

**UTILITY ADVISORY COMMITTEE
CITY OF FORT LAUDERDALE
CITY HALL 8TH FLOOR CONFERENCE ROOM
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA 33301
AUGUST 25, 2009 – 6:30 P.M.**

Cumulative
January 2009 -
December 2009

<u>Committee Member</u>	<u>Attendance</u>	<u>Present</u>	<u>Absent</u>
Bunney Brenneman, Chair (arr. 6:41)	P	8	0
Maria Canady	P	2	0
L. Thomas Chancey	P	6	2
Chris Chiari	P	8	0
Robert Cole	P	6	2
Dr. William Goetz (arr. 6:39)	P	8	0
Don Larson	A	7	1
Dr. Magdalene Lewis (arr. 6:39)	P	1	2
Terri Murru	P	6	2
Raymond Parker	A	6	2
Frances Smoot (arr. 6:39)	P	7	1
Fred Stresau, Vice Chair	P	6	2
Claire Vickery	A	3	5
Jay Weiss	P	3	0

Staff

Peter Partington, City Engineer and Staff Liaison
Bob Dunckel, Assistant City Attorney
Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

Guests

Lynn Shatas, FPL
Vic Beninate, AT&T

Communications to City Commission

- **Motion** made by Ms. Murru, seconded by Vice Chair Stresau, that the Utility Advisory Committee strongly recommends to the City Commission that they fund and move forward with Phases II and III of the Power Services scope of services; with the summary of the pros and cons of municipalization of the electrical distribution system versus a renewal of

the Franchise Agreement being provided by the consultant as soon as possible. In a voice vote, the **motion** carried unanimously.

I. Call to Order

Vice Chair Stresau called the meeting to order at 6:35 p.m.

II. Roll Call

Roll was called and it was determined a quorum was present.

III. Self-Introductions

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

IV. Minutes of July 28, 2009 Meeting

Mr. Chiari noted on p.12, a discussion had arisen in which he asked Mr. Smith of FPL about the value of the grid, and its range of \$150-250 million; he had asked which of these two numbers is used in calculating the guaranteed return; he also asked what is presented to the PSC, as well as to the SEC. This question preceded a comment by Mr. Partington referring to weighted capital and how infrastructure is affected.

Ms. Smoot, Dr. Goetz, and Dr. Lewis joined the meeting at this time (6:39 p.m.). Chair Brenneman joined the meeting shortly thereafter (6:41 p.m.).

Motion made by Ms. Murru, seconded by Mr. Weiss, to approve the minutes of the July 25, 2009 meeting as corrected. In a voice vote, the **motion** carried unanimously.

V. New Business

- **Update on Sustainable / “Green” Committee**

Mr. Partington advised he had no further information to add to what he has previously stated.

Ms. Murru informed the Committee that she had recently spent some time with members of the Staff Green Team while studying the procurement process. She noted that the Staff had made it clear there will be a separate and fully functioning Green Committee, as opposed to a subcommittee.

Mr. Chancey asked if there is any chance the Green Committee will cross-communicate with the Utility Advisory Committee. Vice Chair Stresau suggested

it might be appropriate for the two Committees to exchange minutes so they may remain apprised of one another's activities and discussions.

Mr. Partington added that the Staff "Green Team" could easily invite one another to attend their meetings, and suggested that it is also possible to request that their notes and/or Agenda could be transmitted to the Committee for review. Vice Chair Stresau clarified that his intent was to determine whether or not the two Committees were taking similar direction on issues.

Dr. Goetz advised there is a chance he will serve on the Green Committee as well as the UAC.

Mr. Partington explained that the Green Team is a Staff team, while the Green Committee will consist of appointed citizens. The prospective membership is not yet known.

Chair Brenneman noted that the prospective range of duties for the Green Committee is significantly more "all-encompassing" than those green areas covered by the UAC. She felt the Committee may ask for periodic updates from the Green Committee, or may ask to see their minutes.

Vice Chair Stresau asked if the Green Team will take minutes, as a Committee would. Mr. Partington characterized them as notes rather than formal minutes. As they are all Staff members, there is no liaison for the Green Team.

Chair Brenneman pointed out that it is standard procedure for Agendas to be distributed in advance of meetings, and the UAC could ask to be included in the list of those receiving an Agenda.

Mr. Partington asked Ms. Murru to describe her participation in a recent selection committee regarding a City RFP. Ms. Murru explained the City is seeking a consultant to help perform an internal audit or survey regarding its greenhouse gas emissions; there is a Federal grant, based on the number of residents, of up to \$2 million toward this end, although it must be linked to building new jobs and "stimulating growth in the green environment."

She concluded that this is a lengthy process. The City ultimately selected a consultant from among 17 proposals. Ms. Murru noted that the consultant will work with City Staff to establish a baseline for greenhouse gases and move forward with a "serious, focused effort" to create a new direction for the City.

Ms. Shatas observed that there is a Broward County Climate Change Task Force, which has several subcommittees and is addressing greenhouse gases, among other concerns. She referred interested Committee members to Nancy

Gassman of the Broward County Environmental Department, who may have more information she can contribute regarding greenhouse gases.

Ms. Murru noted that the consultant hired by the City also served on the Task Force.

- **Discussion of Power Services Report**

Mr. Partington distributed the report to those members who had requested “hard copies,” advising that it is also available electronically for download. He offered to provide a brief overview for the Committee.

He pointed out that there are a few main points to the conversation, as well as a discussion of the franchise agreement as drafted by an attorney from the Power Services team. This explains what parts of the franchise agreement mean, as well as what provisions might be sought in future agreements. FPL’s reliability figures are analyzed, and potential strategies and administrative processes to facilitate undergrounding are included as well, including approaches to funding. In particular, undergrounding through FPL is discussed, should the City opt for the 25% contribution by FPL toward the cost of undergrounding.

Dr. Goetz asked if Power Services offered any suggestions regarding strategies for the points raised in the report, noting that strategies for dealing with FPL had been absent from the memo submitted earlier.

Vice Chair Stresau clarified that Power Services made no recommendations on how to approach the negotiations of a new franchise agreement, but stated only factual differences between FPL’s position and what Power Services might recommend.

He continued that the City Commission might want input on whether to undertake Phases II and III of the Power Services study, and asked what the focus of tonight’s discussion of the study would be, as the size of the document precludes discussing all its findings in a single meeting.

Ms. Murru suggested moving on to Phases II and III, noting that the UAC’s role is to “ask the tough questions” and recognize that the report does not go far enough to give the City’s negotiating team any leverage in a discussion of the franchise agreement. She noted in particular that the current value of the lines is a determinant of the cost of undergrounding, and did not feel this could be accurately estimated without moving on to the next two phases. She also raised the issue of whether or not to use Power Services for these phases, or seek another consultant.

Mr. Partington distributed copies of the original scope of work for further reference. Chair Brenneman noted that the RFP for Phase I had been “extremely task-specific,” and that Power Services stayed on task and followed the instructions cited in the scope of work.

Mr. Partington observed that Power Services, when submitting a bid for the study, had listed prices for Phases I, II, and III, and “broke down” the study’s elements according to cost. When the previous City Commission had authorized Phase I of the study, Power Services had asserted they would retain these prices for the subsequent phases of the RFP. Phases II and III contain a more detailed examination of municipalization, although it has been noted that a report on these two phases would not be prepared before the current franchise agreement expires.

Mr. Weiss stated he felt the report was “very succinct” and provided him with sufficient information to make informed recommendations. He believed the Committee should move forward due to time constraints, and proposed reviewing the document point by point and taking a vote on each point so they could then make recommendations to the City Commission.

Chair Brenneman advised that the last time the City Commission had discussed the issue, the Commissioners had indicated they might need the information from later phases, and had asked the Director of Procurement to estimate the cost of exploring the issue further. While she felt Power Services had done a good job in providing the Phase I report, a more complete analysis of the issues would require Phases II and III as well.

Ms. Murru asserted that the UAC seemed in agreement that Power Services had provided a thorough overview, and didn’t believe what the City Commission needed from the Committee was a “point-by-point” review. She felt their role is to give the Staff negotiations team every possible advantage, and the present report doesn’t provide sufficient information to do this.

She asked again if Phases II and III should necessarily be done by Power Services. Mr. Partington did not feel this was a necessity, but pointed out if a new vendor was selected, the City would need to go through a new RFP process. Ms. Murru asked if this would still be the case if the cost was less than \$10,000, and the next phase was completed by “a different kind of consultant at a lower level.” She explained that the franchise agreement will come up for renewal very shortly, and without more information quickly provided, the City will not be able to “get where we need to be.”

Chair Brenneman clarified that Power Services points out the date when the current franchise agreement will expire is not “a drop-dead date” – in other words, the City’s power will not be shut off if an agreement is not reached by that

time. Ms. Murru pointed out, however, that Staff has a different perspective on this matter and feels it would be “extraordinarily difficult” to extend negotiations beyond that date.

Vice Chair Stresau advised that he had participated in a selection committee three times, and only two “legitimate firms” had responded the most recent time an RFP went out; other firms may have responded, but were “not even remotely qualified.” He felt when the City entered into negotiations and asked for an estimate of what Phases II and III would cost, it had taken a very long time for them to select Power Services; this could mean that any firm other than Power Services who responds to another RFP would want to submit a new estimate, and the City would be “paying for that twice.”

He concluded that Power Services has sufficient knowledge and expertise to complete the task, and did not feel there was a strict date on the franchise agreement termination, as FPL is mandated by the Public Service Commission to continue to service the City during negotiations.

Ms. Murru respectfully disagreed, noting that she was aware of two firms that had not been able to bid on the previous RFP but could now do so. She felt they might be able to offer services of the same quality as Power Services had shown. She reiterated that the report before the UAC does not answer important questions that would be addressed in Phases II and III. She felt it was worth considering if other firms might be able to provide the City with sufficient knowledge to move forward.

Chair Brenneman observed that the selection committee had sought a firm with a “team approach” in selecting Power Services, meaning they could view the issue from standpoints associated with engineering, finances, administration, and negotiation. She indicated it would be very difficult to find another firm who took a similar stance.

She continued that Power Services also alluded to a “neighborhood approach” and other possible phases in the report, on which they were willing to expand if the City wished. Chair Brenneman felt changing firms at this time is most likely “not on the table.”

Mr. Cole asked if the original RFP had included all three phases, which Mr. Partington and Chair Brenneman confirmed. Mr. Cole continued that Power Services was chosen with all three phases in mind; the issue was that thus far, they had only been authorized to complete Phase I. He added that Power Services could legitimately protest if the City sent out another RFP.

Chair Brenneman stated that Power Services has also expressed concern to City Staff, as they have “laid out” their price estimate for all three phases in their bid.

Should another RFP be offered, it would be likely that Power Services might decline to respond.

Mr. Partington explained that the City Commission rejected its first solicitation of the original RFP; for the second solicitation, Power Services had been concerned that they had already “showed their hand” with regard to their estimated costs, although they were still ranked 1st by the selection committee.

He asked Attorney Dunckel to clarify what might happen if the franchise agreement is allowed to expire, but no new agreement has been finalized.

Attorney Dunckel stated FPL’s theory on this matter is that they no longer have lawful authority to collect the franchise. The City, however, is of the opinion that FPL has “ample authority,” as recognized by the Florida State Supreme Court, to continue to collect the franchise as long as the parties continue to negotiate in good faith. He did not wish to elaborate further on possible strategy.

Dr. Goetz suggested the Committee consider two issues:

- The first section of the report, and whether the UAC feels more information is needed for recommendation or strategy;
- What the UAC feels regarding the cost of undergrounding, and whether to pursue this more aggressively.

He felt these two issues can be dealt with from the report before the Committee, and noted that there is some overlap between the two. His understanding of the strategy available is that the City’s “major leverage” lies in the option of municipalization; he did not feel other possible means of leverage have been presented, and proposed asking legal counsel or Power Services to help develop these.

Chair Brenneman advised that the City Attorney had been clear in his desire to avoid revealing strategy.

Ms. Murru asserted that the best use of the Committee’s time is to provide the negotiating team with “everything they need.” She explained that the City had elected to hire a consultant with regard to the franchise agreement renewal because they wanted objective research to be available for the negotiating team. She reiterated that they move forward with a strong recommendation to fund Phases II and III in order to give the new City Commission to take a look at this investment of funds.

Ms. Murru stated she would like to make this statement a **motion**, which was seconded by Vice Chair Stresau.

Mr. Chiari pointed out that Phase II calls for an audit of the current state of the City's electrical grid; however, some of this detail is already provided in Phase I, and more detail will emerge in Phase III. He suggested skipping over Phase II and moving directly to Phase III, and encouraging the City Commission to fund Phase III immediately for the good of the negotiating team.

Vice Chair Stresau asked if Power Services makes any recommendations on how to convince the present City Commission that they might need to move ahead with subsequent phases, such as whether or not Phase II is necessary. He did not feel funding was a significant consideration. He also noted that the report points out the differences between where Power Services recommends the City to go and where FPL has "taken the position that they don't want to go." He did not feel a solution is proposed in the report, and the City should be prepared to discuss its alternatives and have sufficient information to do so.

Mr. Partington recalled that the previous City Commission may have had the belief that the best way to expedite undergrounding was through municipalization; this is why the scope of work was written as it was. When the issue came before the City Commission, however, they were no longer convinced of this, and felt there may be other ways to achieve undergrounding.

He felt by passing the motion, the UAC would be encouraging the City Commission to continue looking further into municipalization as a means to expedite undergrounding.

Mr. Chiari proposed again that the motion be amended to encourage the City Commission to immediately fund Phase III, bypassing Phase II.

Mr. Cole advised that he did not agree with widespread undergrounding, as the cost would be "astronomical." He felt Phase II contains significant details regarding how underground service is delivered to houses, as well as the cost to homeowners, in a detailed analysis of four neighborhoods. He suggested that Power Services may be biased in favor of undergrounding.

Mr. Chiari disagreed, pointing out that neither Phase II nor III evaluate the cost of undergrounding; Phase III, in particular, compares municipalization to the franchise agreement.

Ms. Murru felt one reason the Committee is late in approaching the issue was confusion about their mission. She had felt the focus was specifically related to franchise renewal; since that time, undergrounding has become an issue as well, as some previous City Commissioners had been proponents of this practice. She felt this had helped the Committee lose their original focus, and explained that the reason for her motion was to provide the City Commission with "objective,

research-based information” so they can make the most logical and educated decision regarding undergrounding.

Mr. Weiss asked if the UAC may contact Power Services to ask how long it would take them to conduct Phase III. Chair Brenneman advised that Mr. Partington may do this on the Committee’s behalf. Mr. Weiss felt the time frame involved may determine whether or not moving on to the next phase is feasible.

Vice Chair Stresau felt the UAC’s work is not finished, reminding the Committee that FPL is not going to “turn the power off” if the existing franchise agreement expires while negotiations are in process. He pointed out that the first 14 pages of the report list areas in which FPL is not willing to negotiate.

Mr. Cole noted that the Committee itself is not involved in negotiations, and felt the question of whether sufficient information is needed should be posed to those Staff members who will negotiate the prospective new franchise agreement.

Dr. Goetz observed that the Committee has seen some of the franchise agreements renegotiated with other cities, and pointed out that these are “all in FPL’s favor.” He was not sure the City would, with the information it has at present, be in any better position to negotiate than those cities had been.

Chair Brenneman stated that there is a good deal of information contained in the report. Dr. Goetz agreed this is true, and distributed handouts in which he had “massaged... the data” and taken it further than the report had.

Mr. Chiari asserted that undergrounding is one step the City may consider if they opt for municipalization, and suggested that the Committee ask that Phase III be funded, but only that part that deals with the comparison of municipalization vs. renewal of the franchise agreement. In the short term, he felt the analysis of infrastructure and undergrounding should be excluded “in the interest of arming our Commissioners.”

Mr. Partington felt it would be difficult to “pick apart” either phase, although it might be possible to omit Phase II.

Mr. Chiari requested again that an **amendment** be added to the motion to expedite the execution of Phase III. He clarified that he is not suggesting Phase II be excluded entirely, but that they move on to Phase III in the interest of time.

Mr. Partington felt there is a possibility Power Services might agree with this proposal.

Mr. Chiari also asked that Power Services first provide a comparison of municipalization and franchise renewal. Vice Chair Stresau did not feel this

request should be included in the motion, although he recommended including it in the record.

Ms. Murru felt this proposal would help the Committee remain focused on their primary goal of whether or not to renew the franchise agreement.

Chair Brenneman stated the information on cost and other details available in Phase II should be provided. Mr. Chiari explained that he is not requesting the exclusion of Phase II, but that Power Services provide their opinion on the “pros and cons” of franchise renewal vs. municipalization while the analyses necessary for Phase II are still going on, rather than waiting the extra time involved to complete Phase II.

Mr. Partington summarized Mr. Chiari’s proposed amendment as “a summary of the pros and cons of municipalization” to be provided right away, while the rest of Phase II is still ongoing, pending the final presentation.

Ms. Murru accepted this **amendment**, and her **motion** was restated as follows: that the Utility Advisory Committee strongly recommends to the City Commission that they fund and move forward with Phases II and III of the Power Services scope of services; with the summary of the pros and cons of municipalization of the electrical distribution system versus a renewal of the franchise agreement being provided by the consultant as soon as possible.

It was agreed that should this motion pass, it will be a Communication to the City Commission and will go before that body at their next scheduled meeting.

In a voice vote, the **motion** carried 10-1 (Mr. Weiss dissenting).

Ms. Murru requested that the Committee revisit the motion for further discussion, as she hoped it would be presented to the City Commission as a unanimous decision.

Motion made by Mr. Chiari, seconded by Vice Chair Stresau, to reconsider the previous motion through brief discussion.

Mr. Weiss explained when he read the statement in Power Services’ report that FPL has “steadfastly refused” to agree to certain provisions in franchise renewals, and that the only realistic resource was municipalization, he concluded that Power Services, who are more knowledgeable about the subject than he felt he was, is telling the City their only option to franchise renewal is “running our [own] electric utility.”

He felt the focus of negotiation should be the lesser points of franchise renewal, such as more effective tree trimming or more undergrounding, among other

considerations. Mr. Weiss concluded there are other aspects that can be negotiated, and that FPL would not take any effort at municipalization seriously.

Ms. Murru advised that Mr. Weiss may not be aware of the successful efforts at municipalization, in Florida and elsewhere in the U.S. She noted, however, that if the City does not have as much information as possible, the lesser points of the franchise agreement are moot.

She cited Orlando and Winter Park as examples of Florida cities that have successfully municipalized, and urged Mr. Weiss to consider these possibilities.

Dr. Goetz added that the City would not necessarily “run our own utility,” but could subcontract that responsibility. He pointed out as well that the City presently has no leverage to make any requests from FPL, describing them as a monopoly. In conclusion, he affirmed Ms. Murru’s statement that many communities have successfully municipalized.

Mr. Chiari thanked Mr. Weiss for sharing his opinion, which, he observed, was directly attributable to the facts of the report. He **called the question** for a re-vote on the original motion.

Mr. Chancey agreed that he had initially shared Mr. Weiss’ reaction to the report, and pointed out that since discussions had begun on franchise renewal, FPL had offered some concessions to the City that had not been previously mentioned.

In a voice vote, the **original motion** carried unanimously.

Chair Brenneman requested again that the motion appear as a Communication to the City Commission.

Mr. Partington recalled that there had been a previous issue on Communications to prevent a delay in passing them on to the City Commission. He asked if there is now a policy that will allow Communications to proceed immediately to the City Commission. Attorney Dunckel advised he was not sure whether such a policy exists, and would follow up with the City Clerk. Chair Brenneman added that she believed a fast-track procedure for Communications is now in effect.

Dr. Goetz referred the Committee to the handouts he had provided earlier, advising that one of these consisted of information submitted to the Florida Power Commission by the various utilities. It includes measures of reliability, as well as other material compiled over three to four years.

He pointed out that utilities provide the FPC with both actual and adjusted data. “Adjusted” means data on their reliability indices that excludes incidences caused by major storms. He stated that these outages cost “exponentially more” than the

storm restoration costs with which the City is already familiar, and noted that there are several ways to interpret this data. The Department of Homeland Security has estimated the cost of lost business alone to be roughly \$112 per person, which does not include storm restoration costs. Dr. Goetz felt this raised the value of either undergrounding or renewable energy even more dramatically. While not all costs could be prevented by making these changes, he felt a "large percentage" of outages were preventable through these means.

He concluded that when these values are considered, it changes the context of the questions of municipalization and/or undergrounding. He suggested a 20-year bond issue could pay for undergrounding, noting that even this cost would be "minuscule" compared to the hidden costs of failing to place lines underground. He did not feel the public has made fully aware of these costs.

Chair Brenneman thanked Dr. Goetz for sharing this information with the Committee, and noted that his report is valuable in helping understand where Power Services' information came from.

Dr. Goetz asked if any representatives of Fort Lauderdale had gone to the Fort Lauderdale FPSC (Florida Public Service Commission) FPL rate increase hearings to comment on the rate increase. Chair Brenneman recalled that while she and Mr. Chiari had attended these hearings, no City representative had been there. She also stated that she had attended the City of Plantation hearing as well.

Dr. Goetz suggested that there may be a certain level of "public leverage," as some of the reliability data may be worsening, such as the frequency and duration of outages, as well as customer complaints. He did not feel a \$1.3 million rate increase was appropriate under the circumstances.

Ms. Shatas asked Dr. Goetz for the source of his information regarding frequency and duration of outages, customer complaints, and data manipulation.

Mr. Chiari observed that the City has a unique opportunity in its potential franchise renewal, as it may be possible to develop a relationship with FPL to use the City as a "test lab" to create incentives for homeowners to invest in renewable energy. He felt FPL also has an opportunity to come forward with innovative suggestions, and perhaps Fort Lauderdale can use the possibility of franchise renewal to cultivate a "different relationship" with FPL.

Dr. Goetz advised that his criticism of FPL was intended to develop leverage to ask the corporation to meet the City halfway in negotiating the prospective franchise renewal.

- **Other New Business**

None at this time.

VI. Unfinished Business

None at this time.

VII. Communications to the City Commission

Chair Brenneman reminded the Committee that they had agreed to send the motion made earlier in the meeting as a Communication to the City Commission. It will be sent immediately to the City Clerk in addition to appearing in the meeting minutes.

Ms. Eckles asked what the outcome of the motion will be. Mr. Partington explained that there is a section on the Agenda of City Commission meetings for communications from advisory boards, and the motion will be included in this section. While normally this would mean an additional two weeks before the City Commission voted on this recommendation, Mr. Partington pointed out that the City Manager is aware of this motion, and could place it on the next City Commission Agenda as an actionable item. He advised he will alert the City Manager of the motion.

Dr. Goetz asked if a motion could be “forced” to come before the City Commission, and suggested that the Committee members could contact their respective City Commissioners with a request.

Attorney Dunckel explained if interested parties contact their City Commissioners and emphasize the importance of a particular item, the Commissioner(s) might be motivated to ask that the item be added to the regular Agenda as a “walk-on.” He added that the majority of the City Commissioners would have to be in favor of this particular course of action.

He added that while normally, Agenda items are packaged ahead of time with memos and backup material, so the City Commission has an opportunity to familiarize itself with the issue and discuss it at the District meeting, a walk-on item does not have backup material, although these materials could be assembled for the Commissioners.

Dr. Goetz asked if the Committee felt they should petition their Commissioners to include the issue as a walk-on item. It was agreed that each member could call or email his or her individual Commissioner to this end, particularly with the advice that it is a time-sensitive request. Mr. Partington and Vice Chair Stresau

agreed that contacting one's individual Commissioner would be the best course of action.

VIII. Good of the Committee

Nothing at this time.

IX. Announcements

- **Cancelled – Tree Subcommittee Meeting, Thursday, August 13, 2009**
- **UAC Next Regular Meeting, Tuesday, September 22, 2009, 6:30 p.m.**

Chair Brenneman formally welcomed Dr. Lewis back to the Committee at this time and thanked her for rejoining them. With regard to the issue of the motion, Dr. Lewis proposed that the members visit their respective Commissioners and speak briefly with them.

Mr. Partington added that the record should reflect Chair Brenneman had felt tonight's meeting was sufficiently important that she had changed her return flight from Denver and drove directly from the airport to the meeting.

There being no further business to come before the Committee at this time, the meeting was adjourned at 8:35 p.m.

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