

FINAL
UTILITY ADVISORY COMMITTEE
TREE SUBCOMMITTEE
CITY HALL 8TH FLOOR CONFERENCE ROOM
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA 33301
THURSDAY, JUNE 11, 2009 – 3:00-4:00 P.M.

Committee Members Present

Fred Stresau, Chair (arr.3:27 p.m.)

Bunney Brenneman, Vice Chair

Staff

Gene Dempsey, City Forester, Parks & Recreation Department

Mike Fayyaz, Assistant City Engineer, Public Works Department

Jennifer Picinich, Recording Secretary, Prototype, Inc.

Guests

Lynn Shatas, Area Manager, FPL

Wade Jollimore, Vegetation Management Supervisor, FPL

I. Call to Order

Vice Chair Brenneman called the meeting to order at 3:15 p.m. No quorum was present.

II. Roll Call

Only Vice Chair Brenneman was present at this time, although she noted that both Chair Stresau and L. Thomas Chancey were expected.

III. Self-Introductions

Self-introductions were made by members, Staff, and guests.

Vice Chair Brenneman advised that she had received a call from Mr. Chancey, who had believed the meeting to begin at 4:00 p.m. She suggested that the Subcommittee meet again “sooner rather than later,” and schedule a meeting within the next two to three weeks to follow up.

Mr. Dempsey agreed with this suggestion, as the meeting is to determine a display. He recommended scheduling a monthly meeting of the Subcommittee, or perhaps “every other week.”

Vice Chair Brenneman noted that the display board is the primary Item on the meeting's agenda; the other Item is a proposed new system for marking the trees to be handled by FPL's Vegetation Management Department.

The following Item was taken out of order on the Agenda.

VI. New Business

- **Review of Proposed Designation System for Professionally Cared-for Trees**

Ms. Shatas advised she had addressed this plan with Mr. Jollimore, who is the Vegetation Management Supervisor at FPL; she explained that he would need to speak to this issue, as it would not be "a local thing."

Mr. Jollimore added that the suggested plan is "a proposed process," and would need further formalization if they wished to proceed with it. He would need to take the plan to his manager, as well as to FPL attorneys, and then possibly to the Public Service Commission. This is because he is obligated to maintain facilities, and this obligation could not simply be relinquished to another party.

He stated that he understood what the Subcommittee is attempting to accomplish with the proposed plan, which could be "a great system" for those people who wish to maintain their trees; however, he pointed out that there are many people who won't take this step. Vice Chair Brenneman agreed, and noted that it was the Subcommittee's conclusion as well.

Mr. Jollimore continued that for those who do wish to maintain their trees, the process should be formalized in a fashion that is "almost a contract." The individuals must realize the statutes, tariffs, and "things at stake" in entering into such a process, as it would be simple for individuals to assert they wish to maintain their own trees and then fail to follow through with the effort.

He commented that safety and reliability are at stake for a great many people with regard to line maintenance, and if an individual wished to take this accountability onto himself, he must fully understand what is involved. They would need to set forth a document, or "some sort of process," that he could take to FPL and present as a workable plan.

Mr. Fayyaz recalled that Chair Stresau had proposed using an existing FPL form for the process, with FPL's permission. Mr. Jollimore explained that forms of this nature are geared toward specific processes, such as a form for tree removal, for instance. He believed the form in question is a refusal form, which is used when a property owner denies FPL access to the trees on his property in violation of

State statute. This form lists that property owner's accountabilities for refusing FPL the right to work.

Vice Chair Brenneman did not believe this was the correct form the Subcommittee was proposing to use. Mr. Jollimore noted that this could also be the tree removal form, which is used when a property owner, for example, wants a specific tree removed and wishes the agreement to be formalized in writing.

Mr. Fayyaz recalled that the form in question states a homeowner's responsibilities in the event he does not wish FPL to "touch" his tree.

Mr. Jollimore explained that a form used for the proposed new system could not be this same form, as it would require modification. He felt the prospective form would need to contain "much more wording" to ensure the customer understands what is at stake, including all the dangers involved. While the form the Subcommittee has suggested might be an appropriate starting point from which to "build" a new form, modification would still be necessary.

He added that this would be necessary to protect both FPL and the City, as "a lot of liability" would be at stake if an unqualified individual attempted to maintain trees in the vicinity of power lines.

Vice Chair Brenneman advised that the term the UAC had used in discussing the proposed system was "certified arborist." Mr. Jollimore pointed out that while certified arborists would be familiar with tree-related work, they would not necessarily be knowledgeable about working near power lines. Further certification, such as from the National Utility Advisory Board or the National Arborist Association, would be necessary to ensure the responsible individual has received electrical hazard training. Knowledge of voltages and clearances would be necessary, through certification and/or experience.

He reiterated that before allowing a non-FPL party to do work of this nature, he would need to see appropriate documentation.

Mr. Dempsey asked if there are companies in the area with the correct certification. Mr. Jollimore agreed that there are such businesses. Mr. Dempsey suggested creating a list of these companies so the homeowners would know the choices from which they could choose, which Mr. Jollimore felt would be "a great starting point."

He pointed out that the contractor represents only one side of this issue; the other side is the responsibility and awareness of the homeowners regarding what is involved in maintaining their tree(s). They should understand that continual maintenance is necessary rather than a single visit from a contractor. Mr. Jollimore felt this should be stated in the prospective contract as well.

He added that FPL's attorneys would insist upon such a clause, and noted that the company has never entered into an agreement to relinquish maintenance of their facilities with any other city.

Mr. Fayyaz stated that the UAC seemed to be in agreement with Mr. Jollimore on "everything you say" with the exception of the form. Mr. Jollimore reiterated that FPL does not have a form exclusive to this issue, but they do have a refusal form. Vice Chair Brenneman asserted that the Subcommittee understands this document would require modification.

She asked that those present consult their calendars to discuss the two Items on today's Agenda in the future.

Chair Stresau joined the meeting at this time (3:27 p.m.). Mr. Fayyaz and Mr. Jollimore brought him up to date on the discussion thus far.

Chair Stresau felt it was a good thing that the prospective plan and document could go before the Public Service Commission, as he believed they should hear "firsthand" that the homeowners who take the time to maintain their trees ultimately have "no control over what [FPL does]."

Mr. Jollimore agreed that some City residents trim their trees; his concern, however, is that if a person is given the ability to maintain trees, that individual will not be similarly able to maintain FPL's facilities. He also expressed concern that homeowners could maintain their trees in a manner that would not ensure sufficient clearance, and safety and liability issues could ensue.

Vice Chair Brenneman asked if FPL wants "three-year clearance." Mr. Jollimore replied that this was not necessarily the case, depending on the contract. Chair Stresau added that depending upon the species of tree, the necessary clearance may vary.

Mr. Jollimore continued that three years is FPL's "feeder cycle" for main lines; lines in, for example, the back yard of a house might be on a six-year cycle.

Chair Stresau offered the example of a tree near his house that had grown "back up into the power lines" within six months of being trimmed by FPL, but recalled Mr. Chancey's statement at a UAC meeting that FPL should "properly" trim the trees back instead of "butchering" them.

Mr. Jollimore acknowledged that there are some varieties of tree that are difficult to maintain even for six months, such as palms; this necessitates FPL's "[coming] back on separate tickets" to maintain the lines. He asserted that some individuals

who elect to maintain their own trees might think five ft. of clearance is sufficient when the tree actually requires 10-15 ft.

He returned to the discussion of the form, which he described again as "inadequate" but felt could be "built upon" to develop a more thorough document.

Chair Stresau asked if Mr. Jollimore could present the prospective plan "up to the top" at FPL and learn if the problem can be resolved. Mr. Jollimore explained that FPL is "fine with the work we're doing now," and if the Subcommittee wished to advance the process, they would need to work with FPL.

Vice Chair Brenneman stated that what the Subcommittee wants is "happy residents" who will no longer "panic" at the sight of contractors' trucks in their neighborhoods. Mr. Jollimore felt this reaction was "the exception to the rule." However, Vice Chair Brenneman asserted that, as President of a homeowners' association, she receives calls of this nature on a regular basis.

Chair Stresau noted that he receives similar calls, but felt these reactions were not from "the people we're talking about." Instead, the UAC want the focus to be on individuals who take responsibility for their own trees. He felt this would affect less than 100 individuals in the entire City, and pay approximately \$1000 annually to have their trees properly trimmed.

Mr. Jollimore agreed that these are the individuals the Subcommittee and FPL should focus on.

Mr. Dempsey asked what FPL and/or the Subcommittee would need from the City, such as a resolution from the City Commission, to "get the ball rolling" on this issue. Mr. Jollimore stated the Subcommittee and FPL should work together to create "some sort of draft form" that suits both entities' needs.

He felt any serious homeowner with a proper understanding of FPL's needs, clearances, and standards, who wants to hire a qualified contractor to maintain their trees, should be allowed to do so; his concern was that some individuals might wish to "sign up for" the agreement simply because they didn't wish FPL to trim their trees, and then would not follow through with their responsibilities.

Ms. Shatas asked what the Subcommittee's suggestion would be for moving forward.

Chair Stresau admitted there are some issues he was not sure how to approach, such as what might happen to a previously well-maintained property if its owner moves away and the trees are no longer trimmed.

Vice Chair Brenneman stated that her homeowners' association has a disaster plan, which is a "covenant" between the property owner and the association: door hangers are placed on their doors, either requesting help or stating that the property owner is all right. She added that these homeowners must sign a form stating that should the house be sold, the form and its instructions would pass to the new homeowner. Chair Stresau pointed out, however, that this is not a binding document that ensures the new homeowner will maintain the property in the same manner.

Mr. Dempsey noted that the agreement might be administered as an "annual contract"; the City could hold an annual workshop, which could be attended by any interested parties, explaining what is necessary for a homeowner who signs the contract.

Mr. Jollimore suggested a pilot program for the prospective contract. Vice Chair Brenneman recalled that pilots had been done with other programs, such as palm removal and use of specific parking spaces.

Chair Stresau asked how FPL directs the contractors who carry out its tree-trimming, including where the crews will work, which lines will be addressed, and how lines are selected for the "list" of lines to be worked upon.

Mr. Jollimore advised that this is an issue in the process of changing, as FPL tries to "get better at it." He acknowledged that there have been difficulties in past years that involve not knowing specifically where crews plan to work. Once a schedule is created, Mr. Jollimore meets with a supervisor on a weekly basis to lay out where the crew expects to work every day; while this does not necessarily mean "the exact street," he pointed out that he would know which feeder lines are being addressed.

He continued that there are three different management areas, two of which are in Fort Lauderdale and its surrounding areas, and five general foremen. He is aware of their schedules from this time until the end of the year, including which circuits and feeders they will work on. For 2010, he added, there will be additional technology, such as GIS, that will "help plan our vendors' work." This will mean a more active role in planning out the work and assigning it to the contractors, rather than a contractor taking the work order and planning the schedule on its own.

Chair Stresau estimated that if, for example, there were 250 houses in the City that were paying to have their trees professionally maintained, and Mr. Jollimore was provided a letter stating as much, a GIS could alert supervisors to these homes when work is being planned. Mr. Jollimore agreed, although he cautioned that GIS implementation is not expected to begin until next year.

He added that this could mean identifying the locations that professionally manage their trees on each work unit; then the prospective document would be pulled, and the homeowners would be called beforehand to confirm that the same owners are on the property and are still maintaining their trees.

Chair Stresau asked what FPL's position would be if the house in question had been sold. Mr. Jollimore felt this would void the contract. Mr. Fayyaz remarked that this would be an example in which annual registration of the contract would be useful; Vice Chair Brenneman agreed that to the homeowners who felt the issue was sufficiently serious, annual registration would not be a difficulty.

Mr. Jollimore added that the contractors' agreements with FPL were previously "production based." Presently, however, they are given a "firm schedule," and they may finish all the necessary work earlier than expected, at which point they are not sent out again.

He stated if the process can be mapped out adequately, a pilot program could be established.

Vice Chair Brenneman asked how individual homeowners who manage their trees could be identified. Chair Stresau supposed this information could be gained from the tree contractors, or from responses to postings of the prospective pilot program on online information boards.

Vice Chair Brenneman continued that a "paragraph or two" would need to be drafted to go out to "the appropriate people," advising them of the pilot program's existence and informing them of how they may register to participate. Chair Stresau and Mr. Jollimore agreed that the first priority is to ensure homeowners understand the basics of the responsibility they would be undertaking.

Mr. Jollimore felt the first step would be to create the appropriate form. Chair Stresau noted that he was "particularly intrigued" with the form he himself had signed, as it was numbered and therefore easily identifiable. Mr. Jollimore indicated that the form to which the Chair referred is the tree removal form.

Chair Stresau asked how familiar FPL is with the City's layout. Mr. Jollimore replied that one of its arborists receives the "buffer maps" for homeowners' associations, which enabled him to identify sections of the City. Vice Chair Brenneman added that these maps, provided by the homeowners' associations themselves, are based upon the City's and the individual homeowners' input to the association. He commented that this information can be added to FPL's existing information as a "layer."

Ms. Shatas pointed out, however, that one concern is FPL's reluctance to show where all facilities are located, due to security concerns. Chair Stresau explained

that his intent is for FPL to use the associations' mapped information inside the City.

Mr. Jollimore pointed out that FPL currently lacks software that would allow them to run files sent by the associations; they will be receiving this, however, in 2010. He added that the HOA maps are used to the best of their ability.

Mr. Fayyaz stated that the City has begun its own GIS system based upon FPL's original maps, and did not believe the two systems differed widely. He advised that the City's program is available online at no charge.

Chair Stresau noted that it is particularly helpful for each lot or parcel to be identified by number, through which the homeowner's name, address, and telephone number could be accessed, even though the lot number on the map is not the address itself.

Mr. Jollimore felt the initial focus should be on the nature of the contract with the homeowner. Mr. Fayyaz suggested that he "bring some language" for the document to the UAC, who would begin working on it, so Mr. Jollimore could include the language he wished to see in the form. Chair Stresau agreed, suggesting that FPL could "lay down...ground rules."

He added that while individual homeowners might not know exactly what should be done, they would hand the form over to the arborist or contractor they hired, who would understand how they are directed to trim the trees. Mr. Jollimore stated that the document should also inform the homeowner that if the trees are not trimmed, there will be consequences.

Chair Stresau proposed including the option of having FPL, or its contractor, remove the tree altogether if that is the better option, such as in cases where the tree in question is a palm. While removal may be more expensive, it could also reduce the chance that the tree could cause problems later on.

Mr. Jollimore advised that currently, FPL would not be willing to take on this cost, as tree removal is "targeted" – for example, there are so many "problem palms" that other trees are not often identified for removal.

He pointed out that FPL has a form geared toward tree removal, and felt this might be a good starting point: he would put together what he feels is necessary verbiage from FPL's point of view, and ask that the City add wording that advises homeowners that they must have the tree(s) in question trimmed or face a citation of some kind. FPL's wording could include a clause informing the homeowner that if the tree remains untrimmed and interrupts the line, they are responsible for the outage and may end up paying what it costs to bring that line back into service.

Chair Stresau stated that if Mr. Jollimore prepared a preliminary form, this would be a good starting point; he felt they should place a time frame on the process, perhaps over "a couple of months." He felt someone should also meet with members of the Engineering Department to learn if the City's and the utility's software could interface. Mr. Fayyaz offered to give Mr. Jollimore contact names in this Department.

Mr. Jollimore noted that Ms. Shatas has shared the maps provided by the UAC with Vegetation Management, which have proved to be useful. He added that Fort Lauderdale is the only City that shares their maps with the utility, which proves "very helpful" in identifying individuals according to their neighborhoods or homeowners' associations.

He felt all the necessary aspects of a successful pilot program were available, and he would begin with the paperwork.

Ms. Shatas advised that FPL is working with Mr. Dempsey on critical infrastructures, such as hospitals and the feeder lines that serve them, and has identified some palms that are "in direct conflict" with these. She wished to make the Subcommittee aware that FPL would be working with the City on this issue in the future.

Chair Stresau felt if FPL at least "[starts] down this road" and begins garnering results for critical infrastructure, it would be easier to approach the City Manager and present what has been accomplished between the utility and the UAC. Mr. Jollimore agreed that this is "exactly our goal," and reliability cannot be guaranteed with trees growing into feeder lines.

Ms. Shatas agreed to provide a report on the critical infrastructure issue at the next scheduled UAC meeting. Chair Stresau indicated that he wished this report to be presented at a Committee meeting rather than at a Tree Subcommittee Meeting, so the information will be included in the minutes for the City Commission to read.

Mr. Jollimore also felt this would be valuable considering that there are customers who refuse to allow FPL to touch their palm trees, which then necessitates going back to the customer to negotiate and explain why removal is necessary.

He added that there is a statute with wording that allows FPL to "take trees in the easement." This isn't often executed, as it is not fair to the customer; however, they would like to start being "firmer" with customers, and deal with problem trees immediately without letting issues "drag on." He felt the City might be convinced

to partner with FPL on how to deal with private customers who refuse to allow tree removal.

He added that Mr. Dempsey is very helpful in this regard, and will often attend or send a representative when negotiations ensue. Chair Stresau noted that this is because Code Enforcement is at issue, and a problem tree must be addressed if it jeopardizes "health or safety," according to the Landscape Code. He pointed out that this removes the issue from FPL's hands and puts it in terms of the City's Code Enforcement.

He stated that a single contact with a recalcitrant homeowner should be sufficient for FPL to turn the issue over to the City. Vice Chair Brenneman added that she felt it might be a good idea to speak with Mike Maloney, Director of Code Enforcement, so he could assess the best course of action for these situations and help establish a precedent. She suggested that Mr. Dempsey also receive information from this meeting.

Ms. Shatas proposed setting up a meeting with Code Enforcement at which Mr. Dempsey would also be present. Chair Stresau felt the meeting should be organized by Mr. Dempsey for other City Staff; however, Mr. Dempsey agreed to work toward setting up such a meeting.

Chair Stresau felt it would be economically sensible to work out issues like these at an early stage. Mr. Jollimore agreed, pointing out that FPL cannot cite homeowners who refuse access to their trees, but if the City can assist in this manner, FPL can execute the work.

Vice Chair Brenneman reported that there is a new citation form available, designed by the Code Enforcement Board, with input from Mr. Maloney. It has been approved by the City Commission as well.

Ms. Shatas asked when the next Tree Subcommittee would be held. Chair Stresau advised this would be announced at the next UAC meeting. Mr. Dempsey pointed out that it would be necessary to set aside time to attend the Subcommittee's meeting in the future, and proposed scheduling a meeting once a month.

Mr. Fayyaz suggested that it could be easier to schedule a meeting between Mr. Dempsey and an individual member of the Subcommittee; for example, if Mr. Chancey were assigned to be this individual, he could ask that an official meeting be scheduled through the Liaison's office.

Chair Stresau and Vice Chair Brenneman consulted the calendar and selected July 16, 2009 at 3:30 p.m. as the date and time for the next Tree Subcommittee meeting. Chair Stresau asserted that he wanted to do what is necessary to "get

the job done,” and if the City couldn’t figure out a venue for the Tree Subcommittee to meet on July 16 at 3:30 p.m., then “a couple of [the members]” would meet unofficially and “just talk.”

He added that a good deal of information had been covered at today’s meeting, even if the Subcommittee lacked a quorum.

Mr. Jollimore reiterated that he would “get something together” regarding draft language for the prospective document.

Mr. Fayyaz suggested that if the Subcommittee did not wish to wait until the following month to make decisions regarding the display board, they should discuss the board at the regular UAC meeting “with everyone present.”

Vice Chair Brenneman asked Mr. Jollimore if he needed more time to prepare draft language for the proposed document, and would he rather wait until the next meeting to present it. He agreed “that would be helpful.” Vice Chair Brenneman stated that the Subcommittee would discuss the display board at the July 16 meeting and allow Mr. Jollimore time to complete the draft statement.

She added that the City Commission does not meet in the month of August, and asked if “everybody else [can] meet.”

Mr. Jollimore felt the idea of the pilot program was a good one, and requested that the Subcommittee keep the information “low-key” until the process is fully mapped out and it is officially disseminated to the public. Chair Stresau did not feel this would be a problem.

Vice Chair Brenneman suggested August 13 as a potential meeting date for the Tree Subcommittee meeting, at which the pilot program for professionally managed trees would be discussed further.

Chair Stresau asked Mr. Dempsey if it might be possible, by the time of the July 16 meeting, an “avenue of contact” might be determined for trees that would need Code Enforcement action in order to be removed. He explained that he would like to know who gets this information and “has to follow through” on it. Mr. Dempsey agreed to start looking into this.

It was agreed that the method for enforcing tree removal on private property would also be discussed at the July 16 meeting. Mr. Jollimore clarified that this is with regard to “critical trees” only, such as palms.

Chair Stresau noted that while it may sound “overbearing,” a form that identifies where a homeowner or HOA has planted a tree beneath power lines that may create a future problem would allow the City to address this issue early on. He

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added that this could also allow FPL to identify, "for future heritage," trees that have been planted incorrectly in rights-of-way, which could also be enforceable by the City.

Mr. Fayyaz noted that Item IV was not discussed as there was no quorum present to vote upon it. Vice Chair Brenneman noted, however, that two of the three Subcommittee members were present, which equaled "half plus one" and therefore made a quorum.

There being no further business to come before the Subcommittee at this time, the meeting was adjourned at 4:24 p.m.

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