers. UTOPIA has a couple of customers who

use the UTOPIA line that goes from Idaho down to Las Vegas. Some of the revenue generated from that is pretty substantial. UTOPIA is contracted with UEN, UDOT, and others. A brief from the UTOPIA legal council has been prepared and it will be provided to the City Councils for review. There are a lot of entities that rely on UTOPIA right now.

Mr. Sudweeks commented that Ms. Lewis's presentation assumes that all of the dollars, once the debt is paid off, would pay the UTOPIA debt first. If the network were sold, some of those dollars would go to the UIA debt because they are UIA backed assets.

Mayor Fridal stated that it seems it would be worse to sell UTOPIA than to go dark because it would cost a lot more money. Ms. Lewis said that UTOPIA would end up with a huge amount of debt, and no assets, but it is plausible that all of the contracts could be transferred over to UEN or someone else. If that were done, UTOPIA would hopefully avoid all potential obligations. The challenge with going dark is who knows what would be litigated.

Councilmember Wood asked if the interest rates were to get to the fixed SWAP rate of 5.64% if the SWAP would go away. Ms. Lewis said it would and it would be a zero cost.

Councilmember Deakin asked about something that Mr. Sudweeks had mentioned in earlier communications about local government's ability to bond in the future and questioned why it would affect a city's bonding ability. Ms. Lewis responded that only if a city fails to pay their debt service would there be a problem.

Mr. Sudweeks presented another scenario called "Maintenance Mode." UTOPIA does not generate enough revenue to cover its operation expense. In the past, UTOPIA has borrowed money to cover operations, which is not a good thing to do. The impact of going to the Maintenance Mode, where all of the operating expenses are cut back to the point where there is sufficient revenue, is believed to be a downward spiral. Without growth, at some point customers will be lost. It is felt that the Maintenance Mode would be a slow death which would eventually lead to going dark, anyway.

The Utopia customer count in June of 2011 was 8,572, in June of 2012 there were 8,240 customers, and in December of 2012 there were 7,961, so, UTOPIA is losing two or three hundred customers a year. This is because UTOPIA has no capital to grow and connect new customers on the UTOPIA network. UIA, on the other hand, in June of 2011 had no customers. They now have 3,134. The network combined is adding customers and increasing revenues, but customers are being lost on the UTOPIA side.

Manager Warnke asked if UTOPIA is being marketed at all, or if it is all UIA. Mr. Sudweeks replied that UIA is doing some marketing through the bonding, but there is no cash to pay for a connection in Tremonton.

Councilmember Reese cited one instance where the box is right in the owner's home. They called and UTOPIA wouldn't hook them up. Mr. Sudweeks said he really struggles

with that because UTOPIA has done reconnections in Tremonton. Councilmember Reese said that everything was hooked up and brought to the point of turning the system on and no one will come and do it. Mr. Sudweeks said that if everything is there, there is no reason why the service can't be supplied. There was a flyer that went out in the mail a couple of years ago - he thought it went to Tremonton, too – saying that if someone wants to reconnect, UTOPIA will do it for \$150.

Mr. Sudweeks suggested that he and Manager Warnke get on the phone tomorrow or Thursday with Gary Jones, UTOPIA Marketing Director. If UTOPIA can do a reconnect where no money has to be spent, then, absolutely, that customer should be reconnected. If UTOPIA has to invest capital/construction dollars, construct/curb the home, and provide the electronics at both ends, the cost is \$1,100 to \$1,500. Councilmember Reese asked if a customer was willing to pay \$1,000 if UTOPIA would come and do it. Mr. Sudweeks replied that the cost to connect to UIA is \$3,000. They can finance it if they are in a UIA city where the city bonded, or they can pay upfront. If someone in Tremonton wants to pay the costs upfront, UTOPIA would make the connection.

Mr. Sudweeks reported that in Tremonton UTOPIA had 340 residential customers in June, 2011 and it was down to 300 residential customers in December, 2012. On the business side there were 21 in June, 2011 and there are 25 today.

Councilmember Reese commented that his son has a business in a strip mall. About a year or so ago, all the owners in the strip mall were willing to pay a certain fee to connect to UTOPIA, but UTOPIA wouldn't talk to them so they went with another internet company. That is the frustrating part. Mr. Sudweeks said that frustrates him, too. If that is the information that is being given out to businesses, it is the wrong information.

Councilmember Deakin called attention to page 13 on the UTOPIA brief and observed that even if interest rates don't change, every year that UTOPIA survives it makes the SWAP payment less; and, if interest rates go up, every year UTOPIA survives it is even better.

Mr. Sudweeks pointed out that thirty percent of UTOPIA's operating expenses are related to maintaining the network. The network has to be maintained. UTOPIA has to pay for the inner connections, co-locations, etc., so thirty percent of the dollars are fixed.

If UTOPIA is going to grow, Mr. Sudweeks stated that the UTOPIA construction and marketing people looked at what would be the best way to grow. All areas of potential growth were considered along with how to get the best return on the money borrowed. All of those opportunities were ranked from the very best to the worst. The opportunities were reviewed until the group got to what they are calling the "sweet spot" where borrowing more money did not give an incrementally better return. That is where the line was drawn saying UTOPIA should build this but not build this to get the best return on the dollar. This resulted in a plan which would take about \$24M over the next two years. That plan was presented back to the UIA member cities. They are still considering the plan. That plan would be the recommended Go Forward plan. A lot of the effort would

be oriented around businesses because they have a better revenue stream than residential does.

The stimulus project UTOPIA had didn't help Tremonton, Brigham City or Lindon because these cities are all built out, but the other eight UTOPIA cites all benefited from stimulus funds. UTOPIA received \$16M from the government and had to put up another \$8M of matched funding from the UIA bond. From that stimulus, UTOPIA felt they were really creative in facilitating as much expansion as possible.

Mr. Sudweeks said that all of these plans were submitted to the Executive Committee and they are now in the discussion phase. UTOPIA's operating expense has been in a shortfall condition for the last three years. The operating expense shortfall has been maintaining about \$250K per month. When UTOPIA Staff started meeting with the Executive Committee they told them that they had to cut their costs. By June, the costs will have been cut by about \$50,000 so the deficit will be about \$200K. In three years after construction, revenue generated through the "sweet spot" plan will take about \$150K of the remaining \$200K leaving operating expenses about \$50K short.

UTOPIA has a finance committee which includes several of the cities' Finance Directors. Mr. Sudweeks asked the Finance Directors if there were things that the cities all ready do that the cities could help UTOPIA with to eliminate costs, such as removing a branch from a fiber line as opposed to having someone from UTOPIA drive all the way from West Valley City to do the removal. Partnering with the cities is another way that the remaining \$50K can be reduced.

Mr. Sudweeks talked about an audit that was requested to be performed on UTOPIA and the suspicion that there was a "smoking gun." Mr. Sudweeks told the auditors that they would not find a "smoking gun" and told them he would give them any records they wanted. Mr. Sudweeks agreed that there were bad decisions and, if they could go back eight years and do things differently, they would be more successful, but he does not believe there was anything done intentionally. All the UTOPIA member cities were pioneers. Building a fiber optic network between cities had never been done. He said that he does not believe there was any fraud just because of the financial controls that were in place. Three signatures were required to get money out of the trust accounts before the lenders would release any amount from the UTOPIA bonds.

Councilman Deakin mentioned the stimulus utilization and somewhat private options, and asked if it is proposed that that be done under UTOPIA or UIA. Mr. Sudweeks replied that the stimulus utilization is what he referred to as the "sweet spot" plan and that would be UIA as there is a required match which is done out of UIA bonds.

Councilmember Deakin asked what assets are being used by UIA. Mr. Sudweeks gave the supposition that if Tremonton was already built out with UIA using Utopia assets, then a new customer wants to join, UTOPIA has no money to connect that customer so UIA would connect the customer and UIA would own the curb the home connection. The assets that they would tie into at the curb would be UTOPIA assets from that point.

UTOPIA, through the IRU, received about \$3M from UIA to use the UTOPIA network. The cost to UIA is calculated by what it would cost to connect to someone else's network.

Mr. Sudweeks stated that UIA also pays UTOPIA a monthly operational cost of \$5 for every customer that connects. UIA also pays UTOPIA \$1.20 a month per address to maintain any network that UIA puts into the ground. UTOPIA manages that for UIA. Those costs are normal for the industry and were validated through bond.

Councilmember Deakin asked what UTOPIA is asking from Tremonton City as Tremonton is not part of UIA, and Tremonton would not benefit from the stimulus even if Tremonton were a part of UIA.

Manager Warnke stated that it was mentioned earlier in the presentation that there is a deficit of \$250K as a result of an operational shortfall. Utah State Senator John Valentine is going to be sponsoring a bill which would not allow the use of bond proceeds to fund ongoing operational shortfall. It is anticipated that the legislation will go through. UTOPIA just keeps digging a bigger hole in operational costs if they keep borrowing money so the push is how does UTOPIA bridge that gap, and how do they move forward in resolving this issue. There have been discussions about the cities covering that operational shortfall. The Executive Group was creative in coming up with various scenarios in an attempt to answer those questions. If UTOPIA goes away, then the UTOPIA member cities really do become the front for the issue. The UTOPIA cities need to collectively make a decision on how to move forward in overcoming UTOPIA's operational shortfall.

Manager Warnke commented that the new revenue is going to help. The Sweet Spot Model shows that over time the operational shortfall becomes less and less, and the model seems to indicate that a three year period will get UTOPIA within \$50K. In order to do that, though, because of the proposed legislation, UTOPIA won't have three years to continue to live off borrowed funds.

Mr. Sudweeks wanted the Council to know that the City Managers in the UTOPIA member cities have been meeting for two or three months, working through these issues trying to determine what is the best path going forward. No one from UTOPIA has been in those meetings. This is a good thing as we are all in this together.

Mayor Fridal commented that Tremonton City has to make cuts and is taking every penny available to help to make UTOPIA work. As a result, Tremonton is starting to spiral downward instead of up. The trick is, how can Tremonton help UTOPIA without hurting our own City? How can Tremonton dump a pile of money into the UTOPIA system without causing our own infrastructure to start going backwards?

Councilmember Deakin mentioned that the one thing that hasn't been discussed is the wireless approach. Mr. Sudweeks said that there have been a couple of discussions with outside entities that are interested in doing wireless. To date, UTOPIA is not confident

that the proposed solutions will work as well as hoped. The other entities have been offered to put their equipment in some test site locations to see how it will do. They haven't done this, yet, which makes Mr. Sudweeks believe that maybe they are not quite as confident. UTOPIA is having those discussions and believes there will be something there. It may take a couple of months or more to perfect the electronics.

Councilmember Deakin said that he now sees that there were problems in the whole system. Councilmember Deakin commented that he doesn't know how the City could have been crippled any more than by using SWAPS. The second problem is the take rate. With UTOPIA, everything has to be attached to the wall, while the wireless market seems to be doing really well. He asked if the take rate would be higher, even if costs were similar, if high speed wireless were available.

Mr. Sudweeks responded that UTOPIA actually had a three hour meeting with a private wireless company yesterday. The company was told that UTOPIA would let them put their antennae on UTOPIA's site and they can put that signal out and see what it will do. They haven't taken UTOPIA up on it, yet.

Councilmember Wood commented that the cost of wireless has to be less. Mr. Sudweeks said that there are a couple of different ways it can be done: one is a direct line of site between two antennae, and the other one is to just broadcast out. With line of site there can't be anything in the way so that the wireless signal can be delivered at the promised speed. A year ago, UTOPIA wasn't considering wireless, but they are looking at wireless seriously, now, and trying to figure out what is the best way to do it. UTOPIA also has to make certain that the revenue stream is protected and that they receive \$25 for each customer served. It is possible for a wireless company to pay for one connection and then service three hundred customers. This would have to be monitored.

Councilmember Deakin asked Mr. Sudweeks if his gut feel is that wireless would improve the take rate. Mr. Sudweeks replied that, if UTOPIA can get the right technical solution to deliver a speed that is acceptable, it would help improve UTOPIA's take rate. Mr. Sudweeks does not believe that everyone will want wireless. Given the choice, he would take wired and get a better connection.

## 2. Review of agenda items on the 7:00 p.m. City Council Meeting

The Council reviewed the January 15, 2013 Agenda with the following items being discussed in more detail:

**Compelling the completion of public improvements in subdivisions** – Councilmember Deakin noted that several developers may be at tonight's meeting. Director Fulgham stated that this is not all about chip seal. There are some bigger issues the City has had trouble getting developers to move on. The main concern of one of the developers is the fog coat that the City has started requiring. Fog coat is really important on higher traffic roads to help protect windshields and to keep the chips from migrating. Fog coat is in the City Standards, but the Council can change it if they want. Director Fulgham reminded the Council about a gentleman who came to Council last year and brought a cup of chips

that ended up on lawns, because it does during snow removal. After discussing it with the developer, he said he understands the need for sealing the street; he understands that chip seal is better than a slurry seal; but he still has concerns over the fog coat. It costs about \$0.25 per square yard to apply fog coat on top of the chips.

The Staff has talked about the possibility of collecting those chip seal fees up front; the City would hold them in an account for that subdivision; then do a city-wide project and include all the applicable subdivisions. The problem with collecting the fees up front is that the City would take on the possibility of losing money should the costs go up. Director Fulgham feels it would be worth it as opposed to going back and trying to collect the funds to get the work done two or eight years down the road.

Councilmember Deakin commented that the developers have every obligation to do the chip seal and fog coat. Tremonton City was gracious in giving them an extension during the down turn, but at no point were the developers told they didn't have to do it.

Councilmember Doutre asked if the City could set up a payment plan for the developers. The City should have required that the letters of credit be extended.

Manager Warnke stated that he wouldn't be surprised if none of the developers came to the meeting because this isn't the first time they have been invited to come to meeting to discuss the issue. The Staff is at the point where they feel they have done all that they can. There are steps that have been taken to prevent this in the future. There are Development Agreements which make it easier for the City pursue developer's obligations; and the City has also abandoned Letters of Credit as a form of security.

City Attorney Ericson stated that now Development Agreements are in place. The situation has been remedied, or at least improved, moving forward. When looking backwards, there are a couple of potential issues. The State of Utah does not require a written contract for an agreement to be in place. It can be argued that there is a written contract because there are plat maps and on those plat mats the City gave the developers requirements that they need to perform. It would not be the easiest legal case and the City would really need to analyze whether it would be throwing good money after bad. There are some of these developments that are belly-up right now.

Director Fulgham commented that there is one development that the bank went under and did away with the line of credit, but there are still lots available. Whoever owns those lots could still reap the benefit of those lot sales. Attorney Ericson stated that those lots could potentially be something for the City to grasp in order to try to recoup costs.

**Motion by Councilmember Deakin to move to Closed Session for the purpose of discussing pending litigation.** Motion seconded by Councilmember Doutre. Vote: Councilmember Deakin - aye, Councilmember Doutre - aye, Councilmember Reese - aye, and Councilmember Wood - aye. Motion approved.

The Council moved into closed session at 6:48 p.m.

3. *Closed session for the purposes of discussing pending or reasonably imminent litigation and the character, professional competence or physical or mental health of an individual*

Mayor Fridal signed a statement in the meeting stating that the sole purpose of the closed session was to discuss the character, professional competence or physical or mental health of an individual. No ordinance, resolution, rule, regulation, contract or appointment was made during the closed session

**Motion by Councilmember Wood to return to open meeting.** Motion seconded by Councilmember Deakin. Vote: Councilmember Deakin - aye, Councilmember Doutre - aye, Councilmember Reese - aye, and Councilmember Wood - aye. Motion approved.

The Council returned to open session at 6:56 p.m.

The meeting adjourned at 6:56 p.m. by consensus of the Council.

Attorney Ericson left the meeting at 7:00 p.m.

## CITY COUNCIL MEETING

Mayor Fridal called the January 15, 2013 City Council Meeting to order at 7:05 p.m. The meeting was held in the Tremonton City Council Meeting Room at 102 South Tremont Street, Tremonton, Utah. Those in attendance were Mayor Fridal, Councilmembers Deakin, Doutre, Reese, and Wood, City Manager Shawn Warnke, Recorder Darlene S. Hess, City Attorney Dustin Ericson, Public Works Director Paul Fulgham, Library Director Kim Griffiths, Police Chief David Nance, Treasurer Sharri Oyler, and Finance Director Curtis Roberts. Councilmember Holmgren was excused.

### 1. Opening Ceremony.

Mayor Fridal informed the audience that he had received no written or oral request to participate in the Opening Ceremony. He asked anyone who may be offended by listening to a prayer to step out into the lobby for this portion of the meeting. The prayer was offered by Councilmember Deakin and the Pledge of Allegiance was led by Finance Director Roberts.

### 2. Introduction of guests.

Mayor Fridal welcomed Sara Sinclair, LuEllen Brown, Connie Archibald, and all others in attendance. The Boy Scouts from the Belmont 2<sup>nd</sup> Ward introduced themselves and were welcomed by Mayor Fridal.

### 3. Approval of Agenda.

Mayor Fridal asked if there were any changes or corrections to the Agenda.

**Motion by Councilmember Wood to approve the agenda of January 15, 2013 as stated.** Motion seconded by Councilmember Deakin. Vote: Councilmember Deakin – aye, Councilmember Doutre - aye, Councilmember Reese - aye, and Councilmember Wood - aye. Motion approved.

4. Approval of minutes – November 20, 2012 and December 6, 2012.

**Motion by Councilmember Doutre to approve the minutes of November 20, 2012.**

Motion seconded by Councilmember Reese. Vote: Councilmember Deakin - aye, Councilmember Doutre - aye, Councilmember Reese - aye, and Councilmember Wood - aye. Motion approved.

**Motion by Councilmember Reese to approve the minutes of December 6, 2012.**

Motion seconded by Councilmember Doutre. Vote: Councilmember Deakin - aye, Councilmember Doutre - aye, Councilmember Reese - aye, and Councilmember Wood - aye. Motion approved.

5. Public comments: Comments limited to three minutes

Connie Archibald thanked the City Council for the beautiful synchronized Christmas light display and said that her family enjoyed it. It was so nice to have the display at the City where there was plenty of parking. She said her family came four or five times.

6. Request(s) to be on the agenda:

- a. Bear River Health Department – Sara Sinclair, Site Coordinator

- 1) Discussion on the Bear River Health Department's new building in Tremonton

Ms. Sinclair told the Council that the address for the new home of the Bear River Health Department and the Bear River Mental Health is 440 W 600 N. In the spring or early summer, the Community Health Center will join them.

On Tuesday, February 5, 2013, an Open House will be held. There will be a tour at 3:00 p.m.

- 2) Bear River Health Department's Annual Report

Ms. Sinclair reported that the Bear River Health Department built the new building in Tremonton as well as one in Logan. She was proud to report that there is no loan on either building.

The Mission of the Bear River Health Department is: Preventing and controlling disease and disability, protecting the individual, community and environment, and promoting, maintaining, and improving health lifestyles.

The Department's annual budget is \$8,722 in expenditures. The revenue source is: fees 26%, contracts 59% (a lot of those are government), and County taxes 15%.

In 2003 Public Health took on a very heavy role in emergency services. Ms. Sinclair has played an active role in putting together a coalition with

other counties in the tri-county area wherein they will help each other in case of an emergency such as a pandemic.

Ms. Sinclair reported on the various services the Health Department supports and provides such as the Safe Kids Program, the WIC program, and immunizations. Generous donations at the Box Elder County Fair for the Tough Enough to Wear Pink campaign raised over \$1,300 to help women with pre-breast cancer screenings. Those donations served 100 women. The Health Department assisted Intermountain Healthcare in this campaign.

b. Bear River Mental Health – LuEllen Brown

Ms. Brown commented that the Community Health Clinic services people such as those who don't have health insurance.

Bear River Mental Health has had an office in Tremonton for quite some time in the Legacy Square building. Her hope is that the Council will keep in mind ways that Mental Health might be able to be of support to the community.

Mental Health is primarily a behavioral health service: family problems, problems children and young people face, depression. These services are provided on site. They also partner with Box Elder School District, providing services in the schools and to people at home. They provide group services, individual services, medication services, hospitalization services, and emergency services.

c. FY 2011 – 2012 Annual Audit Report – Curtis Roberts, Tremonton City Finance Director

Finance Director Roberts said Mike Kidman of Jones Simpkins asked him to express his appreciation to the Council for being able to do the audit again.

Finance Director Roberts referred to the Audit Report which states that there were no problems found in the audit. Tremonton is materially compliant. Finance Director Roberts stated that Recorder Hess and her staff and Treasurer Oyler spend hours preparing for the audit and they do a fantastic job. The Tremonton Staff is such a great group of people. They work so hard. Manager Warnke commented that Finance Director Roberts is the City's go-to resource and said he is glad Finance Director Roberts is part of the team.

Page 68. Sewer Fund - The Operating Income line shows \$30K worth of income. Right now the return on assets measurement for the Sewer Fund is sitting right between 4% and 5%.

There is a negative for the Special Improvement District (SID). That is actually planned. The SID wrapped up its purpose; the SID bonds were paid off on that District; there are no more fees. Everything worked out perfectly. The SID was closed and all of the assets were moved over to the Water Fund. So that is solid.

Pg. 18. Water and Treatment Plant Funds - There was a 6.2% rate of return on the Water Fund operating income. That is a solid rate of return. It is what keeps the

Water Fund at a level so it isn't necessary to raise rates. If the Water Fund can consistently generate a 6.2% rate of return, the rates could be sitting where they are long term. It is going to fluctuate. There will be good and bad years but a 6.2% rate of return is fantastic. That gives the City the ability to replace assets. Significant improvements were made. The water storage tank is on line as is the well.

The Treatment Plant Fund is had a little less than 1% rate of return. Overages were lower this year. This Fund will need to be watched to see if it fluctuates.

Pg. 15. General Fund – Excess of Revenues over Expenditures – this reflects a negative of \$81,000, but Principal, shows \$478,700. The City paid down some capital leases and freed up some cash flow going forward into future years. The Staff continuously monitors debt to see what it makes sense to pay down. The City made about \$200K to \$250K in paid-off principal payment. That is exciting.

\$1M was also taken out of the General Fund. That is what was done to bring that Fund Balance back into compliance with State law at the 18% or less level. The money was moved, according to Council's wishes, into Capital Projects to fund future capital outlays. A portion was also set aside for vehicle replacement and other equipment needs. Hopefully, by freeing up the capital, it will allow the City to continue to put away money for rainy days. Overall the General Fund functions as the Council intended. That doesn't mean there is a lot of money there. Roads are a huge concern. There is aging infrastructure. The Civic Center has maintenance issues. There are places within the City that need improvement. The idea is to make sure there is enough cash to make those improvements. Overall it is very financially solid.

The Redevelopment Agency kept some money to help out with a low income housing project. So, there are plans for that.

Page 62. If you look at the Fire and EMS you will see that it had revenues over expenditures of \$32K. That even accounts for all of the Medicare/Medicaid write-offs. The Fund still has insurance and bad debt write offs. Tremonton Fire and EMS was benchmarked against Spanish Fork, because of similar situations, to see how Tremonton's write-offs are compared to Spanish Fork's. Tremonton's write-offs were running a fraction of what Spanish Fork is writing off. The Staff has solid billing practices. Treasurer Oyler gets the bills out quickly and then she follows up with collections, and Tremonton takes the insurance. Tremonton is more competitive than a comparable city. The EMT's keep track of what the Staff is supposed to bill for. It is a great team effort.

This Fund is operating well, and that is encouraging. It is a slim margin and Staff will have to keep on it, but right now it is an improvement.

Finance Director Roberts said that, overall, it was a great year. The whole City team pulls together and the City has a solid financial plan.

Councilmember Wood thanked Finance Director Roberts for all he does for the City and said that the Council knows that the City has some great people on board.

7. Public Hearing

Mayor Fridal called a Public Hearing to order on 7:40 p.m. to consider a budget amendment. There were 14 people in attendance.

- a. To consider amending the budget entitled "The Tremonton City Annual Implementation Budget 2012-2013 (General Fund, Capital Fund, Enterprise Fund(s) and Special Fund(s))", for the period commencing July 1, 2012 and ending June 30, 2013

There were no public comments. Mayor Fridal closed the Public Hearing at 7:41 p.m

8. New Business.

- a. Discussion and consideration of accepting the FY 2011 – 2012 Annual Audit Report.

**Motion by Councilmember Reese to approve the 2011 – 2012 Annual Audit Report.** Motion seconded by Councilmember Deakin. Vote: Councilmember Deakin - aye, Councilmember Doutre - aye, Councilmember Reese - aye, and Councilmember Wood - aye. Motion approved.

- b. Discussion and consideration of affirming Tremonton City's staff selection of merchant account and gateway providers and authorization for City staff to move forward with implementation of accepting credit card payments at a terminal and online

Manager Warnke reported that in the process of accepting credit cards the Staff realized that it would be advisable to put things in place to provide additional services beyond just accepting credit cards in person - meaning the allowance of credit cards on line. This would add another layer of services and another layer of costs, specifically gateway service.

A lot of the merchant accounts and processors will only code to specific software. The Staff primarily thought of accepting credit cards for Court, Recreation, and for Utility. Court uses CORIS. CORIS will only code and work with a Zions product for gateway. For Utilities, the City uses Caselle as the financial accounting software. Caselle has made the decision that they will only work with Express Bill Pay for gateway. Express Bill Pay will only code with a Chase Payment Tec Tampa platform for merchant accounts and processing services.

The Staff has discussed having different merchant accounts for the Court and for the rest of the City. This would require paying additional fees because there are additional accounts, but from a reconciliation standpoint, there are some advantages.

The Staff also considered accepting Credit Cards on line for Recreation. Smithfield City receives 30% to 60% of their Recreation registrations on line.

Manager Warnke estimates that annual cost for accepting credit card payments for

Court, Recreation, and Utilities would be around \$9,000 which would include all fees. Councilmember Doutre asked if there was a charge for having payments deducted automatically from the customer's bank account. Treasurer Oyler replied that there is, but it is at a lower rate. The world is moving toward credit cards.

Councilmember Wood stated that he doesn't really want to promote the use of credit cards on every transaction. It is a convenience, and it is nice, but it is a really hard sell when the City is losing 2% to 3% on every transaction.

Manager Warnke said that the Judge and City Attorney believe that the rate of collection would go up by accepting credit cards in the Court.

Mayor Fridal commented that credit cards are a service for the people of Tremonton City. Most people don't carry cash.

Manager Warnke stated that he is ready to move forward. There is a software start-up cost if the Council wants to do online for Recreation. Manager Warnke said he wouldn't mind talking to Finance Director Roberts, Treasurer Oyler, and Recorder Hess one more time to get everyone on the same page. Two merchant accounts will be needed if the Council wants to accept credit cards online.

The City is currently using IntellaPay for online payments (gateway services). Their rate is a lot less than Express Bill Pay, but the service is lower. Caselle's announcement that they are only using Express Bill Pay going forward in essence determines what the City uses.

The Council discussed whether to accept registrations online to begin with and the recognition that credit cards are the future.

Councilmember Deakin asked how much of the \$9,000 estimate is for the gateway costs. Manager Warnke replied that the gateway costs are \$0.20 for each transaction plus they have some monthly fees depending upon the amount of traffic. There is also an upfront training fee.

Finance Director Roberts said that the reason a company takes credit cards is because first, they have to be competitive with the people around them, and second because they think they will actually increase business. Mr. Roberts stated that if he were to argue against credit cards, cities have a pretty big sledge hammer if people don't pay their bills.

Director Fulgham said that is also the argument for credit cards because his people have to go out in the snow and shut people's utilities off. If the customer had the option to pay with a credit card, they might pay their bill. Councilmember Wood observed that they wouldn't have to pay online, though. They could come into the office to pay with their card.

Finance Director Roberts then brought up the point that there are other things the utility crew could be doing other than shutting off a person's water and then going back three hours later and turning it back on. There is some valid discussion

about the acceptance of credit cards. Maybe the acceptance of credit cards would encourage more people to participate in the Recreation Program, for example. Those are valid debates. Finance Director Roberts recommended that credit cards be implemented in one area at a time just to make sure it is working.

Manager Warnke stated that he is not sure the City would want to tie into a gateway right away, but he does believe that it is going to evolve to accepting online payments.

Councilmember Reese asked about having a gateway for people who have automatic payments set up with their banks. Treasurer Oyler responded that that is another module the City would have to get through Express Bill Pay.

Councilmember Deakin noted that it would be interesting to know how many people will actually use credit cards because the \$9,000 is actually going to be split among all the Tremonton residents. Councilmember Deakin said that he would be uncomfortable if everyone was paying for 5% or 10% of the customers. The only way this can be accomplished is to increase the rates for services. It could just be tried, but Councilmember Deakin said that once the City starts taking credit cards he is not sure we could ever go back.

**Motion by Councilmember Wood to accept credit cards now but defer online to a later date.** Manager Warnke pointed out that the most of the credit card fees are estimated with accepting utility payments and as such will be coming from Enterprise Funds. The fees are watched and would be increased as needed. Right now, the City is doing fairly well. Obviously, this would cut a little ways into it. The General Fund would take on Recreation because right now Recreation is being subsidized by the General Fund by close to \$100K. Manager Warnke believes that that General Fund and the Court would probably reap the most likely benefits from credit cards. Councilmember Wood's motion died for lack of a Second. **Motion by Councilmember Doutre to authorize the City Staff to move forward with the implementation of accepting credit cards at a terminal and online.** Motion seconded by Councilmember Reese. Councilmember Deakin stated that he would definitely like to track how many people are using credit cards. If a year from now it is found that only a small percentage are using it, then it isn't benefiting the City. Manager Warnke said that eventually the City is going to have to accept credit cards because it is just the nature of the world we live in. Councilmember Wood talked about not promoting the use of credit cards, which is a reasonable approach, but if the staff is going to track how many people are using it, it won't be a real telltale sign. Councilmember Wood asked if the City was going to offer discounts for the people who don't use credit cards. Councilmember Wood stated that deducting Utility payments out of customer's banking accounts is a better deal than credit cards because the City doesn't have to pay as much. Manager Warnke noted that right now the City's electronic payments are 18%. Councilmember Wood stated that he can't vote for accepting online credit cards. **Councilmember Doutre amended her motion to add that the percentages will be reviewed one year from now.** The amended motion was seconded by Councilmember Reese. Vote: Councilmember Deakin - aye, Councilmember Doutre - aye, Councilmember Reese - aye, and Councilmember Wood - nay. Motion approved

- c. Discussion and consideration of the City's options to compel the completion of public improvements for the following subdivisions: Archibald Estates E,F, & G; Garfield Estates, Phase 1; Heritage Estates 3,4, & 5; Holmgren Estates East 1 & 2; Holmgren Estates 7 & 8; River Valley Subdivision 5 & 6; Sorenson Subdivision; Tremonton Place Subdivision; and Clover Field Subdivision 2

Director Fulgham stated that Councilman Holmgren called and discussed this item, as did some of the others. In attendance is a representative from Clover Field Subdivision. A couple of others have also come to talk to the LUAB.

Director Fulgham explained that in 2008 the building market took a downturn. In 2009 the City Council voted to give extensions to developers on completing improvements. Director Fulgham's recollection is that it was a two year extension, hoping the market would come back. There are subdivisions that have been in the works for several years, now, without improvements being completed. The fear is that those will be forgotten and the improvements will never be done, and the costs will have to be passed on to the home owners.

Director Fulgham said that this was brought before the City Council to determine what method should be used to get the improvements completed. Data has been provided on engineer's estimates which came from the original development cost for the improvements to be completed.

Mr. Dewayne Johnson, from Clover Field Subdivision, pointed out that those figures are not the developer's quotes. Mr. Johnson's firm loaned Mr. Higley some money on a project that he put up with Tremonton for which he needed additional collateral. Then Mr. Higley came to them and proposed that they give him a construction loan to develop Clover Field Subdivision. Mr. Higley failed to keep his commitment and the property was repossessed. Mr. Johnson took a deed in lieu thereof because Mr. Higley was dying of cancer.

Mr. Johnson stated that his company went in and completed the project. He said that he feels like he was blindsided on the project because a gentleman named Jim Burt was doing the improvements as a contract before Mr. Higley passed away. Mr. Johnson made a sketch showing Main Street, where the street comes into the subdivision and the location of Mr. Allred's property. Mr. Burt told Mr. Johnson that there was an agreement with the City and Mr. Allred where one-third of the paving cost was Allred's, one-third was the City's, and Clover Field Subdivision would do the other third to the property line. So, Mr. Johnson paid for all of that. He got reimbursed then was told that there was no such agreement.

When Mr. Johnson got the first letter from the City Engineer, he assumed that the Engineer would take the bond money and do the chip and seal. He never mentioned anything besides the chip and seal at that point. Now the Engineer sent Mr. Johnson a letter saying fog coat, chip and seal, and sidewalks are needed.

Mr. Johnson stated that his company sold this project to Jay Stocking from Sierra Homes. He has begun to build homes in there. The subdivision is sound; it's in good shape; there is plenty of gravel under the streets and good asphalt.

Undoubtedly there will come a time for chip and seal, but Mr. Johnson said he has never seen that to be a critical thing that needed to be done – to wait a year longer has never hurt.

Mr. Johnson said that he doesn't know if there is any prime money for this project, but he does know that the economy has been terrible. Mr. Johnson basically had to almost give those lots to Mr. Stocking - \$26,000 per lot which is basically the development cost. Mr. Johnson added that he doesn't know if there was any bond money or if the referenced agreement ever existed, but Clover Field Subdivision certainly paid for a project outside of their subdivision.

Director Fulgham stated that his understanding is that the City participated with Mark Higley and Mark Allred for at least half of that road. Mr. Johnson said that his company paid for all of the curb, the gutter, all of that. Director Fulgham said that he would have to look into that.

Mr. Johnson stated that his company feels like they have some credit coming from the City and they would like to get that resolved and then they would be glad to finish the project even though they are not the developer. They just want the City to keep their agreement, and they will honor theirs even though they didn't have an agreement. They have been developers for a long time. They believe in doing things right.

Mr. Johnson said that Mr. Stockings is responsible for the sidewalks. He wants to put those in. Mr. Johnson's suggestion is that it would be best to let the sidewalks go in as the lots are developed. Mr. Johnson said that his company is not going to leave Tremonton City holding the bag.

Councilmember Wood thanked Mr. Johnson and asked him if he remembers who he paid that money to and what the amount was. Mr. Johnson responded that he doesn't because Mr. Allred had Parson's Construction come in and pave the whole project and Mr. Burt, MR. Allred's contractor, is who was paid to install the gravel and the curb and gutter. To clarify, some of the street was already paved. They didn't pay for that portion.

Director Fulgham said that if he remembers the agreement right, Mr. Higley was to have another access into the subdivision. The part of the road that went into the alley already belonged to the City so the City was going to pave what the City owns, Mark Allred had to pave the other part in the alley, and then the Higley subdivision had to do the other half from the alley into the subdivision. It really wasn't a third, third, and a third, because half of it, from the alley in, was all Higley's because that wasn't a natural street at the time.

Mr. Johnson clarified that the third, third, and third was from there to Main Street. Director Fulgham said that his recollection is that the City was paid in full on all of that – that was all settled. Mr. Johnson said that the work wasn't done when his company took over. That asphalt was laid and the gravel wasn't in. His company actually paid the bill for it. Mr. Burt was the contractor.

Mr. Johnson said that he is sure that next year the chip and seal can be done and

the monuments installed. He feels it is wise to let the sidewalks be installed as the homes are built. Mr. Stockings is working through that project fairly successfully.

The Council thanked Mr. Johnson for being willing to work with them.

**Motion by Councilmember Deakin to give the City Staff the option to use whatever means necessary to compel the completion of the public improvements within the subject subdivisions and suggested that the City work with the three developers who have contacted them: Mr. Johnson with Clover Field Subdivision, Moe Rose, and Holmgren Estates.** Motion seconded by Councilmember Reese. Vote: Councilmember Deakin - aye, Councilmember Doutre - aye, Councilmember Reese - aye, and Councilmember Wood - aye. Motion approved.

- d. Discussion and consideration of approving the November Warrant Register.

Councilmember Wood asked who L.N. Curtis and Sons is. Recorder Hess responded that is for Fire Department equipment.

**Motion by Councilmember Wood to approve the November Warrant Register.** Motion seconded by Councilmember Doutre. Vote: Councilmember Deakin - aye, Councilmember Doutre - aye, Councilmember Reese - aye, and Councilmember Wood - aye. Motion approved.

- e. Discussion and consideration of approving the November Financial Statement

**Motion by Councilmember Reese to approve the November Financial Statement.** Motion seconded by Councilmember Wood. Vote: Councilmember Deakin - aye, Councilmember Doutre - aye, Councilmember Reese - aye, and Councilmember Wood - aye. Motion approved

- f. Discussion and consideration of adopting Resolution No. 13-01 to consider amending the Annual Implementation Budget entitled "The Tremonton City Annual Implementation Budget 2012-2013 (General Fund, Capital Fund, Enterprise Fund(s) and Special Fund(s))", for the period commencing July 1, 2012 and ending June 30, 2013

Manager Warnke presented a summary of the proposed Budget amendments. Items budgeted were as follows:

- Cards and associated software. No expense was added to the Treatment Plant as the Water Fund is picking up the Treatment Plant's share.
- Use of the LeRay McCallister grant funds with the intent to acquire some trail access. It requires a 1:1 match. That match is coming from the City's Impact Fees. This is an Impact Fee eligible expense because it is part of the City's Master Plan.

Councilmembers Reese and Deakin expressed concern because the Council doesn't know what is being budgeted for. They don't know the

location, or the specifics, or the bottom line. Manager Warnke responded that the Staff is working with the property owner to try to acquire the property. Right now the City is just budgeting the grant funds. The maximum amount the Grant will provide is \$20,000, so the 1:1 match will be that amount. This isn't approving the sale. It is just approving the grant funds. The City could use these funds anywhere. Manager Warnke stated that he added an extra \$5,000 from Impact Fees to cover some administration costs such as engineering, survey, etc. There is still some work that has to be done in order to get to a point where the City can enter into a transaction.

Finance Officer Roberts left the meeting at 8:27 p.m.

Mayor Fridal pointed out that this is just for the purpose of securing funds to make that money available for a project. Manager Warnke said that this could be approved with the direction not to move forward with expending the funds. Another option would be for the Council to only budget the \$5,000 now which would allow the Staff to move forward with the administrative costs. Then a Budget Amendment could be brought back later for the property purchase. The City has a year to expend the LeRay McCallister grant funds.

Manager Warnke said that there would be lots of opportunities for the Council to be involved with a purchase because an agreement between the City and the property owner would come back to the Council.

The Council felt better about only approving the \$5,000 budget amount at this time.

Councilmember Holmgren arrived at the meeting at 8:33 p.m.

**Motion by Councilmember Reese to approve the Budget, limiting the budget amount in Fund 26 to \$5,000.** Motion seconded by Councilmember Deakin. Vote: Councilmember Deakin - aye, Councilmember Doutre - aye, Councilmember Holmgren - abstained, Councilmember Reese - aye, and Councilmember Wood - aye. Motion approved.

- g. Discussion and consideration of approving Resolution No. 13-02 adopting a Street Lighting Agreement between Tremonton City Corporation and Pacificorp, doing business as Rocky Mountain Power, at the River Valley Subdivision

Manager Warnke reminded the Council that the residents of the River Valley Subdivision came to the Council to discuss some issues. One of the issues they mentioned was street lighting. This is one of those subdivisions where it was in between the change in the way that Rocky Mountain Power financed street lighting. Rocky Mountain Power now requires that a portion of the up front costs of the street lights be paid.

An arrangement has been worked out where the developer will pay half because of that change in policy. Councilmember Holmgren mentioned that when he was

involved in the same situation, Holmgren Estates had to pay the whole thing.

Director Fulgham said that this lighting agreement includes Clover Field Subdivision, as well. The Staff had to sign an agreement because the conduit isn't in the ground.

**Motion by Councilmember Wood to adopt Resolution No. 13-02.** Motion seconded by Councilmember Reese. Vote: Councilmember Deakin - aye, Councilmember Doutre - aye, Councilmember Holmgren - nay, Councilmember Reese - aye, and Councilmember Wood - aye. Motion approved.

- h. Discussion and consideration of adopting Resolution No. 13-03 adopting a Street Lighting Agreement between Tremonton City and Pacificorp, doing business as Rocky Mountain Power, at 2000 West Main Street and 1000 North 2000 West

Councilmember Wood commented that it is too bad the City didn't make 2000 West wider. It is hard for semi-trucks to make that turn from Main Street to go north. It just isn't wide enough. Director Fulgham stated that widening that road is part of the expansion project that the Council voted on with the Federal Aid money for highways that will be coming in a year or two. It was widened a little bit because UDOT required a turning lane traveling to the west on Main Street and turning to the north.

**Motion by Councilmember Doutre to adopt Resolution No. 13-03 placing street lights on Main Street and 1000 North on 2000 West.** Motion seconded by Councilmember Reese. Vote: Councilmember Deakin - aye, Councilmember Doutre - aye, Councilmember Holmgren - aye, Councilmember Reese - aye, and Councilmember Wood - aye. Motion approved.

- i. Discussion and consideration of adopting Resolution No. 13-04 an outdoor ground lease agreement for a sign between Wendell Petterson and Joanne Petterson & Tremonton City (the sign is located on I-84, near exit 40)

Manager Warnke explained that this is the City's sign, but it has the Hospital sign copy on it which the City allowed to be installed. It has existed for many years now. There was a discussion on whether the City still wants to advertise the Hospital or whether some different copy should be put on the sign.

Councilmember Reese asked if the sign could be leased for a longer period of time. Manager Warnke said he wished we could. Mr. Petterson likes to keep it at about five years because he likes to re-evaluate the lease.

Manager Warnke stated that a new sign copy would cost about \$3,500. One of the elements of the City's Main Street revitalization contemplated looking at the City's sign copy. Director Fulgham said that the sign used to advertise Midland Square and the Veteran's Memorial, but when they put the wrap on it for the Hospital; someone did away with that copy.

**Motion by Councilmember Holmgren to adopt Resolution No. 13-04**

**approving the expenditure for the lease of the billboard sign and considering upgrading the copy.** Motion seconded by Councilmember Reese. Vote: Councilmember Deakin - aye, Councilmember Doutre - aye, Councilmember Holmgren - aye, Councilmember Reese - aye, and Councilmember Wood - aye. Motion approved.

- j. Discussion and consideration of City Council Board assignments for 2013

Mayor Fridal reviewed the City Council's current Board assignments. He proposed moving the Water Treatment Plant from Councilmember Doutre to Councilmember Holmgren. There has been recent discussion about renewing the appointment to the Mosquito Abatement Board. They would prefer that it be an elected official on their Board. Mayor Fridal added that to Councilmember Reese's assignment.

**Motion by Councilmember Wood to approve the City Council Board Assignments as presented.** Motion seconded by Councilmember Doutre. Vote: Councilmember Deakin - aye, Councilmember Doutre - aye, Councilmember Holmgren - aye, Councilmember Reese - aye, and Councilmember Wood - aye. Motion approved.

- k. Discussion and consideration of adopting Resolution No. 13-05 a Resolution of the Tremonton City Council consenting to the Mayor's and City Manager's appointments for January 2013 (including Library Board, Mosquito Abatement Board, Planning Commission/Traffic Advisory Board, and City Department Heads)

Manager Warnke said the Library Board is proposing new appointments: Holly Christensen replacing Rosa Gonzales, Becca Ashby replacing Julie Stokes, and Linda James replacing Bob Payne. Mr. Payne hasn't been able to participate due to his work schedule.

Mosquito Abatement Board – Councilmember Reese, depending on his schedule  
Planning Commission – Troy Forrest

City Staff as constituted

**Motion by Councilmember Wood to approve all of the appointments.** Motion seconded by Councilmember Reese. Vote: Councilmember Deakin - aye, Councilmember Doutre - aye, Councilmember Holmgren - aye, Councilmember Reese - aye, and Councilmember Wood - aye. Motion approved.

- l. Discussion and consideration of Tremonton City funding a portion of UTOPIA's operational shortfall

Councilmember Deakin expressed his opinion that the best approach, based upon what Mr. Sudweeks gave the Council, would be to let them survive as long as possible. The longer they survive, the less the SWAP payment will be. Any other alternative they talked about would not benefit Tremonton at all: future growth,

the Sweet Spot argument, etc. would all come from UIA. It is better just to do nothing than to sell it or do anything at this stage of the game. If interest rates come up, the SWAP agreement comes up and it would make a sale more attractive. The longer they can survive, the better the position will be for a sale option which is inevitably where it is going to go.

**Motion by Councilmember Reese to table this item.** Motion seconded by Councilmember Holmgren. Vote: Councilmember Deakin - aye, Councilmember Doutre - aye, Councilmember Holmgren - aye, Councilmember Reese - aye, and Councilmember Wood - aye. Motion approved.

- m. Discussion and consideration of authorizing the disposal of Patrol Car T38 - a 2007 Dodge Charger (VIN # 2B3KA43H87H817853 mileage 67,000)

Chief Nance told the Council that this is the vehicle that he talked with the Council about replacing earlier. A vehicle order was placed and the new vehicle finally arrived. This vehicle has electronic and other issues. It still runs pretty good, but it is going to require some work to get it street worthy.

**Motion by Councilmember Wood to authorize the disposal of Patrol Car T38.** Motion seconded by Councilmember Doutre. Vote: Councilmember Deakin - aye, Councilmember Doutre - aye, Councilmember Holmgren - aye, Councilmember Reese - aye, and Councilmember Wood - aye. Motion approved.

9. Comments:

- a. Administration/City Manager Advice and Consent.
  - 1) The American Institute of Architects and Tremonton, UT Sustainable Design Assessment Team Community Assistance Project
  - 2) The signing of the MOU (Memorandum of Understanding) for the Sustainable Design Assessment Team Community Assistance Project is being delayed until after February 7<sup>th</sup>. The February 7<sup>th</sup> meetings is the funding meeting for the CIB (Community Impact Board) will decide if they will provide the City a financial assistance for the Tremonton Main Street planning effort. So, if the signing of the MOU is delayed, then potentially, the City would have \$2,500 from CIB and \$2,500 from the City. That is assuming that the City gets the CIB funds. They actually wanted the MOU before, so, if the Council is okay with that, Manager Warnke said he would have the Mayor go ahead and sign it and have the Council ratify it at City Council Meeting.

b. Council Reports:

**Councilmember Holmgren** – Tomorrow there is a meeting with the Box Elder County Fairgrounds. We will be discussing the beginning of the new Fine Arts Building as well as, possibly, an outdoor arena. Things are moving along. Everyone is excited about what is happening. We may be seeing some improvements at the Fairgrounds. If they choose to go ahead, it will have to be

completed before the Fair.

The Council has talked a little bit about the possibility of doing a land swap with the County to give them ground they need for an indoor arena. They are also talking about doing some improvements in front of the Fairgrounds, so there will be some give and take both ways.

Mayor Fridal mentioned that LuAnn Adams will be coming to City Council meeting to make a proposal. Tomorrow's meeting will set the groundwork.

**Councilmember Wood** reported that he talked to the Golf Course they mentioned the area where all the weeds are on the south end and said the City was planning on putting in a road through there in conjunction with the County to access the golf course. They don't want to turn the driving range around and have someone get killed because of people playing those holes.

**Mayor Fridal** thanked everyone for coming and for doing what they do.

10. Closed session for the purposes of discussing pending or reasonably imminent litigation and the character, professional competence or physical or mental health of an individual

It was determined that the closed session was not needed. It was deleted by consensus.

11. Adjournment.

**Motion by Councilmember Deakin to adjourn the meeting.** Motion seconded by consensus. Vote: Councilmember Deakin - aye, Councilmember Doutre - aye, Councilmember Holmgren - aye, Councilmember Reese - aye, and Councilmember Wood - aye. Motion approved.

The meeting adjourned at 9:12 p.m.

The undersigned duly acting and appointed Recorder for Tremonton City Corporation hereby certifies that the foregoing is a true and correct copy of the minutes for the City Council Meeting held on the above referenced date. Minutes were prepared by Norene Rawlings.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

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Darlene S. Hess, Recorder