

Bobbie Walthall

To: Diane Stoddard
Subject: RE: rough draft CM report

From: Michael Almon <paradigm@ixks.com>
Date: December 12, 2017 at 10:20:14 PM CST
To: "Markus, Tom" <tmarkus@lawrenceks.org>
Cc: <electronic-ian@lists.ku.edu>
Subject: Re: [Electronic-ian] Response to your email of 12/05/17 regarding improving transparency and community involvement in decision making

Hi Tom:

The issue about commenting on the City Manager's report, regarding bicycles, was mine. On June 20, you had included this funding analysis - [City staff recommendations bike-ped undesignated fund 20June17](#) - in your report. Brandon, who had authored it, had done some good work which I wanted to compliment, and I asked during public comment if I could speak to it, or should I wait until you presented the report. Your suggestion to the Mayor was that I wait, which I did patiently. Then after your report, you reminded the Mayor that I wished to comment. She didn't acknowledge me or the question, and went on to the City Commission calendar.

I asked you after the meeting if we could meet about the memo, and you suggested I meet with Brandon, which I did for a very productive meeting. I didn't pursue the issue of citizen's ability to make comments on the CM report, but it was apparent to me that there was a problem, and a solution must be found.

I later did meet with Commissioner Larsen about it, and made the suggestions that the CM report be at the beginning of the meeting. That way, citizens could comment on it during public comment, or request an item be pulled for Commission discussion during the regular agenda.

I would like to see this protocol incorporated into the City Commission meeting. Commissioner Larsen may have brought this up, but regardless, I am asking that the issue be placed on an upcoming agenda.

thanks for your consideration,
Michael Almon

On 12/12/2017 09:56 AM, Tom Markus via Electronic-ian wrote:

Eric, thank you for your note last week. Transparency is important to the City of Lawrence and important to me. I have taken the approach of reporting on issues as they are known to us. We welcome questions from the public. I want to be responsive to your comments and questions. In order to do so, I need some additional information from you and I would like to share some additional background with you. We do try and utilize the City Manager's report to report on a variety of subjects- some routine and some quite timely with last minute information. The City of Lawrence has utilized this approach instead of a compiled Monthly Report that some communities have. However, I want to point out that with two meetings and two reports per month, our reports are quite comprehensive. In many cases, we provide a brief verbal report but attach extensive memos or background information about the item for the City Commission and the public. I also want to point out that all of this information is included in the agenda packet and is viewable online.

1. Regarding your bicycle priorities item, can you provide me with some additional background on this? I am not recalling the circumstances that you are noting, but some more information may help me so that I can look into it further.

2. Regarding the Farmland issue, I first reported on this during the City Manager's Report section of the meeting back in August 2017. There were subsequent reports made in the same manner in September, October and in November. I reported on KDHE's recommendation and authorization to discharge remediation water from the Farmland site (in addition to the daily occurring discharge) on November 7th. KDHE's decision was made after the City submitted a plan to haul millions of gallons of the nitrogenated water by semi-truck in order to expand its land application operation and free up sufficient storage capacity at the site to accommodate the next years' collection of groundwater. You are correct in noting that there was not anything attached on the November 7th Manager's Report, but the verbal report was thorough and provided in the public meeting setting. This was certainly not an attempt to be opaque, quite the opposite. Information on the matter was quickly developing, which was the reason for the verbal report. The verbal report was provided at the meeting, was televised and formally incorporated into the City's minutes for the meeting. The direct link to this item is here: <https://youtu.be/hVjVxJhPrcU?t=1941>. I would also like to point out that newspaper article that you referenced was a result of this very City Manager's report item and the report made at the meeting. Below is a full listing of reports made by staff on this issue since August.

08/15/17 – CM Report

- Former Farmland Site Update
<https://assets.lawrenceks.org/assets/agendas/cc/2017/08-15-17/cmreport.html>
Video Link: <https://youtu.be/zniM8UTSbl?t=17935>

Former Farmland Site Update

The City acquired the former Farmland property in 2010 to remediate existing environmental contamination and transform the property into a viable industrial park and a welcoming 'gateway' to the community. As part of the City's acquisition, the Kansas Department of Health and Environment (KDHE) issued a Consent Order which establishes the remediation plan for nitrogen-contaminated groundwater at the property. At the time of acquisition, the City received trust funds to fund the remediation program. The groundwater remediation program involves collection and retention of nitrogen-contaminated groundwater on-site and application of the water on privately owned farm land.

Several recent events have spurred City staff to review the status of the remediation program. Crop conversions at participating farms has led to lower demand for nitrogen with a corresponding reduction in the volume of water applied to these farms. At the same time, the on-site groundwater management system is collecting more nitrogen-contaminated water due to improvements that were completed pursuant to the remediation plan established by the Consent Order. Examination of the program's financial status has revealed that the remediation trust funds are generating less revenue from interest than was projected in 2010. Interest on the trust funds is a key revenue source for the remediation program.

City staff is closely monitoring the situation to ensure regulatory compliance. Additionally, staff believes it would be prudent to engage an environmental consultant to revisit the remediation program to determine the most fiscally sustainable approach based on current conditions. Staff is preparing a scope of work for a consultant-led assessment of the site. The City has also proactively engaged the Kansas Department of Health & Environment in assisting with the matter. Additional updates will be provided in the future.

09/05/17 CC Agenda – CM Report

- Attached is an update on the former Farmland Industries Nitrogen Plant site.
https://assets.lawrenceks.org/assets/agendas/cc/2017/09-05-17/cm_report_farmland_update_08-31-2017.html (memo)
Video Link: <https://youtu.be/g5fNBm-0Qa4?t=7106>

10/03/17 CC Agenda – CM Report

- The attached memo provides an update on Farmland investments.

https://assets.lawrenceks.org/assets/agendas/cc/2017/10-03-17/cmreport_farmlandinvestment_memo.html (memo)

- Update on the Environmental Remediation Efforts at the Former Farmland Nitrogen Plant Property: <https://assets.lawrenceks.org/assets/agendas/cc/2017/10-03-17/cmreport.html>

Update on the Environmental Remediation Efforts at the Former Farmland Nitrogen Plant Property.

The City Commission was last updated on September 5, 2017 about the ongoing effort to address challenges with the environmental remediation program at the former Farmland Nitrogen Plant property. Since that time, the staff has continued working on alternative strategies to address the operational challenges. As has been previously shared, the groundwater collection system at the site has reached its storage capacity. More water is being collected than can be stored and land-applied through existing distribution and irrigation infrastructure. Drawing down the water in storage to adequate levels will require land application on additional farms that are not served by the distribution system. The water would need to be transported by truck to these additional farms.

Bids were received earlier this month for truck hauling services and the staff has developed a contingency plan to haul and apply millions of gallons of water to additional farms if necessary. In conversations with city staff and Kansas Department of Health and Environment officials, the potential for a hauling operation has been the cause of much concern. Hauling the water would create a significant financial burden on the Farmland Trust Fund in addition to creating a significant operational and environmental impact. Potentially, millions of gallons of water may need to be hauled. Approximately 148 truckloads would be required to haul 1 million gallons. The contractual cost would be approximately \$40,000 for every 1 million gallons hauled. Administering the hauling operation and ensuring regulatory compliance would require significant staff resources. Naturally, a hauling operation should be, and is the last resort. Staff will continue working to land apply the water to as many farms served by the distribution system as possible. The city has also requested additional guidance from KDHE as alternative options for the short-term management of the nitrogenated water are considered.

Video Link: <https://youtu.be/Q2t1YYZK2F4?t=11285>

11/07/17 CC Agenda – CM Report

- Item was “Staff will provide an update on the Farmland Remediation Program”.
<https://assets.lawrenceks.org/assets/agendas/cc/2017/11-07-17/cmreport.html>
Video Link: <https://youtu.be/hVjVxJhPrcU?t=1941>

11/21/17 CC Agenda – Regular Agenda Item No. 6

- Receive update on environmental remediation project on former Farmland property
https://assets.lawrenceks.org/assets/agendas/cc/2017/11-21-17/11-21-17_cc_agenda.html
Video Link: <https://www.youtube.com/watch?v=qOSIN13uVuc>

3. Regarding the utility drop box item, I think that there has been quite a bit of unfortunate confusion about this. Our staff was reporting on our intention to act on a matter that doesn't typically require City Commission approval. The reason why we reported on it was because we wanted to be transparent with our intentions and by reporting it, see if there was public concern. I think that some of the confusion has come from the attachment with the item, which was an internal staff memo from a staff member to me, wherein they are making the recommendation to me about discontinuing the utility drop boxes in other locations. This was not meant as a City Commission action item. If it was, staff would have placed it on the regular or consent agenda. That being said, the City Commission did direct staff to place the item on a regular meeting agenda in the near future, which will be done so that there can be additional

discussion on it. I certainly did not believe that staff just taking action on it and closing the remote drop boxes would have been appropriate with no public notice.

I would also like to address your recommended actions.

1. You recommend moving the City Manager's report to the beginning of the agenda. I would note that the reason the report is near the end of the agenda is that most times citizens appear at these meetings in order to make general comment or to provide comments or listen to a specific item. Sometimes we hear real complaints about the length of meetings and how long citizens have to wait in order to be heard on a particular agenda item. General public comment used to be at the end of the agenda a few years ago, but was moved toward the front to help enable people to make general comments if they do not wish to hear the other agenda items. That way, they do not have to sit through the entire meeting to be able to make a general comment. However, this does add to the time that other citizens may have to sit to await a specific item. We have tried to balance this the best that we can. I would have a concern with moving the City Manager's report to the front of the meeting as it relates to those citizens who already have to sit through general public comments and other agenda items before being able to participate in their item of interest. Moving the report would require them to wait longer. Part of the balance of this issue has been what we are now doing with the minutes and linking each section directly to the video portion of the agenda. This makes it very easy for a citizen who may want to hear the City Manager's report to go directly to that item on the agenda. Here is a link to the minutes for the November 7, 2017 meeting that I cited earlier as an example. You can see that each action area of the agenda has the link to the exact spot on the video where the item was discussed. https://assets.lawrenceks.org/assets/agendas/cc/2017/11-07-17/11-07-17_cc_agenda.html
2. You recommend that citizens should serve on a task force to find a long-term option for disposal of remediation water collected as part of the Farmland environmental remediation program. The city is soliciting the services of an expert consultant team to analyze the remediation program and review the vast and technical data associated with the site. Subject matter experts at KU are assisting city staff in the consultant selection process and the consultant's ensuing work. Recommended changes to the remediation plan developed as a result of the consultant team's work will be presented to city commissioners for their consideration in a regular Commission meeting. Residents and anyone else interested in the project will have the opportunity to provide input about the results of the study to the Commission so it can consider that feedback when it deliberates the consultant's recommendations. Changes to the remediation plan will require reviews and approvals from the Kansas Department of Health and Environment. Recommendations that would require changes to the consent order, remedial action plan or NPDES (National Pollutant Discharge Elimination System) permit would be subject to additional public processes administered by KDHE. In other words, the City does not have the authority to make changes to the remediation plan without KDHE authorization.

Residents and interested stakeholders are welcome to contact city staff at any time to discuss questions as the consultant team conducts its work.

3. I agree with your desire for transparency and citizen interaction. Our staff is available to discuss concerns with residents and discuss issues in public meetings. Ultimately our City Commission makes decisions about policy matters in our representative democracy.

Tom

From: Electronic-lan [<mailto:electronic-lan-bounces@lists.ku.edu>] **On Behalf Of** Eric Kirkendall via Electronic-lan
Sent: Wednesday, December 06, 2017 8:20 AM
To: Oldwest Lawrence <oldwestlawrenceassn@gmail.com>; East Lawrence Neighborhood Association

[<eastlawrence@yahoo.com>](mailto:eastlawrence@yahoo.com); Pinckney.Neighborhood@gmail.com; electronic-lan@lists.ku.edu

Subject: [Electronic-lan] Fwd: Please improve transparency and community involvement in decisionmaking in the City of Lawrence

FYI, Eric

----- Forwarded message -----

From: **Eric Kirkendall** <kirkendall1@gmail.com>

Date: Tue, Dec 5, 2017 at 3:42 PM

Subject: Please improve transparency and community involvement in decisionmaking in the City of Lawrence

To: Leslie Soden <lesticia@yahoo.com>, Lisa Larsen <llarsen@lawrenceks.org>, Matthew Herbert

<matthewjherbert@gmail.com>, Stuart Boley <sboley@lawrenceks.org>, Mike Amyx <mikeamyx515@hotmail.com>

Cc: Diane Stoddard <dstoddard@lawrenceks.org>, Tom Markus <tmarkus@lawrenceks.org>

Dear City Commissioners,

I appreciate the hard work all of you put into your job, and know that you and city staff are trying to improve city government.

However, in recent months, several city actions of great interest to residents have been made without transparency and community involvement. This practice sows distrust, leads to poor decisions, is a bad governance practice, and should stop immediately.

Please take action to resolve this problem. Examples and recommendations follow.

Examples

In the last few months, at least three issues have been the subject of consternation and email discussions among different groups of residents concerning the lack of transparency and community involvement:

1. Bicycle priorities
2. Nitrate water discharge into the Kansas River from the former Farmland site
3. Defunding of utility payment drop boxes

In each case, planned city actions were contained in the city manager's report at the end of the meeting - sometimes with insufficient information. In case #1, which took place this summer, a resident waited until the end of the meeting to comment and then was refused the opportunity by the city commission.

In case #2, residents were never informed by the city of plans to dump polluted water into the Kansas River, but learned of the plans very late through a newspaper article, and of details through Johnson County residents. By the time I shared (and I think surprised) the city commission with news that releases of polluted water into the Kansas River were imminent, they were actually underway.

I don't have details on #3, but can tell you that the city's decision without public input has caused considerable consternation.

To resolve these problems, I recommend the following:

Recommended Actions

A. Move the city manager's report to the beginning of the city commission meeting, so residents can tell you their recommendations after they hear about the city manager's plans, but before action is taken.

- B. Put a few informed citizens on the task force charged with finding a long-term solution for disposal of the pollution associated with the Farmland remediation.
- C. Ensure that decisions that will affect Lawrence residents are always made with sufficient citizen involvement and transparency.

Thank you

Eric Kirkendall
[785-550-3408](tel:785-550-3408)