

**UTILITY ADVISORY COMMITTEE  
 CITY OF FORT LAUDERDALE  
 CITY HALL 8<sup>TH</sup> FLOOR CONFERENCE ROOM  
 100 NORTH ANDREWS AVENUE  
 FT. LAUDERDALE, FLORIDA 33301  
JANUARY 27, 2009 – 6:30 P.M.**

Cumulative  
 January 2009 - December 2009

<b><u>Committee Member</u></b>	<b><u>Attendance</u></b>	<b><u>Present</u></b>	<b><u>Absent</u></b>
Bunney Brenneman, Chair	P	1	0
Robert Caine [8:02 pm departed]	P	1	0
L. Thomas Chancey	P	1	0
Chris Chiari	P	1	0
Robert Cole	P	1	0
Dr. William Goetz	P	1	0
Don Larson	P	1	0
Terri Murru	A	0	1
Raymond Parker [6:35 pm arrived]	P	1	0
Frances Smoot	P	1	0
Fred Stresau	P	1	0
Claire Vickery	A	0	1

**City Representatives**

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

**Guests**

Vic Benninate, ATT  
 Lynn Shatas, FPL

**I. Call to Order**

The meeting was called to order at 6:33 p.m., by Chair Bunney Brenneman.

**II. Roll Call & Announcements**

Roll was called and attendance noted. A quorum was present upon the arrival of Mr. Parker at 6:35 p.m.

**III. Self Introductions**

There were self introductions of all members, staff and guests.

**IV. Approve Minutes of August 26, 2008 Meeting, October 28, 2008 Meeting, and November 25, 2008 Meeting**

**Motion** made by Mr. Caine, seconded by Mr. Stresau, to approve the Minutes of the August 26, 2008 Utility Advisory Committee meeting. In a voice vote, this motion was unanimously approved.

**Motion** made by Mr. Caine, seconded by Mr. Stresau, to approve the Minutes of the October 28, 2008 Utility Advisory Committee meeting. In a voice vote, this motion was unanimously approved.

**Motion** made by Mr. Stresau, seconded by Mr. Cole, to approve the Minutes of the November 25, 2008 Utility Advisory Committee meeting. In a voice vote, this motion was unanimously approved.

**V. New Business**

- **Undergrounding Ordinance/Draft Telecommunications Ordinance**      **Albert Carbon, Public Works Director & Peter Partington, City Engineer**

Peter Partington, City Engineer, distributed a summary of the two draft ordinances, which was prepared by the legal consultants for the City. He felt this summary would be helpful to the new Committee members, as well as those existing members that had not yet received the summary.

Albert Carbon, Public Works Director, said that the IT Department had been working on the administration of the right-of-ways, which was parallel to the undergrounding ordinance that this Committee has been addressing. It deals with any utilities that go into the right-of-ways and how they can be controlled, what kind of permits were needed.

Mr. Carbon stated that he had reviewed this draft ordinance and had added some language relating to going underground in new developments. He asked if there were any questions or suggestions.

Mr. Parker referencing 25.116, Joint Trench Coordination, paragraph (b), read “if required of other users of the right-of-way, when permitting installs any new trench and/or conduit as part of its facilities, the permittee **may**, at the request of the City. . . .” Mr. Parker suggested that it say “shall,” rather than “may.” He continued to read, “. . . at the request of the City or its designee, install at the expense of the City sufficient additional space and/or conduct or other related facilities to meet the City’s planned public improvement and infrastructure needs. Permittee **may** make such a trench space . . .” Mr. Parker again suggested that it say “shall,” rather than “may.”

Mr. Parker then referenced 25.120.b, where it speaks of the Permittee restoring the right-of-way and that if it does not restore it within ten days, the City can go ahead and do it

and charge the permittee for it. That section states, "Permittee shall pay the costs, including the costs of labor, materials and equipment." Mr. Parker suggested that it be restated as ". . . including, **but not limited to**, the costs of labor, materials and equipment."

Mr. Partington said that on page 3 of the summary, at section 25.111, it states "This section includes a description of underground installation and assures compliance with underground facilities and locations where other utilities are undergrounded and above ground only where other similar facilities are permitted above ground." Mr. Partington then went to the wording in the proposed ordinance and read, "In areas where facilities are above ground at the time of the permittee's installation, permittee may install its facilities above ground, providing that at such time as other facilities are placed underground, based on such a requirement by the City, all permittees shall likewise place its facilities underground without cost to the City. Nothing contained in this section shall require permittees to construct, operate and maintain underground any ground mounted appurtenances."

Mr. Partington said that he believed this to mean that if someone comes in and everything is above ground, the City will allow them to go above ground again. Mr. Carbon concurred with this explanation.

Mr. Stresau clarified that if FPL goes underground, then the others also go underground. Mr. Carbon stated that if there are existing overhead facilities and the facilities are being upgraded for any purpose, then they can stay above ground.

Mr. Stresau then questioned if a developer were to underground at its own expense the electric lines, what would happen to the other utility providers' lines. Mr. Carbon said that in such a case, everything else would have to go underground, and the developer would have to pay for this as well. Mr. Carbon explained that this was only within the right-of-way.

Mr. Parker asked if the last sentence in that paragraph was needed which states, "Nothing contained in this section shall require permittees to construct, operate and maintain underground any ground mounted appurtenances." Mr. Dunkel explained that he believed the language of the last sentence to be necessary, since someone might construe the ordinance as requiring the above ground mounted facility to be undergrounded. Or, Mr. Carbon said, within the City's right-of-way. Mr. Carbon stated that this Ordinance would only regulate the City's right-of-way.

Mr. Caine recalled that this Committee had discussed the desire to have facilities put underground when the power company was upgrading overhead facilities, and to have an ordinance in place which would require such undergrounding.

Mr. Partington advised that the City's ordinance has to be changed with respect to cable and video services, as they are no longer franchise holders. He then read from page 1 of the summary.

Mr. Chiari added that the City is attempting to correct the ordinance without altering the current rights of use and authority. So the intention as to the right-of-way use is that it remain the same as written in the ordinance, but that the rest, as relating to television and cable, needs to be amended to address State statute.

Mr. Carbon said that once one of the utilities goes underground, the others follow. He stated that as far as water works or any street resurfacing, there are no provisions for putting utilities underground at the time of such work occurring. In fact, this ordinance says that if you are going to put conduit underground, make sure there is enough for everyone, in order to plan for future needs.

Mr. Chiari referenced the Florida Consumer Choice Act, and asked whether cable and phone providers were going to piggyback on each other's lines, or whether a major increase is expected in the number of permit applications to lay new conduit.

Vic Beninate, ATT, said that this is being put in presently in a lot of cities. He said that in some cases the existing facilities can be used, and in most they have to be enhanced with more cable. Mr. Beninate added that this also provides employment for a lot of people.

Mr. Stresau asked if there could be four or five lines overhead to serve different utilities. Mr. Beninate said it was the same now as it has always been. He explained that on an average street, the top three lines will be the power, in the middle will be the cable line, and below that will be the telephone line.

Mr. Chiari asked if there was a timeline that the City Commission expects to devote to these ordinance changes. Mr. Carbon said that right now the IT Department does not have a set date to bring this forward.

Mr. Dunckel expressed that the way this ordinance has been written, it seems that it is totally out of whack with the State, to which he does not necessarily agree. He added that it has been quite some time since anyone has come to the City to register for a new permit.

Mr. Partington stated that in the past there were one or two people who expressed an interest to register so they could potentially submit permits, but they have never submitted an actual permit application.

Mr. Dunckel said that to the extent there would be gross friction between the City's ordinance and the Act, the Act would trump the ordinance and his directions to Staff would be to follow the State Statute, even though inconsistent with the ordinance.

Mr. Stresau asked if it would make sense for the Commission to pass something on first reading and get it working. Mr. Carbon said that the urgency is not there, but that it was important to make sure it was complete first.

Mr. Stresau said that his concern was that there are a lot of things that are discussed and written, but never get enacted. Mr. Dunckel explained that this ordinance was not drafted by the City Attorney's office, but instead by telecommunication attorneys. He suggested that the Committee be mindful that when speaking of telecommunications, the lines are blurred. He recalled that ATT used to provide telephone service, and now they are in the cable business. There is such an intertwining and overlapping of services.

Mr. Dunckel stated that ATT was marvelous to work with on the ordinance regarding the above ground cabinets.

Dr. Goetz asked whether it was appropriate or relevant to require an upgrade of what goes into the conduits, such as fiber optics. Mr. Dunckel stated that he did not believe this can be done, consistent with the Act.

Mr. Partington reiterated that the City cannot regulate the telecommunication companies in such a way that would add to their costs, or in any way that would determine what they would have to charge. Therefore, if the City wrote things that would add to their costs, then this would be challengeable under the Act. Mr. Dunckel stressed that there was a very delicate balance there.

Chair Brenneman asked Mr. Caine if he had any additional questions or comments, since he was the person behind this matter being brought before this Committee. He recalled that his concern related to upgrading, as well as a concern that the City was not taking advantage of an opportunity to go from overhead to underground when doing major roadwork and/or utility work. Mr. Caine said that he believed what he was hearing is that this ordinance does not address either of these concerns. As such, Mr. Caine stated that he had no further comments.

Mr. Chiari voiced that this ordinance was not created at the urgency of city leaders to underground our utilities, but was actually a reaction to State statute change, to which Mr. Caine agreed.

Mr. Partington commented that the undergrounding initiative has had various approaches and efforts over the last few years, some of which have been discussed in detail in front of the City Commission. At the moment, there are consultants advising the Committee and Commission on (1) the renegotiation of the franchise agreement, and (2) any residential neighborhoods that are interested in undergrounding should work closely with consultants. The undergrounding should be brought about by means of assessment. Mr. Partington believed this to be challenging for all neighborhoods because the funding has to be raised up-front.

Mr. Chiari expressed a desire to schedule a workshop for all new members to come up to speed on undergrounding issues as well as other issues. Mr. Dunckel stated that the methodology is spelled out by the Public Service Commission (PSC) and, therefore, the City is not provided a lot of latitude.

Mr. Caine provided a brief summary of the history of undergrounding with this Committee. Mr. Partington explained that the City Commission has said that they will not put money into undergrounding from the City's own resources, but instead expects neighborhoods to assess themselves for that cost. This is the current City Commission policy position, but it does not mean that this will not change. In addition, Mr. Partington stated that the undergrounding is not mandatory.

Mr. Caine further explained that there will be an additional cost to get the wires from the street to the houses, which will be a significant cost. There will also be the issue of the older houses having old electric panels, which are not up to current code. The result is a significant cost to each homeowner to get the service from the street to their house and then to the panel.

Mr. Dunckel added that Comcast and ATT needed to be included in the undergrounding scenario, and that the cost of their undergrounding must be added to the overall cost of undergrounding.

Lynn Shatas, of FPL, advised that FPL would be glad to put lines underground, but the cost of doing so will have to be paid by whomever requests that they be placed underground. She said that an individual or neighborhood can do this with FPL and pay for it themselves. A free pall park estimate will be given by FPL. If the neighborhood is serious about going forward, they will be charged an engineering cost which will be applied to the underground cost. At that time, a firm estimate will be provided.

Ms. Shatas recalled that recently, following a hurricane, the PSC noted that people wanted to go underground and asked what incentive there could be for that. They agreed to allow 25% of savings if it could be shown that there was a particular criteria, such as an entire neighborhood going underground. In addition, the process must go through the City to qualify for the 25% incentive.

Ms. Shatas explained that the standard for FPL and the PSC is overhead. If there are high winds, it is quicker to repair the overhead than an outage which occurs underground. In some cases, there was a lot off water, keeping from repairs occurring underground.

**Motion** by Mr. Chiari, seconded by Dr. Goetz, to schedule a Workshop for the Utility Advisory Committee.

Mr. Stresau said that he would be willing to sit down for 2 or 3 hours, perhaps on a Saturday morning, which he felt would be beneficial. He did not, however, want to spend 2 or 3 hours and have only a few people attend.

Mr. Caine questioned if such a Workshop would be mandatory, as he would rather not attend. Chair Brenneman opined that it would be best to have it open to everyone, but that not everyone would be available.

Mr. Cole suggested that the meeting be informal. Mr. Dunckel stated that no formal action could be taken at such a Workshop, but that it would simply be an exchange of information. He further advised that under the Sunshine Law, the meeting would have to be noticed, minutes would have to be taken and, as such, there would be a cost to be borne for taking and transcribing the minutes.

Mr. Partington advised that he has arranged for a representative of the consultants to attend the next Utility Advisory Committee Meeting. Dr. Goetz opined that this would be all the more reason to get the new members up to date at a workshop before the next UAC meeting.

A discussion then ensued as to when it would be best to schedule the Workshop.

Mr. Partington advised that he personally had a strong preference for holding the Workshop in the evening, and that the weekends are not good for him. He also recalled that within the last 9 months, the Utility Advisory Committee had been provided with a briefing on the history of the various initiatives to underground.

Chair Brenneman noted that 5:30 p.m. would be the earliest time acceptable to everyone.

Mr. Chiari said that he wanted to go back and define the purpose of the Workshop. He expressed that the purpose was not to have presentations from the different businesses that do business with the City, but that the intention is to get a better understanding of what has been accomplished on this Committee.

Mr. Dunckel said that the discussion today began with the topic of undergrounding. He advocated that all three utilities (FPL, ATT and Comcast) are all major players in the category of undergrounding. Mr. Dunckel contended that to understand the topic from their perspective, that would help get the new members up to speed with the rest of the Committee.

Mr. Chiari stated that all presentations that were previously made would be readily available within prior minutes. Mr. Cole agreed that the Workshop should be a small informal meeting; but that it has now grown into a public formal meeting in which everyone must attend. Mr. Cole expressed that he believes this was not Mr. Chiari's intent. Chair Brenneman agreed that it would not have to be a formal meeting, but instead could be a workshop.

Mr. Partington recalled that, as stated above, 9 months prior he gave this Committee a summary of the City Commission's initiatives and actions in this area.

**Amended Motion** by Mr. Chiari, seconded by Dr. Goetz, to hold a Workshop for the Utility Advisory Committee on a date to be determined. Upon voice vote, the motion was approved unanimously.

Mr. Chiari proposed Saturday, February 21, 2009, at 8:00 a.m., to hold the informal Workshop. Mr. Beninate stated that he was not available at 8:00 a.m., but could be available at 11:00 a.m.

**Motion** by Mr. Chiari, seconded by Mr. Stresau, to hold the Workshop of the UAC on Saturday, February 21, 2009, beginning at 8:00 a.m. Upon voice vote, the motion was approved unanimously.

• **Brief Discussion of Committee Members**                      **Chair Bunney Brenneman**

Chair Brenneman advised that the five remaining members of the original Utility Advisory Committee are Mr. Stresau, Mr. Cole, Mr. Chancey, Ms. Vickery and herself. Chair Brenneman stated that Mr. Chancey and Ms. Vickery did not receive notice of this meeting. Thus, they should not be marked as absent. She understands that each of these five members will continue serving on this Committee, if they wish to continue to serve, until the appointing Commissioner replaces them.

As to quorums, Mr. Dunckel explained that the City's rule has always been that someone appointed to a board or committee continues to serve until their replacement has been approved. The rule for attendance by board/committee members is that they can be removed from a board/committee if they have four absences in a calendar year (as opposed to a fiscal year).

Chair Brenneman said that the Clerk's office could not reach Mr. Larson, who is newly appointed to this Committee and who did not receive notice of this meeting. Thus, he should not be marked as absent.

Chair Brenneman stated that the Green Expo is scheduled for Saturday, April 25, 2009, starting at 8:00 a.m., in Stranahan Park.

[Mr. Caine departed 8:02 p.m.]

Mr. Partington said that the Public Information Office (PIO) is getting very anxious about the budget for the Green Expo. Chair Brenneman responded that she had spoken with them just this morning.

• **Election of Chairman and Vice Chairman**

Mr. Stresau nominated Bunney Brenneman as Chair of this Committee. Finding no other nominations, Mr. Stresau moved that the nominations be closed. Chair Brenneman accepted this nomination.

Mr. Parker nominated Fred Stresau as Vice Chair of this Committee, said nomination seconded by Mr. Chiari. Mr. Stresau accepted this nomination.

- **ATT Billing – Concerns of Residents**

**Vic Beninate, ATT**

Chair Brenneman advised that she had received calls from residents as to an item listed on their ATT billing statement. Item 13 lists an international connectivity charge of \$1.00. People want to know why they are being charged \$1.00 per month for something they claim they have never used. Mr. Beninate explained that if he could be provided with a bill with the circled item, he could then address the item.

- **Update Line Maintenance**

**Lynn Shatas, Area Manager, FPL**

Ms. Shatas requested email addresses for the newest members so that documents can be provided via email. She explained that for some time she has been sending information quarterly as to when line clearance would be performed in the Fort Lauderdale neighborhoods. Ms. Shatas stated that there are two types of lines which are cleared: (1) feeder lines, which are the main lines, and (2) the laterals, which are behind homes. Appropriate individuals within the City are notified, i.e., City vegetation employees, Commissioners, City Manager, and anyone within the City who gets calls about line clearance. Then a letter is sent to the appropriate civic association letting them know when line clearance will be done. Then a letter is sent to the homeowners being impacted about 2 weeks in advance, and then a few days prior to line clearance, door hangers are left for homeowners. Ms. Shatas expressed that this has worked out well, as it gives homeowners an opportunity to call vegetation management if they have any questions about the scheduled clearance. She advised that line clearance is done for reliability and safety.

Mr. Chari inquired as to pole maintenance and whether there was a schedule for such maintenance. Ms. Shatas advised that poles are continuously checked for maintenance and/or replacement.

Mr. Stresau added that when FPL shows up in your yard to conduct line clearance, they will hand you a form, entitled "Tree Work Authorization," which advises what work will be done and requires that the homeowner sign the form.

- **Pole Removal by FPL and ATT**

**Lynn Shatas, FPL**

Ms. Shatas said that she was asked to explain the process that takes place when there are duplicate poles and transfers. As FPL goes about their daily business, if poles are seen that are bad and need to be replaced, they will be scheduled to be done. After the last hurricane, FPL got approval from the PSC to conduct a pole inspection by an outside contractor, looking at old wooden creosote poles first, as they are the oldest poles. FPL works very closely with ATT, because ATT owns a good majority of the poles. When a pole needs to be replaced, FPL coordinates the transfer of facilities through the National Joint Utility Notification System (NJUNS). They identify who owns the poles, and the owner must then replace the pole. When a new pole is put in, it is placed as close to the old pole as possible. FPL transfers their lines first, then Comcast then ATT. It is difficult to say how long this process will take.

Ms. Shatas advised that she spoke with the Service Center, and was advised that FPL will do a true-up within the next couple of weeks. Poles throughout all of Broward County will be checked to see what yet needs to be done, and then FPL will request money for budget purposes, so they can go ahead and finalize the project.

Chair Brenneman stated that the Mayor referenced orphan poles, which occurs when the 3 lines are moved and poles are left with no wires attached. Ms. Shatas says that this is something which will also be addressed.

Chair Brenneman then broached the subject of poles in sidewalks. Ms. Shatas explained that FPL follows the ADA standards. She said that sometimes poles are already in place and the sidewalks are put in after the poles.

- **Other New Business**

There was nothing to discuss.

#### **VI. Unfinished Business**

Chair Brenneman referred to a handout which was recently provided by Betty Crews, which came from Mayor Naugle about the Gainesville utility relating to net metering. She suggested that everyone read the handout. This will most likely be placed on the March Agenda. Ms. Shatas offered to bring David Bates back to speak about what is going on in Tallahassee, to talk about renewables and net metering. Chair Brenneman asked that he be invited to attend the UAC meeting in March, 2009.

#### **VII. Good of the Committee & Announcements**

Chair Brenneman stated that the consultants are scheduled to attend the UAC's February meeting, and that the ATT billing concern will also not be placed on that Agenda. Ms. Shatas will invite David Bates to attend the March, 2009 Meeting. Mr. Stresau suggested that the consultants' presentation be placed at the very beginning of the meeting, so they will not have to sit through the UAC's housekeeping matters. Chair Brenneman agreed to do so.

#### **VIII. Next Meeting – UAC Regular Meeting February 24, 2009**

In addition, a Workshop has been scheduled for February 21, 2009, at 8:00 a.m.

#### **X. Adjourn**

With no further business to discuss, the meeting adjourned at 8:27 p.m.