

Bobbie Walthall

To: Diane Stoddard
Subject: RE: Community Wireless Response/Request

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

From: Joshua Montgomery [mailto:joshua.montgomery@civicwifi.com]

Sent: Tuesday, July 14, 2009 8:33 AM

To: David L. Corliss

Cc: Diane Stoddard; John Miller; Michael Dever; Aron Cromwell; robchestnut@sunflower.com; mikeamx515@hotmail.com; ljohnson@peridiangroup.com

Subject: Community Wireless Response/Request

Mr. Dave Corliss
City Manager
The City of Lawrence
PO Box 708
Lawrence, KS 66044

Dear Mr. Corliss,

In response to recent actions by the World Company, I have attached a follow-up request to grant immediate access to the right-of-way.

It is my understanding that the Lawrence Freenet board is developing a separate response to the bogus allegations made by the incumbent cable/broadcasting/telephone/newspaper monopoly.

All CWC is asking for is equal treatment to provide a video service on the right-of-way.

A video response to their allegation that we are somehow unable to provide a video service:
<http://www.civicwifi.com/video.php>

If you could please have the video response and letter made part of the agenda?

Thank you,

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Joshua Montgomery
Community Wireless Communications Co.
4105 W. 6th St.
P.O. Box 3532
Lawrence, KS 66046
Ph: (785) 371-4214 ext. 8001
Cl: (785) 840-6155
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<http://www.civicwifi.com>



July 14th, 2009

Mr. Dave Corliss
City Manager
The City of Lawrence
PO Box 708
Lawrence, KS 66044

Dear Mr. Corliss,

In March of this year, Community Wireless Communications Co. (CWC) asked the city to grant a non-exclusive franchise to provide video services under identical terms to the World Company.

We did this because we were tired of hearing the same complaints from the World Company about Lawrence Freenet, Inc's use of the right-of-way being in some way "unfair competition". Our request asked for terms equal to those granted to the World Company.

In discussions following this request, we were told it was the City's position that we pursue a franchise at the state level under the *Video Competition Act (KSA 12-2023)*. In response, we immediately started the process of pursuing this at the state level.

Recently the World Company has filed a frivolous and groundless petition at the state level to prevent CWC from competing on equal footing here in Lawrence. This is clearly an effort to delay CWC's entry into the Lawrence market and prevent competition.

As the governing body of the City of Lawrence, it is clearly the City's duty to ensure that there is local competition for all essential services delivered on the public right-of-way. The alternative is to either provide the service through a public utility (The Water Department), or vigorously regulate a monopoly provider (Westar Energy).

To facilitate competition in the Lawrence market, Community Wireless Communications would like to ask for *immediate approval* of a franchise with the City of Lawrence to provide video services on equal footing with the World Company, d.b.a. "Sunflower Broadband".



Nothing in the *Video Competition Act*. prevents the City of Lawrence exercising its authority as a governing body and granting a franchise agreement. The statute simply allows potential franchisees to pursue a franchise at the state level.

With this in mind CWC would like to City of Lawrence to immediately grant a franchise so that we can begin construction of our Video Service here in Lawrence, KS. Construction will begin within 15 days of approval. This would not be time critical if the company had not already been working with city staff for 4 months to get this franchise in place.

We are willing to pay the same franchise fees as the World Company, provide a working public information network and meet all of the same State and Federal regulatory requirements as the World Company. We are not asking for special treatment, only equal treatment.

It has now been 4 months since our initial request and further delays related to franchise issues would greatly harm the public, CWC and our non-profit partner, Lawrence Freenet, Inc.

As a governing body, the City Commission is akin to a court of equity. When asked to make a decision, it must evaluate the harm done by granting a request against the harm done by not granting it.

1. The World Company has failed to present any evidence that the award of a Franchise by the City of Lawrence to CWC harms the community.
2. Failure to award a franchise harms the community in the following ways:
 - a. As a franchised entity, CWC will pay the City of Lawrence 5% of its video service gross revenue. Failure to grant a franchise in a timely manner will cost the City of Lawrence new tax dollars.
 - b. Failure to grant a franchise reduces competition in the marketplace. Reduced competition drives prices up for consumers, restricts innovation and fosters monopolistic pricing and behavior.
 - c. Stimulus money applications being evaluated starting August 15th are in part based on the applicant's franchise status. Failure to grant a right-of-way agreement puts CWC's pursuit of millions of dollars of stimulus money at risk. This will cost Lawrence jobs.
 - d. CWC has already contracted with a local company to install this cable. Failure to award will cost its contractor jobs.



- e. CWC has raised \$2.5 Million to invest in Lawrence. Failure to award a franchise in a timely manner puts its next round of funding (already committed) at risk. Once again this will cost the city jobs.

With this in mind we would like to request immediate approval of the draft franchise agreement submitted July 9th, 2009. This agreement is based on the World Company's agreement and its provisions are consistent with the Video Competition Act.

Thank you,

A handwritten signature in black ink, appearing to read "Joshua Montgomery".

Joshua Montgomery

Community Wireless Communications Co.

4105 W. 6th St.

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