

**UTILITY ADVISORY COMMITTEE WORKSHOP
CITY OF FORT LAUDERDALE
8TH FLOOR CONFERENCE ROOM
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA 33301
FEBRUARY 21, 2009 – 8:00-11:00 A.M.**

<u>Committee Member</u>	<u>Attendance</u>
Bunney Brenneman, Chair	P
Robert Caine	A
L. Thomas Chancey	P
Chris Chiari	P
Robert Cole	P
Dr. William Goetz	P
Don Larson	P
Terri Murru	A
Raymond Parker	A
Frances Smoot	P
Fred Stresau, Vice Chair	P
Claire Vickery (arr. 8:35)	P

Staff

Bob Dunckel, Assistant City Attorney
Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

I. Opening Remarks and Schedule (Brenneman)

Chair Brenneman called the meeting to order at 8:10 a.m. Roll was called and attendance taken.

There were self-introductions of all members, Staff, and guests. Chair Brenneman informed the Committee that guest Trevor Underwood would join today's workshop. He has lived in Fort Lauderdale since 2005 and has addressed the Committee in past years regarding the City's infrastructure. He has proposed in the past that the City take control over its infrastructure for local distribution of electricity and telecommunications.

Chair Brenneman requested that Vice Chair Stresau serve as a timekeeper for today's meeting in order to adhere to the schedule, particularly with regard to Agenda Item 5.

She also noted that the Committee members with the most seniority were herself, Vice Chair Stresau, Mr. Chancey, Mr. Cole, and Claire Vickery.

Chair Brenneman explained that Liaison Peter Partington had prepared a list of the items he had discussed in the subcommittee meeting of the UAC, including a briefing note about the history of City Commission decisions regarding undergrounding. She referred the Committee to the briefing note at this time, as well as to other documents provided for reference, including a copy of an RFP discussed at the January 30, 2009 special meeting and a copy of the FPL Franchise Agreement.

Each document is relevant, she advised, because it reflects the City Commission's decisions and policies as well as the franchise agreement itself. She encouraged the Committee to look these documents over at another time to familiarize themselves, as they would be touching on the materials for the workshop "very rapidly."

She explained that from 8:00-10:00 a.m., the Committee Review would follow the schedule closely. From 10:00-10:10 a.m., there would be a brief break, followed by questions and general discussion until 11:00 a.m. She reiterated that at all times, today's workshop would follow this schedule.

II. Purpose of Workshop (Stresau)

Vice Chair Stresau provided a review of the City's regulations regarding Committee members' conduct. He noted in particular that while City Attorney Dunckel had pointed out the need to allow for public discussion, no members of the public were present. He added that should any members of the public join today's workshop, time would be allowed for their input during the period of general discussion.

He pointed out that the schedule limited discussion to an allocated number of minutes, explaining that in order to conclude the workshop on time, there could not be unlimited discussion. This was another reason that handouts were provided for reference, so Committee members could refer to them at a later time. Vice Chair Stresau added that the City has public records of every meeting, as do he and Chair Brenneman. The chronological list of Committee Agendas could provide a point of reference, should any members wish to locate these materials for additional information.

He informed the members that the UAC was formed in 2002 following a discussion at a town hall meeting between a group of Victoria Park residents and the City Commission. The City Commission had appointed the initial Committee as a forum for further discussions of this nature. It was originally known as the FPL Citizens' Advisory Board. Today's meeting will touch on what Vice Chair Stresau, Chair Brenneman, and Mr. Cole felt were the highlights of the Committee's discussions over the years.

Regarding future discussions, Vice Chair Stresau stated that he felt it was important to adhere to today's schedule and make a list of any items that were unfamiliar to the members, or anything they felt warranted further discussion, on a future agenda.

III. Legal Issues (Dunckel)

Assistant City Attorney Bob Dunckel provided an overview of the Sunshine Law, which he noted was of importance not only in the City's daily governmental operations, but was a Constitutional matter in the State of Florida as well.

He read a portion of the law for the Committee's benefit, explaining that the Sunshine Law breaks down into three separate components: meetings of public boards must be held in public, reasonable notice must be posted, and minutes must be kept. Any public officer violating these tenets may be found guilty of a non-criminal infraction, punishable by fine. Attorney Dunckel pointed out that this is not limited to "knowing" violations, so an unintended infraction is also considered a violation of law.

Any Board or Committee member who knowingly violates this regulation is guilty of a second-degree misdemeanor, he continued.

Meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, gender, origin, color, or economic status, or which unreasonably restricts public access to the facility. Attorney Dunckel added that a recent case had led to a ruling that a bus inspection tour violated the Sunshine Law, although this violation was rehabilitated by being discussed at an open meeting. This is a way in which a violation may be rectified, he explained, if a formal vote is held "in the sunshine," in accordance with the law.

For the City, the Sunshine Law applies to City Commission meetings, advisory board and committee meetings, and in some cases, Staff meetings, such as the DRC, where official action is taken on applications. It is not applicable to homeowners' associations or the Council of Civic Associations, which are private entities. It also does not apply to the Federal government, or the Governor and Cabinet when they perform functions "pursuant to the Constitution." The State legislature is also not subject to the Sunshine Law, as they have their own rules of governance and must be open to the public.

The Sunshine Law extends to discussions or deliberations, as well as any formal action taken by a board. A quorum is not necessary to make the Law applicable: it applies to any gathering, formal or otherwise, in which two or more members of the same board discuss a matter upon which action may be taken in the future.

Mr. Chiari asked if, for example, one of the issues to be discussed today arose during a dinner with another member of the Committee. Attorney Dunckel described this as a "close call," as it could be a generic issue or could reasonably appear on a future agenda. He advised that the more specific such a conversation may be, the closer it comes to violating the Sunshine Law. A more general discussion is less likely to result in an infraction.

Dr. Goetz requested a definition of "official action." Attorney Dunckel clarified that this is a vote or any other action taken by a board that is intended to go forward. An example of something not considered official action, he offered, would be discussion during a break.

Mr. Chancey asked if the Law extended to, for instance, reporting a downed tree to another member. Attorney Dunckel asserted that this would not violate the Sunshine Law; however, if a meeting with regard to the particular location of the downed tree was coming up for the Committee, it could be a violation. He advised that the best way to handle this situation would be to communicate the concern to the Committee's Staff Liaison instead. While discussion between two board members was a violation, discussion between an individual board member and Staff does not result in an infraction.

Dr. Goetz asked if two members, asked to collect information for a committee presentation, would be in violation. Attorney Dunckel confirmed that this could be a violation, as it affects potential future action by the committee. He added, with specific regard to subcommittees, that persons appointed to a subcommittee must also give notice, open the meeting to the public, and take minutes. Subcommittees for any board may only be formed with the permission of the City Commission.

He stated that the Law is not limited to action that may be taken, but includes all deliberations leading up to why it is ultimately taken. The essence of the Law, he asserted, is that the public is entitled to know what is being done.

Ms. Vickery joined the meeting at this time (8:35 a.m.).

It was noted that a useful rule for remaining within the Sunshine Law was if a member asked himself the question of whether it was a violation, the best course of action was not to proceed with the discussion or other action he was deliberating.

Mr. Larson asked if the posted notice of a meeting must cover a specific time frame – for instance, three days' notice. Attorney Dunckel clarified that the Sunshine Law "anticipates reasonable notice," which is judged in light of the meeting's particular circumstances. He added that the City Attorney's Office

generally finds three days' notice acceptable, although under emergency circumstances, 24 hours' notice could be seen as reasonable.

Dr. Goetz asked if a meeting between a board member and a secretary arranging a schedule fell within the law. Attorney Dunckel reiterated that generally, meetings between board members and Staff do not violate the Law; however, an infraction would occur if the Staff member is utilized to be a "conduit of information" to other board members, such as if a member and the Liaison had a conversation that the Liaison chose to share with one other member.

An example cited in materials on the Sunshine Law, he noted, is when a City Manager meets with elected officials to discuss items on a meeting's agenda. Were this to become a "succession of meetings" with individual officials, however, it would violate the Law, as deliberations are occurring which may affect the final decision.

Mr. Stresau advised that while the Sunshine Law is an important item of discussion, the meeting should advance through its agenda and return to questions on this topic at a later time.

Attorney Dunckel advised that he would cover one further item with respect to the Law, which involves written communications. One-way communications may occur: for example, a board member may send a one-way email to another member, or even to the entire board. If there is response or other interaction, however, it violates the Sunshine Law.

He continued that "reasonable notice" usually anticipates the creation of an agenda; however, an agenda is not mandated under the Sunshine Law. The Attorney General's office advises that if an agenda is not created, information with regard to the subject matter to be discussed should be provided.

He noted that the Better Meetings Academy Handbook suggests that discussions falling outside the agenda should not be held; however, the Attorney General feels some digression is acceptable. Attorney Dunckel described this as a "judgment call" between a board's Chair and legal counsel, depending upon how far a discussion digresses from the actual agenda.

Regarding conflict of interest, he stressed that members must vote upon every matter that comes before the board, without the option of abstention, unless there is a clear conflict of interest. He read a portion of the statute addressing this issue, which includes "gain or loss" to oneself, a business or organization represented, or a relative. This statute precludes "participation" in a discussion or a vote, as it is not allowed for an abstaining individual to attempt to influence a member of the committee by verbal or written communication.

Attorney Dunckel allowed that conflict of interest is usually found in bodies such as the Board of Adjustment, Planning and Zoning Board, or City Commission, as opposed to a board or committee such as the UAC.

He concluded by referring the Committee to the Better Meetings Academy Handbook, which is included in the information packet. This Handbook includes the Conflict of Interest Form that must be filed if a member must recuse himself from a vote. He added that while the Handbook may describe the Sunshine Law more strictly than is actually required, it is generally considered the standard by which City business must be conducted.

Vice Chair Stresau recommended that if Committee members have not previously attended a Better Meetings Academy, they should take the opportunity to attend.

IV. Reference Handouts (Stresau)

Vice Chair Stresau directed the members to the reference items contained in their packets, although he noted that they were not necessarily in chronological order as included.

He noted that the list of past agendas contains a brief summary of what occurred during each year. The Listing of City Records/Agendas/Minutes is also available on the City's web site, although he pointed out that they are only posted as far back as 2002. He and Chair Brenneman affirmed that they personally have minutes for nearly every committee meeting during their tenure, with very few exceptions.

Vice Chair Stresau explained that this handout contains the agenda for every meeting of the past seven years, and are contained in the packet, listed by year. He affirmed that this list was "100% complete."

Ms. Vickery commented that she had received some examples of minutes from past meetings via email, and asked how these were selected to be sent to members. Vice Chair Stresau responded that these were from some of the Committee's most important meetings, and would be referenced during today's workshop.

He added that the list of UAC reference materials was first assembled as a summary report to the City Commission, as the Committee, when first established, had only been appointed for one year.

There is also a record of the UAC's actions or the City Commission's actions during their workshops, their conference agendas, or their public meetings. It

reflects the City Commission's position at any given time in the past regarding the issues brought before them.

The packet's final item is a Scope of Services for power systems. Vice Chair Stresau advised that this was the last item because the Committee's upcoming meeting on February 24, 2009, would include a presentation from power systems, including conversation about the franchise agreement. He added that this might be a reasonable item to focus discussion on following the workshop's break, along with the Sunshine Law.

Vice Chair Stresau concluded that the handouts could be reviewed in further detail later on, should members be interested.

V. Historical Overview Outline (Brenneman)

Vice Chair Stresau remarked that Chair Brenneman would touch on each item included in this list "as briefly as possible" and save much of the discussion about them for later on in the workshop.

Chair Brenneman explained that in 2002, the Committee was originally named the FPL Citizen Advisory Committee. The Liaison assigned to them at the time felt the best way to move forward was to break into three subcommittees: the Special 17th Avenue Issue Subcommittee, the Tree Canopy Subcommittee, and the Infrastructure Subcommittee.

She added that as the subcommittee names have changed over time, she would refer to them by the names they held during the point in their history being discussed.

She continued that the issues on 17th Avenue, which included the oak trees in Colee Hammock, were resolved in the first year, and the subcommittee was sunsetted at the end of that year, as it had completed the mission outlined in its scope of work.

The Tree Canopy Subcommittee submitted draft guidelines at the end of the year, which are included in the main report that is part of the information packet. It has been given additional duties by the City Commission over the years; Chair Brenneman noted that over time, it became known as the Tree Subcommittee. It has completed various assignments, such as palm tree removal or the Oakland Park Boulevard tree removal; it often works with the City's Urban Forester.

The Infrastructure Subcommittee serves two purposes: it helps with selecting sites for substations, and takes care of poles and lines that handle local distribution.

Chair Brenneman explained that every UAC member is asked which subcommittee he or she would prefer to belong to, the Tree or the Infrastructure Subcommittee. If they wish, they may belong to both. Subcommittees are scheduled by Chair Brenneman and Vice Chair Stresau, in conjunction with Mr. Partington, and are compliant with the Sunshine Law, with notice posted and minutes taken. They are generally scheduled back-to-back, at 3:00 and 4:00 p.m., not to exceed one hour each, save exceptional assignments, she noted.

The UAC meets the 4th Tuesday of each month (except for December) at 6:30 p.m. The Tree Subcommittee meets as needed; the Infrastructure Subcommittee, while still in existence, may go as long as a year without a meeting. Vice Chair Stresau chairs the Tree Subcommittee and Chair Brenneman chairs the Infrastructure Committee.

Dr. Goetz requested clarification on whether the subcommittees may make recommendations that deal with topics other than those assigned to them by the City Commission. Chair Brenneman confirmed that this is true, as they may cover topics other than strictly those with which they are tasked by the City Commission. She added that the Subcommittee would make recommendations to the UAC and business would move forward from that point.

She recalled that a citizen had appeared at a UAC meeting to express displeasure with the downtown substation, and the Tree Subcommittee had taken action upon this issue. The UAC at large had endorsed the Tree Subcommittee's recommendations and moved forward from that point. She added that the Tree Subcommittee is the "workhorse" subcommittee beneath most of what the Committee accomplishes.

Chair Brenneman noted that the Infrastructure Subcommittee had also originated guidelines for siting of substations, working together with the Tree Subcommittee where necessary.

The City Commission endorsed the FPL Citizen Advisory Committee's final report with all its original recommendations, and the Committee was renamed the Utility Advisory Committee. Chair Brenneman noted that while it is possible to belong to multiple committees in the City, an individual may only belong to one board, which led to the group's being named as a committee.

She continued that undergrounding issues had arisen in the Committee's first year, specifically on Coconut Isle; there is a list of 13 neighborhoods interested in undergrounding, which is chronological and is being studied by the City's Engineering Department. Each neighborhood on this list is at a different stage in this process.

FPL has agreed to partner with an undergrounding authority, and to contribute a 25% discount toward this process, Chair Brenneman noted. The discount is only available to municipalities and only if the neighborhood agrees to it. She advised that this will be discussed in greater detail at a later time.

FPL also performs maintenance and line clearance, and provides quarterly reports to neighborhood associations' presidents when this work is scheduled to begin in their locations. Chair Brenneman felt this shows a great deal of progress in negotiations with FPL.

She continued that the Committee has sent out three undergrounding and utility Requests for Proposal, which are solicitations of bids for contract work. The third RFP has finally gone to contract with power services.

The franchise agreement, a copy of which is included in the information packet, originated 30 years ago; there were originally multiple agreements, but the one to which the Committee will refer is with FPL. Cable and telephone service providers are no longer included in the agreement. The current franchise agreement stands through October 31, 2009.

Chair Brenneman ceded the floor to Mr. Underwood at this time.

Mr. Underwood emphasized that the coming expiration of the franchise agreement will be the City's greatest, and possibly only, opportunity to take control of its own infrastructure. He felt the Committee should remain highly focused on this issue. Undergrounding of telecommunications facilities will be a possibility at this time as well; if the City controls these services locally, they may rent out the grid to suppliers of the various services, causing greater competition. FPL's current franchise agreements will not expire, but extend into perpetuity, which limits the City's ability to control the infrastructure, should the contract be renewed.

Vice Chair Stresau explained the term "municipalization," which in this case refers to the opportunity for the City to take over the existing electrical system from FPL. He noted that Mr. Underwood has appeared before the City Commission to discuss this issue; the report on his presentation to that body is included in the information packet.

Mr. Chiari asked if the franchise agreement, and its potential renewal, was public knowledge. Vice Chair Stresau advised that this will be covered in greater detail at the Committee's upcoming regular meeting.

Chair Brenneman stated that the scope of work for consulting services agreement, which is included in the packet, was issued through the City Engineering Department at the direction of the City Commission. The scope is

very limited in comparison to past documents. Vice Chair Stresau emphasized that the Committee members should familiarize themselves with before the upcoming meeting so they could be “all on the same wavelength” in terms of what FPL would present to and ask of the Committee at that meeting.

Attorney Dunckel touched upon the Regulation of Telecommunication and Right of Way, stating that the legislation was passed two years ago; with its passage, many of the controls that the City had previously reserved with regard to cable and telecommunications services were preempted by the State of Florida. They still retain some “marginal regulation” of the use of the public right-of-ways with regard to AT&T, but it had to be done on a non-discriminatory basis.

He recalled that this had first come to the City’s attention when a large utility box was placed in a public right-of-way. Over the course of approximately nine months, the City developed an ordinance and partnered with AT&T to regulate the size, location, and limited camouflaging of these boxes.

He added that there have been no ongoing difficulties with AT&T, noting that that corporation’s ability to lobby outweighs any such power the City might have. He felt it has been to the City’s benefit that the corporation has “worked cooperatively” with them.

Chair Brenneman added, for the benefit of the Committee’s newer members, that Ms. Vickery was also among the original five individuals who began as the FPL CAC.

She continued that the reason the historical perspective had been provided is to show that this was not a typical board or committee for the City, but one that has performed thousands of hours’ work on various items during the past seven years. Many of the items listed in the information packet have been completed; others are ongoing. New items often arise as well. She recommended that the old agendas be studied for an overview of the Committee’s work. If more information is needed, she noted that further discussion of the old business on past agendas could be added to the agenda of the March or April 2009 meeting. She encouraged the members to familiarize themselves with the original substation guidelines, among the other reports included in the packet.

Chair Brenneman also pointed out that the City Commission has given the Tree Subcommittee the responsibility of increasing the City’s tree canopy; in addition, they have taken on the responsibility of the Committee’s “educational component,” which resulted in the production of a display called *Homeowners and Trees*. It is specific to the City of Fort Lauderdale and differs from the similar FPL publication *Right Tree, Right Place*.

She concluded that the membership of the UAC is very proud of the work that it has accomplished. They have done more work than could have been expected of a committee that was originally formed with the intent of functioning for only nine months, she said.

VI. Workshop Topics

Mr. Cole opened with a discussion of undergrounding utility lines. He pointed out that it is important to remember that the Committee doesn't always agree on all the topics they cover.

As most of the City is served by overhead lines, he explained that typically this means a utility pole is located on the edge of a right-of-way, with power, telephone, and cable serviced by that pole. FPL owns most of these poles, although some are owned by AT&T; there are agreements between the various companies that use these poles. As there are thousands of miles of roadway in Fort Lauderdale, there are thousands of miles of utility lines as well.

Mr. Cole pointed out that most underground installations are occurring in newer subdivisions; these utilities are not located in the right-of-way, but in an easement adjacent to the right-of-way, usually 5-10 ft. away. This is because public rights-of-way are operated by the State, County, or City roads, which control not only the utilities, but sewer and water lines as well. The City can have utilities moved from the right-of-way at the expense of the providers; there have always been concerns about locating utilities in a public right-of-way because of the potential for this expense. Utilities located in an easement, by comparison, must be moved at the City's expense.

He moved on to the undergrounding attempt by Coconut Isle, which is an instance in which "everyone was willing to pay" for this, but it has still not been accomplished, for various reasons. FPL did not want to put their lines in a particular location, since it would have to be moved at their expense, should moving ever become necessary. There was also the question of locating transformer boxes outside the street, at a specific distance from the pavement. An easement would place these in a homeowner's yard, and homeowners were unwilling to have this done. The cost of connecting to houses with underground lines was another consideration, as new lines would have to be laid between the transformers and the boxes. In addition, the existing panels might not be compliant with current electrical code. This meant there would be not only the expense of switching to underground service, but the cost of upgrading these panels as well.

Mr. Chiari noted that while there is discussion of the difficulties of undergrounding various services, telephone and cable was not a concern to him when a hurricane had disabled his power. He asked if the discussion could focus on

undergrounding electricity only, as it was the primary concern; in addition, he wondered if primary corridors, rather than the neighborhoods, could be undergrounded.

Mr. Cole stated that FPL's concern following a power outage was to repair what would bring the most homes back online at one time: for instance, if they could fix a single point and bring 5000 buildings back online, as opposed to a point that brings back two buildings, the point serving the greater area would be their choice.

The difficulty with undergrounding electricity only, he advised, is that FPL owns the poles, which hold more than one utility, as previously noted. If power went underground, someone else would need to purchase the poles. There has also been discussion of putting major lines underground. The situation, however, has never been resolved.

Mr. Cole also noted that if a pole is disabled by a storm, it is easily identifiable, but if the damaged line is underground, it must first be located, which is much more difficult. He explained that flooding issues can cause underground outages.

He referred to the 17th Avenue issue, which had prompted the creation of the Committee: FPL had proposed to run a transmission line from Sunrise Boulevard to Las Olas Boulevard in order to "beef up" the grid. What eventually happened was that poles were raised above the height of the trees, which covered the street.

While there has been discussion of undergrounding all the City's lines, Mr. Cole doubted that this would be accomplished. The possibility of undergrounding major thoroughfares had been raised by the City Commission at one point as well, but presently only one area of downtown Fort Lauderdale has been undergrounded. Ms. Vickery remarked that aesthetic concerns also played a role in this case, as the poles servicing some transmission lines were 90 ft. in height.

Mr. Larson noted that lines are typically installed at 30 in. below grade; however, if trees are downed during a hurricane, these lines can be ripped up by roots. There is also the concern of adding underground power lines to the lines already below ground, including water or sewer lines.

Dr. Goetz stated that while these are valid concerns that accompany undergrounding, he had never been presented with statistics on how often these disturbances, such as tree roots causing outages, actually happened. Ms. Vickery advised that the Committee had seen some statistics of this nature, and they could be found in the minutes of past meetings.

Chair Brenneman thanked Mr. Cole for leading the discussion of undergrounding, and moved on to the Subcommittee discussion.

She advised that the Sistrunk substation, also referred to as the “downtown” substation, should be viewed by any Committee members who were unfamiliar with it. The Committee had been advised that it should site another part of the downtown area for substation construction; FPL had indicated that of four additional substations they felt were necessary, one should be located in this area. Chair Brenneman continued that there is a pre-selected site, and FPL has been “land-banking” in conjunction with real estate development.

Vice Chair Stresau noted that the Tree Subcommittee often ends up dealing with problems of this nature: for example, there had been months of discussion of the need for another substation, but City Commissioners had cited the need to change the appearance of the Sistrunk substation before creating another. Vice Chair Stresau explained that the Sistrunk substation is “of 1930 vintage,” with very tall equipment inside its perimeter.

Mr. Cole added that this substation has multiple functions, including switch operation for several transmission lines.

Vice Chair Stresau emphasized that no matter what its functions, the substation is not likely to be altered in appearance. The Tree Subcommittee has attempted to learn what could be done, and eventually prepared the best possible landscape plan, although the presence of underground lines caused reluctance to dig on the facility. The solution was implemented to an extent by the Parks Department, along with additional street replanting along 5th Street and 7th Avenue.

In contrast, the Infrastructure Subcommittee had reviewed at least two potential sites for another substation, one of which is now “Orchid,” located in the Tarpon River community behind Southside School. Vice Chair Stresau asserted that this is a “low-profile” facility that resembles a building.

Mr. Chiari added that new technology has been used in installing the low-profile equipment, and the other fixtures required to facilitate a substation are hidden behind lighted and windowed walls. He felt this was one of the UAC’s most significant accomplishments.

He also cited a substation near the Fort Lauderdale Airport, which was a fenced facility. Providers had not wished to add landscaping to the substation area, due to the potential damage caused by leaves blowing into its equipment. After negotiating with the Committee, a site plan was developed that included a buffer of landscaping. He was not aware of whether this had been built, he noted.

Vice Chair Stresau added that the Tree Subcommittee had also been involved with the Palm Removal Program, which had discovered that when palm trees were cut to clear lines, their tops would grow back into the wires in a matter of months. The Subcommittee had recommended that the Parks Department accompany FPL crews to study the areas to be cleared. The eventual solution had been to relocate several palm trees, with the homeowners' cooperation.

He noted that there is a current project underway with the help of the Tree Subcommittee, with the intent of educating the public about planting trees in the rights-of-way under utility lines.

Vice Chair Stresau encouraged the Committee's newer members to select one of the two subcommittees once they had had the opportunity to find out which issues interested them in particular.

He noted that an issue currently facing the Tree Subcommittee is a request for trees to be planted in some rights-of-way, which the City's Engineering Department does not feel is an appropriate decision, as the roots can interfere with underground power lines, telecommunication equipment, and other utility lines. Vice Chair Stresau noted that while this decision has been given to the UAC by the City Commission, he felt that some decisions should ultimately fall to the City Commission and not the Staff to make.

Chair Brenneman added that the Tree Subcommittee, in conjunction with the City's Urban Forester, Gene Dempsey, had created displays to educate homeowners on the proper trimming of trees in the City, and that trees located on their property are their responsibility. Items in the swales in front of properties may or may not be the responsibility of homeowners, as the City's regulations in this respect are not uniform among all neighborhoods. She noted that there is similar variance among neighborhoods regarding the presence of sidewalks and streetlights as well.

She continued that the *Homeowners and Trees* display will also depict photographs of both good and bad examples of tree maintenance, and will note the recommended species of trees for homeowners.

The displays will be available to all homeowners' associations and at all City festivals and events. Chair Brenneman described the displays as "interactive" and "changeable," as they are mounted on Velcro and the photographs may be moved. She reiterated that these were part of the UAC's mission to educate the City's residents, and contained additional information made available through the UAC's partnerships with utilities such as AT&T, Comcast, and FPL. Representatives from these organizations often attend meetings on behalf of the partner companies.

She described relations between the Committee and these partners as collegial, at the same time emphasizing that they are not Committee members and are not allowed to vote on issues.

Vice Chair Stresau noted that some representatives of the partner organizations take positions that are the same as their franchise's. On the other hand, he described a situation that had occurred with AT&T during the past eight months in which that provider had begun placing electronic and computer boxes in rights-of-way and easements. When they began placing these in landings as well, the issue came before the City Commission and has resulted in several meetings with AT&T representatives; it was recommended that the company cooperate with the City, and with the Committee in particular, as they became unable to obtain the necessary permits to bring power to these boxes. Vice Chair Stresau recalled that it had been suggested that AT&T bring in a landscape architect to find ways to disguise the boxes' appearance and make them less objectionable to the neighborhoods. Once this was accomplished, the situation had resulted in a meeting to develop a standard for reducing the visual impact of the boxes.

Attorney Dunckel added that while he was not entirely in agreement with the use of the term "partners," the City's work with AT&T on this issue had resulted in a "dramatic change" in that company's corporate relations with municipalities. The provider had ultimately felt it was more productive for business relations to work with the City than to continue to put in boxes where they were considered objectionable.

Mr. Chiari asked if this meant the Committee, by being open to working with major utility providers, created a level of reciprocity with the providers and a culture in which they were more amenable to the City's wishes. He added that he would like to see Fort Lauderdale "lead the way" and set this example.

Chair Brenneman noted that it was suggested by both AT&T and FPL to act as partners after these companies had worked with the City to resolve issues. She asserted that this is why the UAC's relationships with these providers is referred to as partnership. She recalled that at an earlier point, an AT&T representative had plainly stated that they had no interest in working with the City; relations had come a long way since that time.

Mr. Chancey advised the new members that the basic changes they might have noted in the past six years are "all based on design" and visual impact, such as the look of utility boxes, or the tree canopy. He added that a great deal of input from private citizens dealt with what they did or didn't want to see.

Ms. Vickery stated that even the cities that have municipalized have ended up partnering with utilities.

Mr. Larson felt it is imperative to keep Committee meetings open to utility representatives in order to keep lines of communication open with the companies.

Chair Brenneman reiterated that while the term “partners” could not be used in the legal sense to describe the UAC’s relationship with providers, it was intended to denote a collegial relationship.

The Committee took a brief break at this time.

Chair Brenneman called the workshop back to order and the Committee resumed discussion, moving on to the Water Storage Tank.

Mr. Cole explained that this was another example of an issue in which the Committee became involved, as a water storage tank was proposed to be placed in a particular area. He noted that this was a very large ground-storage tank proposed to be placed on Progresso. The UAC took the neighborhood’s concerns into account and worked to have a tank constructed that the residents found acceptable. The site plans the Committee recommended, he added, were greatly improved over the plan originally presented. The project has not yet been implemented.

Vice Chair Stresau continued that the Committee had found out that pump stations were being replaced in rights-of-way in front of homes; these were very large steel obstructions that, in some cases, disrupted the homeowners’ frontage access. The UAC discussed the issue with the Waterworks 2011 committee, as well as with a City consultant; it was eventually discovered that the pump stations were designed for simple access, rather than with an eye for their appearance in neighborhoods. It was finally decided that Waterworks 2011 would have the stations re-engineered and changed at no cost.

He explained that items such as this one were included on the agenda so the new Committee members could get an idea of the projects the UAC had worked on in the past.

Mr. Cole, speaking about the FPL Power Plant, pointed out that there are two such plants in the area, one in the City and one just outside. He explained that at one time the turbines at the plant located inside Fort Lauderdale ran on diesel fuel, which contains significantly higher sulfur content and can potentially increase the sulfur dioxide and other diesel-related contaminants in the air. The Committee had several discussions with FPL regarding their fuel source; eventually they had agreed to use a lower-sulfate fuel.

It was noted that construction of a plant is underway in Port Everglades.

Chair Brenneman advised that the Florida Department of Environmental Protection had discussed the issue with the UAC at one point. She referred the new members to the January 2004 agenda and minutes, noting that FDEP representative Trina Villauer spent two hours discussing the issue with the Committee. The facility is grandfathered in; although "scrubbers" have been added, the emissions were still not at a level with which the Committee was pleased.

Mr. Chancey added that he had taken a particular interest in the issue, as he lived downwind of the plant. He commented that there is another plant near the Sistrunk area.

Mr. Cole stated that his preference would be for natural gas, and alluded to a natural gas line that had been proposed to run to the City from the Bahamas. This effort had not, however, ultimately been approved by the government.

Mr. Chiari recalled that this project, known as the Calypso Project, had built upon the Bahamian Project, which was the original effort to run a natural gas line from the Bahamas. When this was turned down, Calypso reapplied for a permit for the pipeline, as they felt they could tap into an underground asset that had already been approved. However, Governor Crist had attended a recent Town Hall Meeting to assure residents that this was not a project he would approve.

Chair Brenneman asserted that an environmental impact statement and Coast Guard commentary on the Calypso Project had already been completed, and one more public meeting is mandated in order for the application process to be considered complete. No date has been announced yet for this meeting.

Chair Brenneman continued that from the date on which the final public meeting is held, the Governor has 45 days to approve or veto the project. She reiterated that he has stated he would not be in support of the project in question.

She added that Calypso did not fall within the purview of the Committee; however, the City Commission has officially gone on record to recommend that the Governor veto the project.

Chair Brenneman moved on to discuss Round Table Public Presentations. She stated that the Committee had held three such presentations, in successive years, with experts from all parts of the country. The purpose of these meetings had been educational. She referred the newer members to the minutes of the Round Tables to learn more about the speakers and issues.

The most recent Round Table was on the issue of municipalization, which Chair Brenneman stated had built on the information shared during the first two such meetings.

The Committee's next educational mission has been the Green Energy Expo, which was held in 2008; she added that they are in the process of working toward Green Energy Expo II, which will be held on April 25, 2009, from 8:00 a.m.-3:00 p.m. in Stranahan Park. Eleven City Departments plan to participate and discuss their newest green programs, and the Public Information Office will hold a press conference as well. She felt these initiatives showed that the City was "leading the way" for its residents, as well as the rest of the County, in going green.

Vice Chair Stresau requested that Mr. Underwood give a brief overview of municipalization, including the definition of the term and the costs involved, in advance of the upcoming regular meeting.

Mr. Underwood stated that rather than the current system, which featured ownership of the City's infrastructure and telecommunications by various monopolies such as FPL, AT&T, and Comcast, the proposal for municipalization would prevent one provider from having a "stranglehold" on local distribution. He clarified that this does not refer to ownership of power stations, but specifically to how utilities and telecommunications are distributed throughout the City.

As these cables run beneath the roads, and the roads are owned by the City, Mr. Underwood asserted that the utilities should also be considered public goods, and the roads seen as a system of economic distribution. Building on this model, the economic analysis of municipalization states that utilities could be publicly owned and rented out to various suppliers through a competitive process.

Mr. Underwood continued that he had analyzed the way in which municipalization might be financed, and noted that currently the monopolies are making "monopoly profits," with attempts to regulate this having little effect. He estimated that the providers are currently costing the City 20% more than they should be getting. He suggested having an authority owned by the City issue a bond that would amortize over, for example, 30 years. The cash flow could be obtained by setting a rental rate for the suppliers to use the facilities already in place. As the City would have absolute control over the facilities, the income would be guaranteed. A cost analysis of the premium, he noted, works out to be less than the premium the monopolies are currently getting. This means the cost of a particular utility would go down instead of up, as the process has become more competitive.

Mr. Underwood asserted that in addition to bringing control back to the City, municipalization would also allow the use of new technologies, such as solar paneling, under rules set by the City and not the current providers. The City could move forward with incorporating green technologies to a much greater extent. He added that as the electricity comes down central transmission lines, which are

controlled by the Department of Energy, access must be granted to different clients.

He proposed two models: the City could initially purchase its electricity from FPL, or from other suppliers instead. At issue, he advised, is monopoly control of the distribution system. One way in which municipalization could be done would be through an electrical or telecommunications distribution authority that purchased and undergrounded the existing lines.

He concluded that while Phase 3 has not yet been sent out for RFP, once the first two phases are addressed, municipalization can be addressed as well.

Mr. Chiari asked if the potential acquisition cost of \$300-\$600 million would purchase both the current infrastructure and pay for undergrounding. Mr. Underwood stated that he had referred to various technical studies of undergrounding done elsewhere in the State, as well as figures from other locations where municipalization had been done "in some form or other." He felt his cost estimates were possibly on the high end of the spectrum, which could make the program easier to finance.

With regard to issuance of a bond, the income would be "guaranteed" as everyone must pay their electricity bills or have their service disconnected, he explained.

He added that naturally the large providers, such as FPL, would be unhappy with the possibility of municipalization; however, Mr. Underwood pointed out that this is the only time that the City will have this option, due to the upcoming franchise renewal.

Dr. Goetz asked if the City would need to purchase the above-ground infrastructure. Mr. Chiari asserted that the City would need to "become the absolute owner of every layer of wire" within its boundaries; the right to use this wire would then be leased out to suppliers to bring services into homes. This meant, he clarified, that any power producer operating in the country could become the City's customer.

Dr. Goetz followed up by asking why the above-ground lines must be purchased if the City planned to underground the wires. Mr. Underwood explained that the undergrounding would take place progressively once the above-ground wires were purchased by the City.

Chair Brenneman advised that the RFP's Selection Committee, led by Mr. Partington, had been very clear that they wanted a "team approach" to the discussion coming up at the meeting scheduled for Tuesday, February 24, 2009.

Consultants from outside the City would be present at this meeting, including four members from the power services team.

The first phase of the meeting would be conducted by resident attorney Schef Wright, Chair Brenneman continued, who would discuss the franchise agreement in detail. The second phase would include Gregory Booth, President of Power Services, as well as another "locally based" member of the team. The third phase would cover field operations and what has been done to date, and the fourth phase would be discussed by all these representatives.

Chair Brenneman requested that all Committee members prepare a list of questions to bring to this meeting, as well as to provide input. The scope of work and specs of the RFP will also be discussed.

Vice Chair Stresau stated that all members should have received the February 24 meeting agenda by email; in addition, a handout was provided at the workshop regarding Power Systems Scope of Services. He suggested reading the Phase 1 Scope of Services and the franchise agreement in preparation for the meeting. Undergrounding was discussed as part of this documentation.

There is a clear separation between FPL and the other major utility providers such as AT&T and Comcast, Vice Chair Stresau continued; should the City be able to underground FPL's services, he noted that he had never been informed how this might coordinate with AT&T and Comcast, who would still use overhead lines. FPL is required to keep its own lines clean, but is not asked to perform this service for other utilities. Vice Chair Stresau commented that he had witnessed very little cooperation between these providers in the past.

Mr. Underwood advised that he would be unable to attend the February 24 meeting, but pointed out that one way to convince the various utilities to use an undergrounded and possibly municipalized system would be to make its price more attractive than the cost of purchasing and maintaining the existing poles. He hoped that this possibility might be raised at the meeting in his absence.

Chair Brenneman made a correction, advising the Committee that most of the existing poles are not owned by FPL, but by AT&T, in the Fort Lauderdale area.

Vice Chair Stresau felt the workshop should revisit the topic of ethics, as Attorney Dunckel had not concluded this discussion earlier.

Mr. Chiari requested clarification of the Sunshine Law with regard to the scenario of a Chair and Vice Chair meeting to create an agenda. Chair Brenneman stated that this task is done by the Chair and the Liaison; Attorney Dunckel noted, however, that other Committee members may, at any meeting, ask that an item be placed on an upcoming agenda, so they are not shut out of this process.

Vice Chair Stresau added that any Committee member may meet with Staff to discuss an issue; the potential for infraction occurs if this issue is discussed in the presence of another Committee member. Attorney Dunckel advised that if a member is acting on behalf of, for example, a subcommittee during a discussion with Staff, that member represents the Committee and the meeting should be posted, opened to the public, and have minutes taken.

Vice Chair Stresau pointed out that the City Clerk's Office generally frowns upon funding any additional meetings such as these. Attorney Dunckel agreed that he had discussed this budgeting concern with the City Clerk's Office.

Mr. Chiari thanked the more experienced members of the Committee for sharing its history with the newer members at today's workshop, adding that it provided him with a clearer idea of what has been accomplished in the past. He noted that he came to most issues from the perspective of a consumer advocate; however, his business experience also made him sensitive to the need for a profit. He concluded that he can see the benefit of the UAC working in partnership with the utility companies. He felt the City has an opportunity to serve as a model in this capacity.

He asked if the Committee's original scope had been updated since its inception to include green or other initiatives. Chair Brenneman replied that the scope of their responsibilities had not changed. Mr. Chiari then asked if it might be possible to include such language in an updated mission statement for the Committee.

Mr. Dunckel advised that any such update of language could be perceived as an expansion of scope as well, when viewed in contrast to the original statement.

Vice Chair Stresau referred the Committee to the January 28, 2003 meeting minutes, which include the "purpose and duties of the Utility Advisory Committee." He continued that on the October 21, 2003 agenda, the goals for the Tree Subcommittee are outlined.

Chair Brenneman added that the August 2003 and January 2004 meetings also include the scope of the Committee, as well as the goals for the upcoming year.

Vice Chair Stresau referred the Committee specifically to the statement: "... and to perform such duties as may, from time to time, be requested by the City Commission." He explained that if they wish the City Commission to authorize the addition of duties or initiatives, the Committee must first meet and discuss the proposal fully.

Mr. Chiari asked if the Committee will see the report on Phase 1 before the February 24 meeting. Chair Brenneman advised that this report will not be provided to the Committee, but to the City Commission.

She continued that Mr. Underwood's report will be made available to the Committee, and will be included as an exhibit in the actual presentation at the February 24 meeting. Attorney Dunckel advised that Mr. Underwood must first send the report to Mr. Partington's office, and he will distribute it to the Committee members to avoid any infraction of the Sunshine Law.

Dr. Goetz asked to whom he should submit his questions for the upcoming meeting. It was clarified that these should be sent to Mr. Partington.

The workshop was adjourned at 11:15 a.m.

[Minutes prepared by K. McGuire, Prototype, Inc.]