

Bobbie Walthall

To: David L. Corliss
Subject: RE: Freenet

-----Original Message-----

From: David L. Corliss
Sent: Monday, August 03, 2009 11:51 AM
To: 'Chad Lawhorn'
Cc: Bobbie Walthall; Cynthia Boecker; Diane Stoddard; Jonathan Douglass; John Miller; Aron Cromwell; Lance Johnson; Mike Amyx; Mike Dever (mdever@sunflower.com); Rob Chestnut (robchestnut@sunflower.com)
Subject: RE: Freenet

Chad,

Staff has not finalized its response to Sunflower's request that the City investigate issues related to Freenet. The scope of any investigation should be determined by the City Commission. Staff sees the Freenet issues as not directly tied to the statutory responsibilities for the Community Wireless video service provider agreement on the agenda for Tuesday night, although even that issue is somewhat in dispute. Staff does believe that the City is not the best venue for resolving most of the issues that you have outlined below in your questions for several reasons. Those issues involve federal tax law (e.g. not-for-profit status) which do not lie under City jurisdiction. The issues also speak to business practices which are matters of judgment, and not directly tied to City interests or regulations. The City is regulating the use of the right-of-way, not all of the laws which speak to business practices and business competition. Additionally, the allegations related to conflict of interest or fraudulent practices are serious allegations; however, the link to the use of the right-of-way agreements is difficult to draw since Freenet has provided information on their service which has been publicly posted and reviewed by the City Commission. As I indicated to you on Friday, City staff is focused on City responsibilities for management of the right-of-way and franchise fee requirements - and whether those responsibilities are met to the satisfaction of the City Commission as they determine what is in the public's best interest.

Thanks, Dave

Bobbie - please post this response to this agenda item. Thanks.

-----Original Message-----

From: Chad Lawhorn [mailto:clawhorn@ljworld.com]
Sent: Monday, August 03, 2009 9:16 AM
To: David L. Corliss
Subject: Freenet

Hi:

I'm writing today the article that I interviewed you for on Friday. After reviewing my notes this morning, I think I need a little more clarity on one issue. In regards to Sunflower's request that the city "formally investigate" several issues related to Freenet and Community Wireless, I'm unclear on where that stands.

We discussed the issue of whether Freenet is a valid not-for-profit, and I understand that your response is that is a matter of law/code that the city does not enforce, and that there are more appropriate bodies to review that.

But we really didn't discuss much the other issues that Sunflower has sought to be part of an investigation. They are:

- * Whether Lawrence Freenet's relationship with Community Wireless Communications and Mr. Joshua Montgomery represents a conflict of interest.
- * Whether Lawrence Freenet fraudulently obtained special consideration for use of Lawrence right-of-way for the construction and operation of a wireless network.
- * Whether Lawrence Freenet is operating as a competitive telecommunications provider. (I believe some of this goes to not-for-profit issue that we've already discussed. But I also believe the letter indicated there is concern about whether the fact Freenet is soliciting commercial accounts goes beyond the intended scope of its agreement with the city.)
- * Whether Lawrence Freenet has assigned its right-of-way access with the City of Lawrence to Community Wireless Communications. (We did discuss this, and I have your response as saying that you believe the 23rd and Harper transfer warrants a closer look.)

I'll check in with the mayor about this request for a formal investigation as well, but I believe where the issue officially stands is that the commission in mid-July referred it to staff for a report. Basically I need to be able to report where you are at on that report.

Feel free to e-mail me back or call me.

Thanks,
Chad