

**UTILITY ADVISORY COMMITTEE
CITY OF FORT LAUDERDALE
CITY HALL 8TH FLOOR CONFERENCE ROOM
100 NORTH ANDREWS AVENUE
FT. LAUDERDALE, FLORIDA 33301
NOVEMBER 25, 2008 – 6:30 P.M.**

Cumulative
January 2008 - December 2008

<u>Committee Member</u>	<u>Attendance</u>	<u>Present</u>	<u>Absent</u>
Bunney Brenneman, Chair	A	9	1
Bernard Petreccia	A	6	4
Robert Caine	P	8	2
L. Thomas Chancey	P	7	3
Robert Cole	P	8	2
Terri Murru	A	8	2
Raymond Parker	P	8	2
Fred Stresau	P	8	2
Debora van Valkenburgh	A	8	2
Claire Vickery	A	5	5
Nathaniel Wilkerson	A	2	8

City Representatives

Peter Partington, City Engineer & Staff Liaison
Bob Dunckel, Assistant City Attorney
Albert Carbon, Public Works Director
Hilda Testa, Recording Clerk, Prototype, Inc.

I. Call to Order

The meeting was called to order at 6:42 p.m., by Robert Caine, acting as temporary Chair in the absence of Chair Brenneman.

II. Roll Call & Announcements

Roll was called and attendance noted. A quorum was not present.

III. Self Introductions

There were self introductions of all members and staff.

IV. Approve Minutes of August 26, 2008 Meeting and October 28, 2008 Meeting

The Minutes of the August 26, 2008, and October 28, 2008 Meetings of the Utility Advisory Committee were not approved as there was not a quorum present.

V. New Business

- **Undergrounding Ordinance/Draft Albert Carbon, Public Works Director**

Albert Carbon, Public Works Director, said that he would be agreeable to return to the Utility Advisory Committee Meeting in January, 2009, if requested. Mr. Carbon advised that Lynn Shatas of FPL was planning on attending this evening, but a close friend passed away.

- **ROW Administration Ordinance Peter Partington, City Engineer**

Albert Carbon stated that the City is in the midst of revising their Right of Way Administration Ordinance, which relates to the way that telecommunications and utilities, both underground and overhead, are placed. He noted that this was a very lengthy document and that Mr. Partington had provided the Committee members with a version reflecting all changes to the Ordinance noted by "underlining." Mr. Carbon suggested that the Committee focus on those portions that are underlined in order to make any suggestions on how to refine those changes.

Mr. Carbon advised that this was being forwarded via the City's IT department because other telecommunication companies are coming in that are not franchised, so there is a need to control where they place their utilities and how they come in. It was suggested that this Committee have an opportunity to review the proposed changes to the Ordinance and to have an opportunity to comment on it before it goes to the City Commission.

Mr. Chancey noted that some portions of the Ordinance were double underlined. Mr. Carbon advised that these marks indicated portions that were being deleted.

Mr. Stresau said that he raised the issue with the City Manager about whether or not Power Systems had a signed contract, and he was told that the contract had been sent to them electronically, the City had signed the agreement and the hard copy was in the mail. Assuming that this is true, said Mr. Stresau, he wondered whether this was something that Power Systems should be looking at as part of their scope of services for studying undergrounding. Mr. Carbon said that Power Services will receive a copy of it.

Mr. Partington added that their first phase and the majority of their work initially will be advising the UAC on the franchise negotiations with FPL. The documents before the Committee this evening are coming about because of the change in the control. Mr. Partington said that cable companies and telecommunication companies no longer have to enter into franchise agreements. Therefore, the City must change their regulations

that control the activity of cable companies, etc., because there will no longer be a franchise mechanism to control their activities. This is the purpose behind the two changes to the Ordinance. Mr. Partington stated that the City is just beginning negotiations with FPL on the franchise agreement, and will hopefully have Power Services advise what things should be requested, what is wrong with the current agreement, how it can be improved, etc.

Mr. Stresau said that he was under the impression that the City Commission in the workshop had put a lot of emphasis on undergrounding and this seems to be headed towards undergrounding. He remarked that two weeks ago, the Planning Staff brought to the Planning and Zoning Board a brand new Master Plan for all of US1 between Sunrise Boulevard and Commercial Boulevard, and no one had even seen it. The Planning Staff commented that the City Commission had already seen the Master Plan and approved it in concept. Mr. Stresau reasoned that the Planning and Zoning Board was to simply "rubber stamp" the Master Plan and commented that he would not like to do that with this Ordinance. He emphasized that if Power Systems has anything to do with undergrounding, they can look through the Ordinance a lot quicker than the Committee members.

Mr. Partington reiterated that IT was being advised by their attorneys, Fowler, Herbst, on this rewrite. Pretty much at this point, he said, this will go to the City Attorney's office and as part of the consultation of this Ordinance revision, input will be taken on this draft of Ordinance changes, and then it will go to the City Commission. Mr. Partington stated that it is necessary to have something in place that will control the cable companies/telecommunications companies.

Mr. Stresau confirmed with Mr. Partington that the City Commission has not seen this at all. The IT Director, said Mr. Partington, would like to get this Ordinance to the City Commission in January or February, but he is aware it must first go to the City Attorney's office.

Mr. Carbon advised that he had given the direction for the City to issue the purchase order for Power Systems this past Thursday, so they should be in place soon.

Mr. Caine asked Mr. Carbon if there were any issues in the Ordinance regarding undergrounding. He responded that pages 16, 17 and 18 relate to the placement of services in the public right of way, whether they are existing overhead, and what constitutes having to go underground. Mr. Stresau asked if this Ordinance could force the providers to go underground, and Mr. Carbon said that it can to a certain extent, but not to the extent that Mr. Stresau is seeking. Mr. Carbon suggested that Mr. Stresau may want to recommend "beefing up" the language in the Ordinance. He said that he had added specific language stating that they have the option to go underground even though there are overhead services.

Mr. Partington said that he would hesitate to conclude that the Ordinance presents more than an opportunity to beef up the undergrounding requirement on other than cable or

telecommunication companies. Mr. Carbon stated that it was the IT Department's mission to talk about telecommunication companies – referred to as the “third party attachers.” Mr. Partington stated that it proposed to change Article III of Section 25, which is the general right of way administration section. Then it indicates that Article X is specific to cable companies.

Mr. Dunckle advised that part of the problem that he saw when reviewing the Ordinance quickly is that this Ordinance was being viewed strictly relating to cable television, and yet there are a lot of other users in the right of way that come into the right of way administration. Referring to page 8, the subparagraph entitled “Mail Notice of the City's Property and Right of Way Committee,” Mr. Dunckel notes that they have taken it away from City Property and Right of Way Committee, and the City Commission specifically wanted this type of an application to go to Property and Right of Way so that the neighborhoods would have an opportunity to find out what was happening. Mr. Dunckel admitted that there is a lot of work to comb through that.

Mr. Partington expressed that it seems that the lid is being lifted on a revision to the right of way administration, and in doing that, it may afford the opportunity to put some language in the Ordinance that addresses more generalized undergrounding objectives.

Mr. Parker commented that in paragraph 25-1.11 it states that existing utilities that are underground must stay underground, and where things are above ground, they are allowed to continue to keep them above ground. However, at such time as other facilities are placed underground, based on such a requirement by the City, all permittees shall likewise place the facilities underground without cost to the City. Mr. Parker noted in the last paragraph that it states, “nothing contained in this section shall require permittees to construct, operate and maintain underground in any ground mounted appurtenances.” Mr. Parker suggested that this last sentence may not even need to be there.

In paragraph 25-1.16, Joint Trench Coordinating, Mr. Parker noted that paragraph (b) states that “if required of other users in the right of way, when permittee installs any new trench or conduit as part of its facilities, the permittee may, at the request of the City or its designee, install at the expense of the City additional space . . . “ Mr. Parker expressed concern that it states “if required of other users of the right of way.” He believed this sounds harsh if you are the one person being asked to do it, but it is unknown when someone will be asked to add additional space, and if no one is asked prior to that, then it may not be required of everyone. Mr. Parker acknowledged that this was as far as he had gone in the document thus far.

- **Other New Business**

Mr. Stresau explained that at the last Planning and Zoning Board meeting there was a property and right of way review of a request for an alley vacation on South Andrews Avenue. The vote was 7-1. There was a question where an alley had been vacated in 1983 on the north end and there was a “T” intersection that was attempting to be created

in order vacate the end of the alley on the south end. There was a very lengthy discussion, said Mr. Stresau.

Mr. Stresau said that a question had been asked as to whether the fire department is represented on the property and right of way committee, to which Mr. Partington responded, "yes." Mr. Partington explained that the fire department only needs to get to fires quickly; they don't need to get away from fires quickly. Mr. Partington explained that the way the Property and Right of Way Committee saw the situation was that the end of that alley was non-functional for decades. The purpose of the turn around was for private users of the alley to have some reasonably convenient way to turn around and exit in first gear.

VI. Unfinished Business

- **Status of Consulting (RFP #3) Contract**

City Staff

This was not discussed.

- **Other Unfinished Business**

Mr. Partington asked Mr. Dunckel what he could do with the two sets of Minutes that had not been approved, and whether he could post the draft Minutes on-line as a record of this Committee. Mr. Dunckel advised that they can be posted on-line, but they should be marked "Draft."

As to the issue of the quorum, Mr. Caine stated that he believed it was being revised to be based on the number of members that a Committee actually has. Mr. Partington said that this is not yet known, as the Commission has asked staff to look at this issue.

Mr. Stresau stated that there were seven Utility Advisory Committee members that had received letters advising that they were being term limited by the Mayor. He said that he had written the City Manager and expressed that the reason the members had stuck it out was because of the huge amount of technical data that had been passed out, which would be difficult to replace. Mr. Stresau further advised the City Manager that it was his opinion that the UAC could not continue to function with seven new members who knew absolutely nothing about this Committee's history.

Mr. Stresau went on to say that he believes this Committee gets sunsetted in December, unless the Commission decides to reestablish the Committee. He mentioned that Chair Brenneman believed that the Commission was going to have a workshop, or a discussion in a workshop, about what to do with this Committee.

Mr. Stresau suggested that if the Commission decides to let this Committee sunset and reestablishes the Committee in February, then they can do anything they wish as far as reappointing new members or keeping some of the old members.

Mr. Partington advised that he was going to be taking an item to the Commission requesting an additional year for this Committee.

VII. Convene Tree Subcommittee TSC Members Only Fred Stresau, Chair

- **Approve Minutes of August 14, 2008 Tree Subcommittee Meeting**

This Tree Subcommittee meeting did not occur.

VIII. Good of the Committee & Announcements

This was not discussed.

IX. Next Meeting – UAC Regular Meeting January 27, 2009 or AS NEEDED

X. Adjourn

With no further business to discuss, the meeting adjourned at 7:06 p.m.