



through the Florida Department of Environmental Protection's (FDEP's) petroleum program. In 2009, all petroleum contamination was removed from the site; however, there are still sodium and other dissolved solids in quantities too high for drinking water quality standards. One option is to take no further action with conditions, such as the proposed deed restriction that would limit the use of shallow groundwater.

He advised that his client is the former owner of the property, who is interested in getting closure on the petroleum contamination issue. They no longer own or operate any facilities in Florida.

Chair Partington asked if the requested action is linked to a residual obligation resulting from the former ownership of the land. Mr. Terwillinger said because the site is eligible for State funding, there is no such obligation; the State will clean up the site. However, State funding is prioritized, and the site is not currently on their priority list. The previous owner would like to be able to show that they took care of any contamination they caused.

Chair Partington asked what rights the requested covenant would confer. Mr. Terwillinger said while he had provided a draft covenant, the document the previous owner would prepare is specific to the property and would list details of the site's history. They wish to place a limit on the use of shallow groundwater at the site.

Mr. Irvine said he did not see how it was in the City's interest to allow the covenant, as it appeared the covenant would remove the former owner from the chain of responsibility. He advised that if no one cleans up the site and it is owned by the City, the City would eventually have to clean up the site: while the State has agreed to clean the property, this did not mean they were obliged to do so.

Chair Partington asked what the covenant would state regarding the land itself. Mr. Terwillinger said it would state no one is allowed to use the groundwater beneath the site. Mr. Volpi added that the draft covenant said there would be no agricultural use of the property.

Mr. Terrell commented that the covenant would restrict the City's use of its own property. Chair Partington said if the Application proposed to install groundwater monitoring wells, he might see the request differently, as the obligation to correct negative results would fall back on the previous owner. It was noted that the covenant would restrict future use of the land with respect to the use of water. The only contaminants remaining on the site are sodium and TDS, which were not "truly hazardous materials."

Chair Partington asked how it would benefit the City to place a restriction on its own land. Mr. Terwillinger said there was no real benefit, although he pointed out there was no potential use of the groundwater, so there was also no true disadvantage.

Attorney Sarver said if the zoning is changed and there is contamination to the soil, the safety of residents using the property could be compromised. She agreed with Mr. Terrell and Mr. Irvine that FDEP is agreeing to issue a No Further Action with conditions to the previous owner; one condition is the recording of the requested covenant. This meant the former owner would be released from responsibility and the City, as the new owners, would agree not to use the groundwater.

Mr. Terwillinger pointed out that there are monitoring wells on the property; with the covenant in place, these wells could be closed. Chair Partington advised that these could be closed by another mechanism as well.

Mr. Irvine said he was concerned that in the future, new standards would be developed for testing and FDEP would hold the City responsible for any additional cleanup rather than the former owners. He did not believe they should release the previous owner from any potential liability until the site is clean. Attorney Sarver clarified that the City would not be releasing anyone: the covenant would facilitate the release of the previous owner by FDEP.

Mr. Terrell cited the example of another park built on similar property, and recalled that the perception was of danger to children playing in the park. Mr. Irvine added that the cleanup of this site was not compelled upon the City by law, but by public opinion. He felt the issue could recur if residents were aware there was a restriction on the use of groundwater at this site. He advised deferring the Item until the City was released as equally as the former owner from responsibility.

Attorney Sarver added that she would like to see the former owner's legal file and further information on what is occurring between FDEP and the former owner.

It was clarified that the No Further Action does not absolve the responsible party, which is the former owner: should any issues arise in the future, they would still be responsible. The covenant limits the use of the land and limits future liability without absolving the former owner entirely.

Mr. Terrell stated the Item should be deferred until Counsel has had sufficient time to examine the previous owner's documents. Chair Partington agreed with this. Attorney Sarver said she would also speak with the FDEP attorney involved in the case to get a better understanding of the No Further Action.

Mr. Volpi read a portion of the deed restriction, which stated that the area of soil affected by the contamination would be permanently covered and maintained with an impermeable material. Mr. Terwillinger asserted that this language appeared in the draft covenant and would not apply in the City's case.

**Motion** made by Mr. Terrell, seconded by Mr. Irvine, to defer until City Attorneys are prepared to have this Item [on the Agenda] again. In a voice vote, the **motion** passed unanimously.

It was noted that Item 3 was deferred.

**ITEM FOUR**                      **MOT / DEMOLITION OF COUNTY COURTHOUSE GARAGE**

Address:                              201 SE 6 Street

Mr. Volpi advised that the request was for closure between SE 3 Avenue and SE 1 Avenue for a three-month period.

Jeff Krasne, representing the Applicant, said they have also applied for a Maintenance of Traffic (MOT) permit. He explained that the Applicant would be demolishing the parking garage, skyway, and part of the adjoining maintenance building behind the garage. The MOT would restrict traffic and pedestrians from approaching the job site.

Attorney Dunckel and Mr. Darmanin arrived at 10:28 a.m.

Chair Partington observed that he had issues with requiring pedestrians to cross the road from a demolition site. Mr. Krasne advised that the Applicant was open to placing a temporary crosswalk at the site. Chair Partington asked if a protected area could be established for pedestrians on the north side of the road. Mr. Krasne explained that they did not want pedestrians walking underneath the site in case something went wrong.

Mr. Irvine said his concern was with another MOT approved for window replacement on 3 Avenue at the same site. He stated they would need to ensure there was no timing conflict between the two requests. It was clarified that the window project is currently underway and the demolition project would not begin for at least another month.

It was clarified that part of the demolition project during the sidewalk closure would involve excavation of the sidewalk and the installation of ducts. Mr. Darmanin added that other utilities, including FPL and the City, will be doing some work within the MOT.

Dan Ayers, representing the Broward County Construction Management Division, said the project would be done near the beginning of 2012. He described the work to be done on the new courthouse project, explaining that all the projects in the area would be very tightly sequenced with one another. He felt pedestrian traffic should be routed to the south side of 6 Street for safety during this extended period of time.

Ellen Rivera, senior property manager for 110 Tower, said this property has a permit for the removal of its parking meters and light poles. There are also ongoing sidewalk renovations. The entire project is expected to be complete by December, before the demolition project begins. Ms. Rivera advised that the sidewalk in front of 110 Tower could be used by pedestrians during the demolition project.

Steve Booth, chief engineer for 110 Tower, said the sidewalk project is currently pouring new curbing and pavers, which means some of the sidewalk is restricted; this portion is expected to be complete before December.

Chair Partington reiterated his concern that there would be no sidewalk on the north side of the road, which meant all pedestrians would have to walk on the south side in front of 110 Tower. Should the sidewalk project not be complete, the ability for pedestrians to travel the area would be affected.

Mr. Girisgen arrived at 10:41 a.m.

Chair Partington explained the issue to Mr. Girisgen, who noted that the Planning Department prefers to keep pedestrians on the south side of the road. He pointed out that there is presently a detour inside the 110 Tower property. Mr. Booth advised that this is temporary. Chair Partington suggested that the Committee's approval could be predicated on the completion of the 110 Tower project before the demolition project commences.

Norman Brown, construction manager for the Broward County Construction Management Division, stated they are not sure how long it would take, once the Committee has given its approval, to get their permit for the project from the City. Mr. Girisgen said a revocable license, not a permit, is required for lane closure; this can take up to three to four months. Mr. Brown said it is hoped the project can begin at the end of November. He advised they could begin on the north side of the project if necessary to avoid conflict with the 110 Tower project.

Chair Partington concluded that this meant the City's mechanisms for approval, not a conflict of projects, was at issue. He asked if a revocable license was necessary for the project, pointing out that the occupation of the right-of-way was only partial. Attorney Sarver said the revocable license would still be necessary due to the length of time involved. Chair Partington confirmed that it takes an

average of three months to draft a revocable license and take it before the City Commission for approval.

Chair Partington observed that the project appeared to be the beginning of a long-term closure on the north side of 6 Street. Mr. Girisgen advised that if the duct work were the only work being done, it would simply require an engineering permit that did not go through the Building Department. This was because in theory, FPL would be closing down the lane but would not be creating a detour.

Mr. Brown said the time frame for issuance of a revocable license had never been indicated to the Applicant, although they have been involved in the permitting process for several weeks. He stated the need for the revocable license had also not been communicated.

Mr. Girisgen explained the process for a revocable license as follows: once the Applicant receives a favorable recommendation from the Committee, the City Attorney's Office begins drafting the provisions of the license, tailoring them to the project. Mr. Girisgen then makes the license a City Commission Conference Agenda Item.

Mr. Darmanin explained to Mr. Brown that a revocable license is necessary because they are closing part of the lane, as well as closing the sidewalk to pedestrians and sealing off the site. He clarified that the demolition work would be contained on-site, but the utility work would take place in the right-of-way.

Chair Partington advised that no member of Staff can authorize the Applicant to close down part of a right-of-way for longer than three days: this must be approved by the City Commission.

Mr. Girisgen said he needed to know the timeline for the work proposed in the closed lane. He suggested it could be possible that some of the work could be handled through a mechanism other than a revocable license, and asked to sit down with the City Attorney's Office and determine what work would require the license. He felt this might ultimately be up to the City Manager. He concluded that the most optimistic scenario possible could allow for partial closing of the sidewalk, perhaps through a permit, while the revocable license is prepared for other components of the project.

Mr. Terrell recommended that the Committee craft a motion around Mr. Girisgen's upcoming review with the City Attorney's Office. Chair Partington said he felt the motion should be made for issuance of the revocable license, and the process would then be allowed to take its course while Mr. Girisgen worked with the City Attorney's Office.

Mr. Terrell asked how the phasing of the demolition project would be done, such as the inclusion of site work that would not affect the south side of the building. Mr. Krasne said work on the maintenance building and the skyway would only require a short amount of time; the difficulty would lie with the parking garage, as its materials would be recycled when it comes down.

Mr. Ayers said the project is currently funded at approximately \$1 million per month, and its schedule calls for an MTP for the new courthouse in January 2012. Chair Partington said the City would do its best to help ensure this schedule can be met.

Mr. Girisgen suggested that any motion the Committee makes request a full timeline from the Applicant, including the schedule of what work will take place within the right-of-way.

**Motion** made by Chair Partington, seconded by Mr. Terrell, that the Committee recommends approval of this MOT, subject to a revocable license, subject to the approval recognizing the need for the sidewalk on the south side of the road in front of the 110 Tower to be largely complete before the MOT takes place, and in addition, recommending that Staff work with the County on the timing and phasing of the construction activities, with a view to facilitating their timeline.

Mr. Brown asked if construction could begin on the north side of the courthouse. Chair Partington said this would not be an issue. Mr. Krasne requested confirmation that they could proceed with the demolition of the skyway and the maintenance building. Mr. Darmanin suggested that a revised demolition permit may be needed so part of the project could proceed before the MOT is approved.

In a voice vote, the **motion** passed unanimously.

**ITEM A**

**WALK-ON**

Address: 4400 SR 7 (441)

Mr. Volpi advised that this request would grant FPL a 10 ft. easement over a former compost site off 441 so a service drop for a testing building could be constructed.

Mr. Darmanin explained that the compost facility is scheduled for demolition. In order for the demolition to proceed, FPL needs to remove power from the building and add a new service drop on the perimeter of the property to feed the buildings that will remain. Once the buildings are serviced by the new FPL drop, demolition of the compost facility can proceed.

Mr. Irvine noted that it is in the City's interest to provide the easement, as FPL cannot clear the area otherwise. He did not see that the plans would prejudice any activity the City might want to do in the future.

Abdul Karim, representing the Applicant, confirmed the plans Mr. Darmanin had described: an easement is required to connect the buildings that will remain to the service drop. There is no other right-of-way that FPL could use, and they will not proceed without the easement, which would lie along the west fence line. Mr. Darmanin stated that the area for the easement could not be used by the City for other purposes.

**Motion** made by Mr. Irvine, seconded by Mr. Darmanin, that the Committee recommends approval of this easement as presented. In a voice vote, the **motion** passed unanimously.

Chair Partington stated that this was the last meeting Mr. Terrell would attend after 27 years with the City and eight serving on the Committee. The Committee is extremely appreciative of Mr. Terrell's service over the years, and he will be sorely missed. Mr. Volpi added that the Committee is essential to him, and Mr. Terrell's expertise has been a vital contribution.

Chair Partington continued that Mr. Terrell's replacement on the Committee will be Mr. Sundemeier. Mr. Volpi stated that all members must be now appointed by the City Manager; the Ordinance creating the Committee does not specify the required number of members. Attorney Sarver advised she would look at the Ordinance and determine if any amendment is required for a successorship to occur. She did not think this was the case.

Mr. Sundemeier said he would appreciate the ability to have input on the Committee's review process; whether or not he was a formal Committee member was not important to him. He said he would do whatever the Committee felt was best as long as input from Facilities was maintained.

Mr. Irvine said he felt it was essential that Mr. Sundemeier or another representative from his Department remain on the Committee. Mr. Terrell and Attorney Sarver agreed that Mr. Sundemeier's knowledge would be valuable. Mr. Terrell proposed that Chair Partington send a memo to the City Manager, recommending that Mr. Sundemeier serve on the Committee.

There being no further business to come before the Committee at this time, the meeting was adjourned at 11:23 a.m.