

KAYSVILLE CITY COUNCIL
September 19, 2019

Minutes of a public hearing and regular Kaysville City Council meeting held September 19, 2019 at 6:30 p.m. in the Kaysville City Parks and Recreation Center at 85 North 100 East, Kaysville.

Council Members present: Mayor Katie Witt, Council Member Dave Adams, Council Member Larry Page, Council Member Jake Garn, Council Member Michelle Barber, and Council Member Stroh DeCaire

Others Present: City Manager Shayne Scott, Finance Director Dean Storey, City Recorder Annemarie Plaizier, City Attorney Nic Mills, Information Systems Manager Ryan Judd, Police Chief Sol Oberg, Mark Poncelet, Matt Burningham, Jane Cooley, Susan Lee, Cheryl Tarbet, Camille Galbraith, H. Lynn Galbraith, Bob Larsen, Chad Smith, Paul Waldrop, Michael Halls, Tristan Halls, Mark G. Adams, Padma Veern-Collings, Tim Collings, Kimball Ball, Bill Robbins, MaryAnn Clark, LuAnn Saunders, Flemming Hyllested, Mark Pinnan, Eric Isom, Damon Bocchim, Matt McDonald, Bill McKay, Tamara Tran, Brandon Mitchell, Adele Gibbons, Theresa Rollings, Frank Leaver, Ben Leaver, Laura Lewis, Kathy Shaw, Seth Faerber, Emily Walsh, Brandon Walsh, Annalee Ramirez, Tiffany Hall, Laura Flood, Michael Flood, Scott R. Godfrey, Michael Webb, David Saunders, Zane Larsen, Mike Blackham, Jason Sanders, Nephi Harvey, Walt Parrish, Hazel Parrish, Jana Whittaker, Jacob Willoughby, Jordan Stephenson, David Bowman, Daron Nay, Kjersten Nay, Stafania Drogsvold, Tiffany Hess, Craig Hess, Joel Wright, Brad Patterson, Todd Marriott

**PUBLIC HEARING TO CONSIDER THE ADOPTION OF A TELECOMMUNICATIONS
PUBLIC UTILITY FEE – 6:30 P.M.**

Mayor Witt opened the Public Hearing.

Mark Poncelet commented that he lives in the Hess Farm area and is in support of a new telecommunications fee. Kaysville's plans for internet is close to the cheapest plan available. A public utility fee will help mitigate financial risk for Kaysville. The fees collected will be used to pay off the bond. What is being proposed is the best plan for Kaysville City.

Matt Burningham said that he lives on Oxford Drive and works in a technology information center. There have been many technical questions asked during this planning process and hopes the discussion tonight remains civil and accurate. Fiber is a public utility and will help to serve as a road map for future technology.

Paul Waldrop said that he has lived in Kaysville for twelve years and loves living here. He has not decided whether he is for or against this project, but is here tonight to get more information. Mr. Waldrop commented that he is upset because it seems that the city is ignoring the comments of the residents. We voted the Council in to help take care of everyday business, and now a new public utility is proposed to be implemented without the input of the people. This project is the biggest proposal since electricity came to be provided by the city. Fiber might be good, but this process should have been done in a way so residents could better learn about it and participate in

the planning.

Mike Flood said that he has been living in Kaysville for twenty three years and would like to acknowledge the Coalition for Responsible Fiber and the effort they've made. This fiber project would create an incredibly large debt, and Mr. Flood asked that the project be paused, and that the City provide full disclosure and full assessments of the fiber project. It needs to be made open for review and not just left open to just select information to select individuals. Their group has been vocal about this issue for months and a great deal of work has gone into this endeavor. It seems that this process has been biased from the beginning. Mr. Flood said that he is in favor of fast and reliable internet, but is concerned that the city will turn into a fiber telecom business. He is also concerned about the large debt this will incur and the risks with it. A mandatory tax or fee should not be the way this is extorted onto the citizens. Mr. Flood expressed his appreciation for the Council taking time to listen to the citizens but asked that they don't take action on the fiber items tonight.

Jana Whittaker said that the city is trying to force citizens to pay for something that they don't need or want. It's the Council's responsibility to represent what citizen's want and the Council must not misplace the trust of their constituents. City Council members are necessary to help their residents, as well as help to define opportunities for the city. The Council needs to stop the fiber plan of forcing residents into something, and should allow citizens to choose for themselves.

Cheryl Tarbet said that when Brigham City decided to obtain fiber in their city, they didn't have enough people sign up for it and it ended up more expensive for those who did sign up. Installing fiber destroys the properties it's being installed in. The Council needs to have a better idea of how many will sign up for fiber before making a decision.

Lynn Galbraith said that his family has lived in Kaysville for several generations and he had also served for the city for many years. The biggest concern he has with this project is its imposition on the citizens against their will. The citizens should be able to vote on this and should be able to be provided all the information about this project with full disclosure.

Nephi Harvey said that he has also lived in Kaysville for several years and this morning was asked to mediate on behalf of her aunt for city workers trespassing onto her property on Center Street. The property should not be allowed to trespass on residents' properties and should work out any issues with the property owner before forcing something on the citizens. If the fiber project is approved there will be holes dug through people's lawns and easements in order for fiber to be installed. This fiber project is not on the city's wheelhouse right now and is not a mandatory utility. This needs to be done right, and Mr. Harvey asked that the Council wait to approve this until there is more understanding.

Daron Nay said that he has lived in Kaysville for many years and is currently working in the internet service provider industry. This project should be considered further before a decision is made. Mr. Day said he is not against fiber, but disagrees with how this process has been handled. There are many who think fiber is too expensive, and that's one reason why they don't get it right away. The city needs to see how many people are willing to pay for fiber up front before moving ahead with any approvals.

Stafania Drogsvold said that there needs to be more public input regarding this matter. Fiber is a

good idea, but it was proposed to the citizens differently originally. People should be allowed to sign up before the infrastructure is put in place. It takes more time, but other cities who have gotten fiber that way have ended up with excellent fiber service.

David Sanders said that he works as a network engineer and understands the benefit of transferring over to fiber. He is familiar with bandwidth analysis and he has reviewed the numbers provided through the Design Nine study. There are mathematical errors within that data and we shouldn't be basing our decision off of flawed data. The network analysis maps shows four areas where there are critical needs for fiber. While these areas are useful, they do not warrant a critical need for the speeds provided by fiber. The data that these services generate is low enough that it could be serviced by existing infrastructure. Mr. Saunders also asked that the Council not move forward with a decision until there are more facts provided and then shared with the public.

Zane Larsen commented that those residents who will be non-fiber users and are opting out of fiber will still be charged a fee and will end up subsidizing the fees for those who do opt in. Fiber is not essential to the city and is not a safety matter. It is a matter of principal. Many internet services require that a contract be signed so that they know that they will have the business to run their lines to your house. Mr. Larsen said that he refuses to pay the fiber utility fee that will be levied on him and it shouldn't be forced onto the citizens.

Susan Lee stated that she is a formal City Council member and currently over ninety percent of the residents get their internet needs fulfilled at no cost to the city. However, the city is proposing that the only way for fiber optics to work in Kaysville is to take out a twenty-five million dollar bond, whether the citizens need or want fiber. Don't make those who don't want fiber to pay to support those who do want it. The latest proposed model which partners the city with American Fork is senseless and unwise. It's a risk other cities have taken and they have faced defaults. No matter how much prior research is done, it's still a twenty-five million dollar risk. Although some claim that investing in fiber service is a necessary function, evidence doesn't show the need for these broadband speeds. Those who opt out will still be forced to pay for something that they aren't benefitting from.

Bill McKay said that he moved from Brigham City, which has Utopia. When the city was proposing Utopia the citizens had the choice to sign up for it. There isn't many options available in Brigham City for internet, so they decided to pay the upfront fee to have fiber installed. Kaysville is different because there are already so many options and fiber isn't needed. A twenty-five million dollar bond is a huge amount to risk, and this decision needs to be postponed to wait until the citizens can vote on it.

Michael Halls said that he has had an internet business for years and sold it. Mr. Halls said that he currently lives in west Kaysville and is limited to one internet provider. He is for fiber, but also recognizes that with the proposed model not everyone would win. Even asking fifteen more dollars a month makes a huge difference and is asking a lot of them. And it's selfish to ask that that financial burden be placed on others who don't have the means to pay for that added fee and don't have any other option. What if this project has disastrous ramifications? It has happened before in other places. And it's important on whether this becomes a success or a failure. This item should be put up for a citizen's vote, not only to get the input of the citizens, but to give the city more time to make the right decision.

Kimball Ball said that he lives on Mutton Hollow Road and has witnessed many decisions by the government. The most sensible projects he's seen have been considered adequately and following what the public wants. It seems that there have been too many times in Kaysville where the citizens were overlooked and ignored. It is offensive and gives the message that the Mayor and City Council do not care. This fiber project is a big issue and could potentially have big consequences. Mr. Ball asked that the Council listen to what the citizens are saying before making a decision.

Tiffany Hall said that she has not lived in Kaysville for long but plans to live here for the rest of her life. A survey had gone out to residents regarding this fiber project, but it was vague. Now that we know a little more of the specifics behind the survey, this decision should go to vote. The City needs to give this to the citizens and let them choose and have a voice.

Tim Collings said that he had previously lived in a city where the citizen's voted on whether fiber should be installed throughout the city. He wasn't in favor of it, but the people had voted for it and he was okay with that since it's what the people wanted. The only way to find out what the citizens of Kaysville want is to hear what they have to say. Give the facts to everyone and let them vote on this. With this proposed utility cost, it seems that Kaysville is getting into the fiber optics business, possibly to use as a source of revenue in the future. This project will be a major cost to everybody. People need to be aware that this is coming. Will there be funding options available?

David Bowman said that earlier this year the Council made a public commitment to let the people vote on this issue, but have since gone back on their word. There are many people here in attendance tonight to show that this decision is important to them. It's not irrational to ask the city to wait to make a decision on this. We are asking that the Council follow through on promises they've already made.

Seth Faerber said that fiber is an infrastructure that will add value to the community. The city is aware of the citizen's concerns and will continue to work to address those concerns as time goes on. There are some who are in favor of fiber but fear speaking out because they fear receiving backlash from those who don't want fiber. Mr. Faerber commented that while he is in favor of fiber, there might be a better way to bring it to the city.

Tiffany Hess said that she is against bringing fiber to the city. Kaysville has become a city who continues to spend too much money. Citizens are hurting financially during these economic times and it's become a bondage for many. It's immoral for the city to push more debt of this kind onto the people when we don't know if this technology will even last us the next thirty years or even be relevant. This type of spending is a luxury and not a necessity.

Michael Webb said that he lives on Hodds Hollow and his family has lived in Kaysville for several generations. Mr. Webb said that he is in favor of fiber because the area he lives in has limited internet service and it is not always reliable. He has tried the other service options available to him and has found nothing better. Mr. Webb said that his job entails providing emergency medical services for Davis and Weber counties, and the bandwidth needed to provide these services is ever increasing. He would appreciate if the city would provide the infrastructure needed to allow for high speed fiber internet to his home. Not everyone feels that way, but the city has a role to provide infrastructure to the citizens. It will ultimately help the city with economic development. Citizen input has been solicited for well over a year through the citizen community fiber committee.

Ben Leaver said that there are many opinions and differing thoughts on where this should go. The Council needs to give the public more time to be able to understand what this is all about. There is too much confusion among the community. Some residents aren't even aware of this project. They need to be better informed of this and given the choice to vote on it so we know what the people want. This fiber project is a big change and will cost a lot of money. It needs to be decided on by the people.

Craig Hess said that while high speed internet is desirable, it doesn't mean it's worthwhile. Having fiber is not critical right now. The Council voting in favor of this project would take away the citizen's choice of their data transmission service provider. Being able to have choice is a precious thing and is important. Mr. Hess said that he could afford the utility fee, but there are people who cannot.

Mayor Witt closed the Public Hearing at 7:37 and thanked those who made public comment.

OPENING – 7:40 P.M.

Council Member DeCaire opened the meeting.

DECLARATION OF ANY CONFLICTS OF INTEREST

No conflicts were disclosed.

CONSENT ITEMS

Council Member Garn made a motion to accept the following consent items:

- a. Approval of materials purchase, transformers, for the Power Department.
- b. Approval of materials purchase, LED street lights, for the Power Department.
- c. Approval of culinary water tank mixers purchase for the Public Works Department.

The motion was seconded by Council Member DeCaire.

Council Member Adams made a substitute motion to pull the following item for discussion:

- a. Approval of materials purchase, transformers, for the Power Department.

The motion died for lack of a second.

The vote on the motion was as follows:

Council Member Adams, nay
Council Member Page, yea
Council Member Garn, yea
Council Member Barber, yea
Council Member DeCaire, yea

The motion passed with a vote of four to one.

ACTION ITEMS

Shayne Scott explained that the next four action items are related to addressing and potentially

choosing the way we would like to install and manage fiber in Kaysville. The first action item is a resolution authorizing an Interlocal Agreement to be formed with American Fork, Utah, also known as LightHub. This Interlocal is in its infancy as Kaysville and American Fork will be the only two members at this time. This agreement is being created in a similar manner as the agreement we have in the Power Department with UAMPS. It would also allow us to partner with American Fork and any other city that would join us in providing certain services, of which we'll be able to choose later on. Some of those services include marketing services and legal services. Hopefully in the future we might be able to take advantage of multiple parties being involved in this agreement as it would help to save the city money.

A RESOLUTION AUTHORIZING AN INTERLOCAL AGREEMENT TO BE FORMED WITH KAYSVILLE CITY AND LIGHTHUB

Mayor Witt asked for public comment.

Nephi Harvey commented that history has shown that we are constantly finding new technology that is better than we thought it could be. We can't be treating this fiber project as the best thing we will ever have and create a forty-million dollar bond as part of it. If we do we will have made a huge mistake that we can't afford. The city needs to stop and reconsider this project, as well as fully disclose all of the information they city has gathered so far. The information given to the Council was only given to them a couple of days ago and there hasn't been adequate time to review it completely. It also seems to be missing information. This is a huge decision and it is feeling rushed. It needs to be discussed further before moving forward.

Paul Waldrop said that he hasn't decided how he feels about the fiber project and came here tonight to get educated on it. There are things about it that is likeable, but there are also still a lot of unanswered questions. It feels like the Council isn't listening to the citizens. This is one of the most important decisions that has taken place in Kaysville for several years and it needs to be placed on the ballot. About half of the cities who participate in a fiber project have failed. There are big problems that occur with these and Kaysville's citizens are only asking that the Council delay the process a little to make sure it's the right thing. Mr. Waldrop said that he read through the feasibility survey that was sent out and it didn't seem to provide accurate information. We shouldn't be willing to spend so much on something that might not be beneficial to our city.

David Bowman said that he read the documents being presented for approval tonight and is concerned about the structure of it. There are efficiencies to be gained by this project, but if they can be gained now they can be gained later. The LightHub entity would be able to enter into contracts under their Board of Directors, and allowing them to bond a contract in behalf of the city is negligent. The City shouldn't give that kind of power to someone else. They need to give serious consideration to the danger of allowing another entity the ability to sign the city's rights and decisions for them. The Council should let the public tell them what they want.

Zane Larsen said that it has been said the Council shouldn't dictate to those who have elected them what will happen to them and how to spend their money. The city shouldn't be pushing something on the citizens that they don't want or won't be financially good for them.

Mayor Witt closed public comment for this item.

Council Member Adams commented that from what he has found American Fork is laden with debt and asked how that debt would affect this project for Kaysville. Council Member Adams asked if the Mayor would be serving on the Board of Directors for LightHub.

Mayor Witt commented that the Council would decide who would be serving on LightHub. There are some specifics that have not been decided yet.

Council Member Adams said that over the last year it's been proposed that this fiber infrastructure would be owned and operated solely by Kaysville City. This agreement being proposed does not seem to support that. Will this agreement turn our infrastructure over to LightHub?

Laura Lewis, the City's financial advisor in regard to the proposed bond issue, said that she has worked with many cities throughout Utah on similar issues. There are a number of interlocal cooperatives that help your city every day that many people aren't even aware of. UAMPS is an example of this. LightHub would respond to a board, the Council, and the Board's directive. The Board of the interlocal is made up of the members of that interlocal. Interlocal cooperatives are created to help save money on projects. When the Board is created it will be decided how the members will be appointed, and then it is that Board who will make decisions on behalf of the Council. In the instance of this interlocal cooperative, the decisions related to Kaysville's fiber will be made by the Kaysville representative; the decisions related to American Fork's fiber will be made by American Fork's representative, and joint decisions, such as the network operating center, would be decided jointly by LightHub. If the city owns and operates this itself, the city will have to negotiate agreements with each of the service providers and will have to retain the legal counsel for it.

Council Member Adams commented that he is not convinced that Kaysville City needs American Fork to do this project. It is the intention of the interlocal cooperative to lower the costs and create better economies of scale if both cities joined together with this project. It's a benefit to do this jointly, but it doesn't mean that's the way it has to be done.

Joel Wright, legal counsel for Kaysville with Kirton McConkie, said that the interlocal cooperative sets broad parameters and then the city would be able to decide things on a granular level. Kaysville will have substantial local control over their fiber. The interlocal agreement itself will only give what control that the city wants to give. If Kaysville wants to do more on its own the agreement gives wide latitude to do that as well. If the Council is unhappy with the representative and how they are doing things, they can change that. Because this a new project, no precedence has been set and we are still figuring out how things will operate. However, decisions specific to Kaysville can be decided on by the Council and changed later on if needed. This will allow each city to proceed forward as fast or slow as they want, and the cities will be able to work together as much or as little as they want.

Council Member Barber asked if this interlocal makes money and how that money is retained.

Joel Wright said that once the bond debt is paid off, the remaining money comes back to Kaysville City. The utility fee has to go towards the project. But anything beyond a utility fee where a resident chooses to engage those services, the city can do what they would like with it. There will be two ways that the network will make money. The first will be through the utility fee, the second will be the optional services.

Council Member DeCaire said that as this process moves forward it could potentially be a thirty-year partnership. If, or when, would we go about exiting this agreement?

Joel Wright said that if the City decides to leave the agreement, a notice will be filed, and then the City can exit in one year after resolving all of the debts and obligations, while still keeping the network in Kaysville.

Council Member Garn asked about the members of the board.

Joel Wright responded that they would need to be an elected official or a city employee. Any representative would be representing the city's interest on the global items. The Council will set the budget and the Board would have to operate within those parameters. The Council can also direct the Board to review and make decisions on technical decisions.

Council Member Garn asked if Kaysville would ever become responsible for American Fork's obligations.

Laura Lewis responded that each city's bonds would be under their own indenture, and they would not cross over to the other city in any way. The bonds would be rated based on each city's wants behind the bonds.

Council Member Garn asked if there were anything within the agreement that would require that the bond be under the interlocal cooperative.

Joel Wright responded that there is not.

Council Member Garn asked if after the bond is paid off, if there would still be reason to keep the LightHub entity in place.

Joel Wright said that the Council might want to keep it in place to help frontload the cost of repair and operations of the network.

Council Member Page asked why it's important that Kaysville enter into this interlocal agreement.

Joel Wright responded that the city will need long-haul connections with multiple resources. If the city can get that with an interlocal cooperative it will be cheaper. American Fork already has a network operations center. It would be cost efficient to only have one location for both cities. Construction is more expensive right now and duplicating this project in multiple places will help to reduce prices. Service providers are also interested in investing into a bigger market. LightHub would own the network, but the city would have control of their assets and liabilities and could also leave the agreement at any time. The elected officials decide the purpose and what LightHub will provide. The stated purpose is to provide internet services at a higher advanced level than what is being provided currently with a universal service.

Laura Lewis added that the Board members of the interlocal cooperative would be the deciding members on what other cities the members would have to agree to let them in and those cities would also have to adopt the interlocal agreement. They would have to come forward with some

means on how they would be contributing to the cooperative in order for it to be financed. There are not currently any plans for it to expand, but if it were ever brought before the Board they would need to decide if it was what is best for the city. The location of the operations center doesn't have a lot to do with who will be responding to service calls. The fiber infrastructure is providing a way for the fiber to travel. Service providers will be private entities who will want to maintain your business on the fiber infrastructure. If there is a problem with the fiber service, a call will be made to your service provider. If it's not a problem on their end, they would then call the network provider.

Council Member Barber made a motion to approve a Resolution authorizing an Interlocal Agreement to be formed with Kaysville City and LightHub, seconded by Council Member Garn.

Council Member Barber said that a big question in any big project like this is overhead and maintenance and this gives the city an opportunity to take advantage of efficiencies through the interlocal cooperative.

Council Member Adams said that there needs to be an assurance that there will be a cost separation between cities so that if one city raises costs in their city it won't affect the costs in the other city. American Fork's finances are in bad shape, including their fiber debts and it seems that they feel that creating this LightHub will help them to clear up their bad debt. Council Member Adams commented that he doesn't agree with many things within the agreement and feels like this whole project is moving too fast. This document was just given to us a couple of days ago and likely hasn't been read completely by everyone making this decision.

Council Member Garn said that this document will isolate the offsets and efficiencies to each city and neither city will be responsible for the other. That is included within this document. It also gives the opportunity to reduce the expenses overall and realize some gains.

Council Member Page stated that Kaysville has had many people involved in this project with experience in this field. This interlocal agreement makes sense and would be a positive thing for the city.

Council Member Adams made a substitute motion to deny the Resolution authorizing an Interlocal Agreement to be formed with Kaysville City and LightHub.

The motion died for lack of a second.

Council Member Adams made a substitute motion to table this item for a period of thirty days in order to review this item more thoroughly.

The motion died for lack of a second.

The vote on the original motion was as follows:

Council Member Page, yea
Council Member Garn, yea
Council Member Barber, yea
Council Member DeCaire, yea

Council Member Adams, nay

The motion passed with a vote of four to one.

SERVICE AGREEMENT BETWEEN KAYSVILLE CITY AND INTERLOCAL AGENCY OF
LIGHTHUB COMMUNICATIONS AGENCY

Shayne Scott explained that this Service Agreement would establish a financial relationship with the Interlocal Agreement and Kaysville City. This will allow us to bond through the interlocal.

Mayor Witt asked for public comment.

Nephi Harvey commented that he feels that the Council's approval of the Interlocal Agreement was a premature decision and should have been approved after a decision was made on fiber.

Paul Waldrop said that other cities have had very large failures trying to establish fiber in their cities. Sometimes people think that something is great, but they ignore the negatives and all the possible outcomes that could create greater problems. Why isn't the city taking time to make sure we have things lined up and facts in place? We need to double check that not only the city is looking after the citizen's interest, but also those third parties representing the city are as well. What is the value of pushing this through without a citizen vote? There are things we don't like and people elected that we don't like, but if the citizens see a majority vote for this there will likely be more people in support of it. There hasn't been enough communication to help assure the confidence of the citizens.

Zane Larsen said that he also has a lot of concerns about the Council voting on an Interlocal Agreement when there are still a lot of big questions left unanswered.

Mayor Witt closed public comment for this item.

Council Member Barber asked how this service contract is different from the Interlocal Agreement.

Laura Lewis said that if the city decides to issue bonds under the interlocal, this service contract will provide the provisions for where the revenue flow of which the Kaysville debt will be issued. It provides direction for the bonds as well as the shared services.

Council Member Adams asked if LightHub would handle the contracting of the construction of the fiber project.

Todd Marriott said that it's his understanding that once they decide to go forward, the executive director and board would form committees respective to the different events, such as construction, project management, engineering, etc. Then those bids would be issued on a competitive bid process, reviewed and selected. There's a great deal of flexibility on the decisions that could be made for both cities to make it best for everyone.

Council Members Adams asked about giving LightHub access to all of the city's right-of-ways.

Todd Marriott responded that it's common to give access to an interlocal to things, such as the right-of-way, so as to avoid delays or impede the ability to start construction. If you are part of the interlocal, by default your construction companies selected would then have the ability to use those right-of-ways in conjunction with the city's designs and engineering.

Council Member Garn made a motion to approve the Service Agreement between Kaysville City and Interlocal Agency of LightHub Communications Agency, seconded by Council Member DeCaire.

Council Member Garn commented that this is just one of the steps towards creating a foundation for fiber. This is not the final say for whether the city goes forward or not. If the city decides not to, then this LightHub entity will go away.

Council Member Adams commented that tonight the Council has held the first official public hearing and we need to hear what the public wants. Council Member Adams said that he is concerned that by joining in this interlocal with American Fork that Kaysville will somehow be forced to share and bear the costs of American Fork's infrastructure. Also, the city approved \$200k to go towards preparing this fiber measure for the ballot. It was said that that money would be reimbursed through fiber payments, but if fiber does not get approved where will those monies come from?

Council Member Adams made a substitute motion to table this time for a period of twenty days in order to have more time to further review this contract.

The motion died for a lack of a second.

The vote on the original motion was as follows:

Council Member Garn, yea
Council Member Barber, yea
Council Member DeCaire, yea
Council Member Adams, nay
Council Member Page, yea

The motion passed with a vote of four to one.

AN ORDINANCE CREATING A FIBER UTILITY DEPARTMENT

Shayne Scott explained that this ordinance would create the Fiber Utility Department and establishes enterprise funds.

Mayor Witt asked for public comment.

Laura Flood said that in June she had spoken with Council Member Barber who had informed her that the residents would be able to vote on fiber. The Council has not followed through on what they promised and the citizens are very disappointed.

Nephi Harvey said that fiber is not a public utility and shouldn't be argued as such. Fiber is not

necessary to have. People can still have internet without using fiber. The Council only received the documents for tonight's items a couple of days ago and there are some Council Members who haven't read it completely. There needs to be full disclosure from the city to the public. There is still time that the city can make this right.

Jana Whittaker said that she is sad to see how this meeting has gone tonight. The Council needs to have the courage to stand up now for what is right. If fiber is good for this city, citizens aren't seeing it as evidence through the comments heard tonight. This needs to be tabled so citizens are given a chance to be heard.

Paul Waldrop said that the Council seems divided and seems to have no respect or courtesy for residents. The Council has a responsibility to make sure there is unbiased research done for any project, and that things they approve will be in the best interest for the city. This project needs to be successful and at this point it doesn't not seem that it will be. The citizens don't feel good about it. This contract needs to be reviewed more carefully to make sure there will be no implications.

Scott Godfrey said that it will take thirty years to pay the bond off. This is not a utility and should not be bonded for such a high amount. Fiber is a nice thing to have but it's not a necessity. This needs to be thought out carefully, and all consequences need to be considered. Future Councils will have to deal with any mistakes made by this Council.

Zane Larsen commented that there needs to be better clarification as many residents really don't know what is going on with this. The mailers that were sent out were likely not read by many. There are a lot of unanswered questions and a lot of assumptions being created.

David Saunders said that almost a decade ago there was a storm which created a large east wind and knocked out power for many residents for several days. His family was without power for four days. He has been told that it's too expensive for the city to bury the above-ground power lines, but how does that cost compare to what is being asked for fiber? We will be incurring huge costs to bury fiber lines. The city should put money into burying the power lines, which is more essential, rather than creating more debt for fiber.

Jason Sanders said that the State does not label fiber as a utility. We've seen what has happened in other communities that try to bring in fiber and many of them fail. There is a lot of questions that haven't been answered. Although this has been reviewed by the city as well as third parties, is there a chance that we have missed something? Creating a thirty-million dollar bond will place a burden on the citizens of Kaysville. That amount of money is double what the city's annual budget is. If this is the right thing to do for the city, it will still be the right thing later on. We need to make sure we do everything we can to find any potential problems that the creation of this fiber and interlocal agreement could make.

Ben Leaver said that he has been involved in this as long as there has been public meetings discussing it. He had attended the open houses and at the time was told that this was still being decided. However later that night he was also told by the Mayor that it doesn't matter what kind of feedback they get from citizens, this is just how the city is going to do the fiber project. Mr. Leaver said that he's not opposed to this fiber, but is worried that the city is not getting its priorities straight. There are parts and departments in our city that manage our critical infrastructure that is being neglected. We have been told that because of delayed response times we need a fire station

on the west side of Kaysville. He was told that it would probably be cheaper for the city to have interlocal agreements with the neighboring cities so they would come help us when in need for an emergency. However, those interlocal cooperatives could take years to create. And yet tonight the Council is reviewing and voted upon an interlocal agreement that was just given to them a couple of days ago. Before we create a fiber utility department, we should build our critical infrastructure for our fire department on the west side first, and then come back to consider an interlocal agreement with American Fork.

Jacob Willoughby said that when he moved to Kaysville he was looking for a home to live in for many years. The cost for his internet has continued to rise, while the service received remained the same. Mr. Willoughby said that he had read through the fiber content that the city has provided and feels that Kaysville had done well in vetting what could go wrong in the fiber project. He is familiar with other cities and what has gone wrong, and feels that Kaysville has addressed those potential problems. Where his home is located he currently has no other options available to get faster internet to his home. Fiber is needed and should have been installed years ago. The longer we wait, the further the city falls behind. Those families with kids need faster internet for their child's education. Many times teachers will send homework home with the students which requires them to get online.

Mayor Witt closed public comment for this item.

Council Member Barber asked for clarification on how the fiber department would operate independently or in conjunction with other departments.

Shayne Scott said that the city has independent enterprise funds for each of our utility departments, and the fiber utility fund would be treated the same way. All fiber funds would be dedicated to the fiber utility. The next item on the Council's agenda is for a resolution which discusses how the Council might want to handle those funds. The fiber utility department would be treated just like our other city departments with their budgets which would be audited and approved by the City Council on an annual basis. The State Code regulates how we treat each of these departments and what is required of them.

Council Member Adams said that he would argue that fiber is not equivalent to other utilities. When the power department was founded there were no other options for residents to obtain fiber, which is not the case here. There are other options for residents to obtain internet services. LightHub is a separate legal entity and will share powers, duties and rights with another city and it doesn't seem that the Council will have full power. Council Member Adams added that he also has concern that the operations center will not be located near to the city. The fiber fee will be charged to those responsible for paying utility bills, and if citizens do not pay the fee it would be deemed a civil debt and may result in the termination of utility service.

Council Member DeCaire made a motion to approve an Ordinance creating a Fiber Utility Department, seconded by Council Member Garn.

Council Member Adams made a substitute motion to table this item for a period of two weeks to allow further review.

The motion died for lack of second.

The vote on the motion was as follows:

Council Member Barber, yea
Council Member DeCaire, yea
Council Member Adams, nay
Council Member Page, yea
Council Member Garn, yea

The motion passed with a vote of four to one.

A RESOLUTION ESTABLISHING A FIBER UTILITY FEE

Shayne Scott explained that this resolution being presented tonight would create the fiber utility fees.

Mayor Witt commented that as she and the Council have been discussing this matter with residents, they felt uncomfortable approving this item.

Council Member Barber said that throughout the process of discussing bringing fiber to the City, residents have expressed that they would like to have a choice on if they were to get fiber or not. After much discussion, the city feels it would be best to hold off on this resolution. We want to do this project with the least risk as possible. Although a feasibility study was done, we want to get a better idea of who is going to be using fiber before moving further. The city realizes residents deserve to have a choice, and by creating an opt-out process each resident would be able to say whether they want to take part of this process. This likely would create a slightly increased fee for those wishing to opt-in. Going through this process still gives us a chance to move forward, but will allow residents a choice. By going through this opt-out process and seeing how many wish to opt-out will give us a better idea on what the fees will be and where the city will need to go from here. We could still partner with LightHub if we continue to move forward.

Mayor Witt added that the city would want to see the results of opt-out survey before considering going to bond.

Council Member Barber made a motion to extend the meeting beyond 10:00 p.m., seconded by Council Member DeCaire and passed unanimously.

Mayor Witt asked for public comment.

Chad Smith commented that he is a fiber optics specialist and has been in the industry for twenty-four years. He has worked with several places throughout the state, and Kaysville is his backyard. Mr. Smith said he knows how fiber needs to be built and what mistakes other cities have made, and he plans to work with Kaysville to make sure that the city does not make those mistakes. While he has been defending fiber optics with his neighbors, he feels that this process should have been done differently. Those who don't want fiber optic services shouldn't have to subsidize for those that do. Fiber optics will be beneficial but the take rate risk kills many of these fiber projects. Freedom of choice needs to be put back into this model for Kaysville's residents.

Eric Isom said that he is grateful to hear that the city will be allowing residents to opt-in or out of this fiber project. He has spoken with the city and Council Members at length and appreciates the time and interest everyone has invested into this issue. He has been discussing how to get faster internet speeds with his neighbors for many years and there is a huge need for the faster speeds for those with kids who need to utilize the internet for school. However, he is concerned that the municipal entry costs were underestimated.

Zane Larsen said that he approves letting the citizens choose if they want to participate in fiber. However, the Council should have disclosed this information to residents at the beginning of this meeting. It is unfair to residents that the Council knew that this is where they were headed tonight and did not say anything until now. It would have saved a lot frustration and emotions.

Jana Whittaker said that she appreciates being given a chance to have a voice by allowing them to opt-out and encouraged every citizen in the city to opt out. Not because you don't want fiber but because of the way this project has been done so far. This still needs time to be reviewed. It's worth waiting until we really can look at this and make sure it will be for the good of everyone.

Paul Waldrop commented that while this opt-out option feels reasonable under the circumstances, it doesn't feel very reasonable. Are the documents that were just approved by the Council really in the best interest of the city? There are still a lot of unanswered questions and the Council has failed to get the community behind this proposal and should hold off in their decision until they do.

Jordan Stephenson said that he has been serving on the Technical Advisory Committee and the Committee had looked at all types of models for this project. They felt that this would was a good choice to be able to see who would be interested, and how that would affect the pricing for those opting in.

David Saunders asked about the timing for this project and when it might be implemented. This project shouldn't be rushed and he would like to see it tabled for a short time to make sure that all of the information is given to the citizens in a timely and useful manner so that the citizens can make an informed decision.

David Bowman commented that he appreciates that the Council has allowed the citizens to have a little bit of a voice and hopes that the Council sticks to what they've promised. The Council should have been up front at the beginning of the meeting about this instead of debating and establishing procedure when you knew you would be doing something else. That was wrong and the Council should be ashamed of their behavior. They have not be honest and fair to the citizens and are an embarrassment to the city. The Council needs to reconsider soliciting the people's opinion and go back to the original concept of allowing people to vote. Also, instead of requiring that people opt-out the city should be requiring that those who want fiber to opt-in instead.

Mayor Witt closed public comment for this item.

Council Member Barber made a motion to table the consideration of a Resolution establishing a Fiber Utility Fee, seconded by Council Member DeCaire.

Council Member Adams asked if the public hearing on October 3, 2019 to discuss fiber bonding

would still be held.

Mayor Witt said that it would not be because the city would like to get the results of the opt-out survey before we consider bonding.

Council Member Garn commented that he appreciated the citizen's input tonight. Oftentimes citizens provide excellent suggestions that hadn't been considered before. One reason the city had considered this opt-out process rather than sending it to a vote is because very few are registered to vote or participate in voting. This opt-out mailer will be sent to every utility holder in Kaysville and the city will get much higher feedback. We will find out first how many people want the fiber before deciding where to go next. This way we won't force it upon those who don't want to do it.

Council Member Barber said that the Council felt this was the best way to proceed forward. We wanted to follow the standard meeting procedures and felt that every citizen had a right to come here tonight to say what they needed to say. Their intent is to make this best for Kaysville and it will end that way, regardless of what happens.

Mayor Witt said that the Council wants to give the residents the opportunity to speak and have their voices heard, therefore we decided to follow the usual meeting process. The residents deserve the opportunity to speak. Citizens have the right to petition local officials, and that's what the Council is here for. The residents have helped the Council look at this fiber project differently through this whole process. We are not only listening to the residents here tonight but your neighbors, city staff, specialists, lawyers, and other third parties. This has been a labor intensive process, and we have and will continue to respect Kaysville residents.

The vote on the motion was as follows:

Council Member Adams, yea
Council Member Page, yea
Council Member Garn, yea
Council Member Barber, yea
Council Member DeCaire, yea

The motion passed unanimously.

WORK ITEMS

Council Member DeCaire made a motion to table the following work items until the next Council meeting:

- a. Discussion on a Resolution establishing Fiber Revenue Parameters.
- b. Discussion on Refinancing the Police Station Bond.

Jake Garn suggested moving Work Item "a" to an Action Item.

Council Member DeCaire modified his motion to table the following item until the next Council Meeting:

- b. Discussion on Refinancing the Police Station Bond.

Seconded by Council Member Garn.

The vote on the motion was as follows:

Council Member Adams, yea
Council Member Page, yea
Council Member Garn, yea
Council Member Barber, yea
Council Member DeCaire, yea

The motion passed unanimously.

DISCUSSION ON A RESOLUTION ESTABLISHING FIBER REVENUE PARAMETERS

Shayne Scott explained that this resolution would outline what happens with the fiber revenues and how that will be handled.

Council Member Barber said that this resolution will help give the city a way of stating our intent of the project and establish it. Council Member Barber commented that she hopes residents see that the city and Council are doing everything they can to do what is best for everyone.

Council Member Barber made a motion to move this item to an Action Item, seconded by Council Member DeCaire.

The vote on the motion was as follows:

Council Member Adams, yea
Council Member Page, yea
Council Member Garn, yea
Council Member Barber, yea
Council Member DeCaire, yea

The motion passed unanimously.

CALL TO THE PUBLIC

Jason Sanders said that he appreciates that the Council will be listening to the citizens through this opt-out option and thinks it's a reasonable step.

Scott Godfrey asked if citizens choose to opt-out now would they have the option to opt-in later. When future homeowners purchase a home will the opt-in process and fees involved be clear to them? The flyer sent out to residents were somewhat deceptive and didn't say how much it would cost per month. Mr. Godfrey said that he is glad the city is doing this opt-out process because it will show who really wants it, but feels that the city should have asked citizens to opt-in rather than opt-out.

Adele Gibbons asked if the city could guarantee the projected utility fee cost and if it could remain the same. Ms. Gibbons stated that she is a veteran and this whole meeting and process has been a disappointment. People need to be on board with this project, rather than the city telling citizens

where their money will go and what they will do. This is taking away people's freedom. Freedom that she put her life on the line for.

ADJOURNMENT

Council Member Adams made a motion to adjourn the City Council meeting at 10:35 p.m., seconded by Council Member DeCaire and passed unanimously.