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Was city loan to iProvo illegal?

Qwest, activists object to the \$980,000 bailout

By [Tad Walch](#)

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PROVO — Qwest officials say Provo's City Council violated Utah law when it approved a loan of nearly \$1 million from its energy reserve fund to the iProvo project to cover a deficit.

Attorney Gregory Monson represented Qwest Communications at a heated council meeting on Tuesday and said prior to the council's 6-1 vote that the loan gives iProvo an "undue and unreasonable advantage" over private companies like Qwest that provide cable TV, phone and Internet services.

"I believe it would be illegal for you to do what you're proposing to do," he said.

The \$980,000 loan also drew a vigorous objection from several residents and Utah Taxpayers Association vice president Mike Jerman, who called iProvo a risky venture and reiterated his position that it is unfair for government to compete with private companies.

"It's time for Provo city to be looking at an exit strategy," Jerman said, "whether it's disposing of it or selling it."

Mayor Lewis Billings, city attorney Robert West and others shot back, saying the project is beginning to thrive and the loan is legal.

"I disagree completely with his conclusion," West said. "I think it's a last-minute ploy to stop this project. This course of action has been known for years if it became necessary."

The iProvo project provides fiber-optic lines directly to Provo homes that subscribe to one or more of the three services. The City Council approved a \$39.5 million bond issuance to pay for the project, which needs 10,000 subscribers — about one-third of Provo's residences — to pay off the bond.

So far, iProvo has more than 5,000 subscribers. That is well behind initial projections but ahead of revised projections made by Billings last fall. Council chairman George Stewart said iProvo's February revenues outstripped expenses for the month, a first for the project.

"We need to celebrate the success," Billings said. "We need to celebrate the momentum."

Billings also called those who spoke against the project on Tuesday night "fear mongers."

"I would just say to the people of Provo, 'fresh courage take,' " Billings said, quoting an LDS hymn. "This is not a situation where we need to run and surrender. We have a revenue stream that is steadily increasing. We didn't think we'd be at 5,000 until later in this calendar year. We have some things we can control and we have controlled them well. We are finishing construction ahead of schedule."

Billings issued his revised projections after construction of iProvo got off to a slow start and HomeNet, the first company to offer services over the iProvo network, collapsed and filed for bankruptcy.

The setbacks were significant. The project had a net loss of \$892,473 for fiscal year 2005 and has operating losses of \$112,201 through the first eight months of fiscal year 2006, Council chairman George Stewart said. The deficit makes it impossible for the city to begin setting aside money for its first scheduled bond payment in August. The bond requires the city to begin putting money into an account starting next week to ensure the payment will be made.

City officials said iProvo service providers MStar and Veracity are signing up 60 to 100 new subscribers each week.

City staff proposed the shortfall loan, which the Council agreed would be a no-interest loan with no due date, although interest will start to accrue in 2009, when Provo chief administrative officer Wayne Parker said iProvo will be fully self-sustaining.

"I'd be happy to get a loan with those terms," Qwest attorney Monson said. "I don't think that's a market-based loan."

The city projects another loan of \$2 million may be necessary next year.

The loan can only be used to make the bond payment.

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