

**UTILITY ADVISORY COMMITTEE
CITY OF FORT LAUDERDALE
CITY HALL 8TH FLOOR CONFERENCE ROOM
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA 33301
FEBRUARY 23, 2010 – 6:30 P.M.**

Cumulative
January 2010-
December 2010

<u>Committee Member</u>	<u>Attendance</u>	<u>Present</u>	<u>Absent</u>
Bunney Brenneman, Chair	P	2	0
Maria Canady	P	2	0
L. Thomas Chancey	P	2	0
Robert Cole	A	1	1
Don Larson	P	2	0
Dr. Magdalene Lewis	A	0	2
Ruchel Louis	P	1	0
Terri Murru	P	1	1
Frances Smoot	A	1	1
Stephanie Toothaker	P	1	0
Jay Weiss	P	2	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
Dr. William Goetz

I. Call to Order

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

II. Roll Call

Roll was taken and it was noted a quorum was present.

III. Self-Introductions

Two new Committee members were present at the meeting. Stephanie Toothaker was born and raised in Fort Lauderdale and is former General Counsel for Senator Bob Graham; Ruchel Louis is originally from South Africa and is the former Chair^[b1] of the City's Economic Advisory Board.

IV. Minutes of January 28, 2010 Meeting

Motion made by Mr. Larson, seconded by Mr. Weiss, to approve the minutes of the January 28, 2010 meeting.

Mr. Chancey asked if p.7, paragraph 4 needed further clarification to ensure that his intent was accurately expressed: he is not opposed to the undergrounding of utility lines, but wished to point out that engineers who felt tree roots could interfere with underground utilities could "get educated" regarding the nature of tree root systems, which are not always sufficiently deep to interfere with underground lines.

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

V. New Business

- **Election of Vice Chair**

Chair Brenneman recalled that this election had been deferred from the January 26 meeting. She opened the floor to nominations at this time.

Motion made by Mr. Larson to nominate Ms. Murru as Vice Chair. Ms. Murru declined the nomination.

Ms. Murru asked Chair Brenneman to describe the responsibilities a Vice Chair would have. Chair Brenneman explained that the Vice Chair would assist with the Subcommittees and Agendas, and would chair meetings if she were absent.

Motion made by Ms. Toothaker, seconded by Ms. Murru, to defer the election of Vice Chair until the March 2010 meeting.

Chair Brenneman noted that the Committee will hold an instruction session for members on an upcoming Saturday. This will be a review of the Committee's history, major topics, and projects addressed since its inception. It is primarily intended to bring new members "up to speed" on the Committee's past and present activity.

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

- **Update on Uverse Cabinets**

Mr. Beninate advised this project has been in progress since 2008; cabinets have recently been placed in easements and rights-of-way. Procedures included partnering with the City's Engineering Department, which^[b2] then sent letters to residents informing them of the forthcoming installations.

He asserted that until now, AT&T has "never had a situation at any location," but in Fort Lauderdale there has been some difficulty working through the installation process with residents. They are attempting to work with the residents who have not wanted the boxes, in some cases relocating the boxes to different parts of a given property.

Mr. Chancey asked when the locations were chosen for the cabinets, and how these sites are determined. Mr. Beninate explained that the cabinets must be within roughly 250 ft. of the previously existing boxes; ideally, the two fixtures would be side-by-side.

Mr. Chancey stated that the designs for these sites are often made "on a piece of paper in a room" rather than by walking a site or conferring with the homeowner. Mr. Beninate advised that before April 2007, all such decisions were probably made in this way; after that time, however, choices were made in the manner Mr. Chancey had described.

Attorney Dunckel recalled that at the previous meeting, Mr. Chancey had pointed out the importance of "people talk[ing] to people" to make decisions, and how much more smoothly progress could be made if this happened. He noted that the Ordinance had required written notice to be provided to homeowners regarding where the cabinets would be placed; however, neither he nor many other homeowners had received such notice, and were not consulted regarding placement, landscaping, or other concerns. Chair Brenneman had also received multiple calls from homeowners regarding this lack of notice.

Mr. Beninate asserted he would like all homeowners' concerns to be addressed, as Attorney Dunckel's had been, and asked any Board members who knew individuals that had not received a letter to let him know; he would contact these individuals.

Mr. Chancey stated that "they don't want a letter" – they would prefer "face to face" contact to address the situation, ideally before plans are determined on paper.

Mr. Beninate agreed and pointed out that he would "talk to anyone and everyone," and reiterated that Chair Brenneman has his contact number and cards. Mr. Chancey pointed out that AT&T's planners should be "ahead of the game" to avoid this necessity.

Mr. Partington noted that the City's permitting process requires that they receive a copy of the letter sent to homeowners, and he would "redouble" the City's efforts to ensure this was properly received.

Mr. Beninate advised he is not receiving many complaints regarding the cabinets at this time, but is instead receiving calls from customers who want the services the cabinets will provide. Chair Brenneman observed that many of the calls she had received recently also asked when AT&T's product would be available in various neighborhoods that have not received the cabinets yet.

Dr. William Goetz, guest, asked if the Uverse system used copper or fiber-optic cable, and if the lines are underground. Mr. Beninate responded that it uses these two materials in different areas, and "on any given run... some of it is underground," such as from a building to the cabinet itself.

Dr. Goetz pointed out that these underground lines could be of great benefit to emergency services. Mr. Beninate explained that the equipment could be accidentally dug up, or "soaked" in the winter, and would require replacement; there is "no perfect solution."

Chair Brenneman thanked Mr. Beninate for his update.

- **Draft City Undergrounding Ordinance – Update**

Attorney Dunckel reminded the Committee that he and Engineering Design Manager Hal Barnes had reviewed the Draft Ordinance at the January 2010 meeting. The Ordinance went before the February 16 City Commission meeting, at which the Commission instructed Staff to make any necessary revisions and bring the Ordinance back for its first reading at the second March 2010 meeting.

Mr. Partington added that there had been a question regarding how much time a neighborhood would be given to return the initiating petition to the City Commission after the initial estimate. This was determined to be 180 days. The Public Works Department will prepare the format for the petition, and neighborhoods will have this time frame to return the petition with a 66% majority of signatures.

Another point of clarification to be made at the first reading is the reference to paying for the service over a 30-year period. The Director of Finances has advised that these initiatives would most likely be funded by bank loans rather than by bonds, and it is unlikely that a bank loan would extend for more than 20 years; it is expected that this would be the maximum time period available. Attorney Dunckel clarified that while the Ordinance will be "couched in flexible

terms,” the suggestion of a 30-year time frame was in a question rather than part of the Ordinance itself.

Dr. Goetz asked if the City’s up-front costs will be “rolled into” the payment. Attorney Dunckel confirmed this, noting that this assumes the 66% threshold will be reached by a neighborhood; if not, “the taxpayers at large are at risk” for these costs.

Dr. Goetz asked what these up-front costs might be if, for example, four neighborhoods per year went through the process. Mr. Partington explained that the City will have fronted the entirety of these costs, and Attorney Dunckel estimated that these costs would be \$150,000-200,000 per neighborhood, assuming that the initiative does not proceed within the neighborhoods.

Dr. Goetz observed that this could mean \$400,000-500,000 in up-front costs for the City each year. Attorney Dunckel advised that the City adopts a new budget each fiscal year, and in any given year they may “take a different view” of the process.

Mr. Partington pointed out that this is “the big change” with the proposed Ordinance from the current procedure, as the previous City Commission had required neighborhoods to work directly with FPL and front the money themselves, which very few were able to do.

Chair Brenneman added that in order to receive the 25% Contribution in Aid of Construction (CIAC) from FPL, the 66% threshold must be reached as well. Attorney Dunckel advised that based on the City Commission’s comments, the 66% threshold is not firm; some elected officials feel this threshold must be even higher.

Ms. Murru asked if the City segments its franchise fee into a separate pool. Attorney Dunckel replied this comes from the General Fund; whether or not the up-front costs would come from the General Fund as well has yet to be determined, as they are not in this year’s budget. Considering the time necessary to establish the Ordinance, he noted that it is possible there will be no need for up-front costs until the next fiscal year. Chair Brenneman commented that these costs could become a budgeted item in the future.

Ms. Murru asked if the City Commission has discussed “segmenting” the budget so the City runs “more like a business unit.” Attorney Dunckel responded he did not know the answer to this. Ms. Murru suggested that the Committee consider asking more questions of this nature in order to be more fiscally responsible. Attorney Dunckel advised this could be best answered by the City’s Budget Advisory Committee.

Ms. Louis asked if there is a timeline on the rollout of the Ordinance, and if new construction will be required to put utilities underground.

Attorney Dunckel replied that a timeline will hopefully be available “as a backup exhibit” for the City Commission when the Ordinance has its first reading; the City Attorney’s Office hopes for “the optimum amount of knowledge” to be transmitted to the public before they reach the petition phase. Regarding undergrounding and new development, the program requires that in order to qualify for the 25% CIAC, a neighborhood must have three lineal miles of overhead lines, be located on a finger aisle, or have 250 contiguous single-family residences. He concluded that new development is unlikely in these three categories. Individual developers may choose undergrounding on their own, he added, but this would not involve the large scale of the proposed program.

He expressed concern that, in order to achieve undergrounding, above-grade facilities must be placed in public rights-of-way and easements; in some cases, the easements will have to be on private owners’ land. Where these above-grade facilities must be placed, and which ones will require larger easements, will not be a known factor at the time a petition is distributed.

Ms. Louis asked if this land would be obtained by eminent domain. Attorney Dunckel stated this would not be the case, but explained that as a property owner, he would like to know if, for example, a 20x20 cabinet might be placed on his property before signing a petition in favor of undergrounding.

He felt the reimbursement resolution must be done so the engineering consultants are “on board;” at that point, FPL and other utilities may be paid the monies for the binding estimate, which includes biddable plans and specifications. This phase is currently not planned until after the petitions have been circulated.

Mr. Partington stated that the initial figure is “a ballpark estimate,” which is written into the petition; acquiring signatures from 66% of the “parcels” ensures that the City will front 100% of the design phase and provide a firm estimate from all the utilities. The design will be known before the procedure reaches its assessment hearing, so the placement of the easements should be known as well.

Ms. Murru pointed out that technology has changed since the Committee’s earlier discussions of undergrounding, and it is possible that it may continue to advance so ultimately the boxes in rights-of-way and easements are not needed. Ms. Shatas advised, however, that there have been no significant changes within the past two years.

Attorney Dunckel explained that the City wants as much information as possible to be given to the public before they sign the petitions, but cautioned they must be aware that “it’s not the complete picture.”

Mr. Chancey reiterated his earlier point, stating that when looking at a new area, a design team should look at the existing homes and attempt to accommodate the residents before drawing up plans. He noted that it could be explained to homeowners that if lines go underground, some problems may be alleviated and property values may rise.

Mr. Partington advised that one recent change in FPL’s position is their agreement to place transformers in rights-of-way, moving them, if necessary, at City expense.

Dr. Goetz asked if there are places in the City that have already been undergrounded, which could give the public an idea what the boxes in question look like. Chair Brenneman recalled that the Victoria Park Shoppes project is one such example, and although it was not a residential project, it allowed for neighborhood input. There was “considerable input and interest” and collaboration between the project and the neighborhood.

Mr. Chancey asserted that the Committee might be “overdoing the box thing.” Ms. Murru disagreed, pointing out that the issue is “huge in the neighborhoods.”

She asked if, as the City would be a partner in an undergrounding effort, it might be possible to “get creative” with any City easements regarding the large boxes. Attorney Dunckel did not believe this was possible, as “the program is to put it in the right-of-way,” and rights-of-way will have residences on either side. Utility easements are often planned for side or rear yards, but he did not see how these spaces would become available.

Dr. Goetz asked if a single homeowner refuses to underground from the street to his house, the neighborhood loses its 25% CIAC credit. He noted that some neighborhoods will have houses that have been foreclosed upon, for example, and asked how a foreclosed house would pay for undergrounding.

Attorney Dunckel explained that there will be a special assessment lien on the property, which has a super priority that takes precedence over a mortgage lien in foreclosure. Mr. Partington clarified that the question asks if an individual refusing undergrounding will cause a neighborhood to lose the 25% credit; he noted that if a property is in foreclosure, it would be unlikely that the owner would agree to convert to undergrounding.

Attorney Dunckel noted that the special assessment is predicated on a 100% cost factor, and will be reduced if the 25% CIAC is applied.

Dr. Goetz noted that some communities with homes in foreclosure would like the 25% credit, and asked if the bank that owns a foreclosed home could be “forced to pay.” Mr. Partington replied that 100% conversion to undergrounding cannot be guaranteed, which is one reason why the assessment would be for 100% of the costs. It is possible that the 25% “will not come back.”

Dr. Goetz felt it was more accurate to say it is “probable” the 25% would not be regained. He asked if FPL has any statistics on neighborhoods that are likely to request undergrounding, or how many upstream lines “lead into the project area.” He observed that if there are a significant number of aboveground lines upstream from a neighborhood, there is a chance that the only benefit to a neighborhood could be aesthetic.

Ms. Shatas advised that outages can occur not only from trees in the lines, but from animals or reptiles getting into the equipment, among other reasons. She was not able to determine the statistics of these occurrences for a given area, but noted that there are pros and cons to undergrounding “depending upon the kind of storm that we have,” as falling trees can occasionally uproot underground lines as well as tangling in overhead lines.

Mr. Chancey asked if the uprootings happened in areas of older or more recent undergrounding. Ms. Shatas recalled that during “a very wet storm,” repairs to underground facilities took much longer due to flooding and the time necessary to get to these lines. This did not happen in older communities alone.

Mr. Chancey pointed out that many of the areas that are now communities with underground lines were once part of the Everglades, so “it’s understandable that they would be wet.” He noted that this is a different issue from the parts of the City that were built on ridges.

He continued that some older sections of the City, which have narrower streets, have “complicated design issues” due to underground water, gas, and other lines. The problems that can occur with underground lines vary depending upon which part of the City the neighborhood is in.

Dr. Goetz asked if there is any evidence that “piecemeal undergrounding” is effective in preventing outages. Ms. Shatas explained that outages can occur for numerous reasons, and each area of the City is “served by different substations.” With regard to the best course of action, she advised that the City is using an engineering firm to work in conjunction with the utility companies.

Dr. Goetz pointed out that once the engineering consultants become involved, the City would become responsible for all costs incurred unless the project is “nixed” or is “rolled into a bond issue.” Attorney Dunckel explained that once the

engineers are retained, the project would not be stopped; Mr. Partington noted, however, that the City Commission has the final say at the public hearing regarding that specific assessment, even if the 66% threshold has been reached. If they elect not to proceed with the project, the City would lose the money it has paid the consultants.

Dr. Goetz felt this would happen because the consultants would investigate the issue of upstream overhead lines. Mr. Partington asserted that the consultant would not be investigating issues such as this one, but would be designing the undergrounding for the neighborhood. Dr. Goetz felt the consultant is "supposed to determine the benefits to the community," which would include a decrease in outages due to undergrounding; however, if previous outages occurred upstream, he felt the engineers would point this out.

He suggested asking FPL to provide data on how these upstream areas affect outages in the downstream areas before the first reading of the Ordinance.

Mr. Partington requested that Attorney Dunckel comment on this, as he did not believe it would be the consultants' task to weigh the pros and cons of undergrounding for a neighborhood; their responsibilities would include drawing up the specific plans for undergrounding a particular neighborhood. The pros and cons, he explained, would be discussed by the neighborhoods as they collect signatures toward a 66% majority.

Attorney Dunckel and Ms. Shatas agreed with Mr. Partington's estimation.

Mr. Beninate pointed out that because several different factors come into play during a storm, it was unlikely that a consultant would be able to predict an increase in the likelihood of avoiding outages.

VI. Unfinished Business

Ms. Canady explained that she felt the issue should^[b3] be reopened due to new information. Chair Brenneman stated the City Manager has suggested that the Committee put together "realistic estimates" of the cost of the Expo, and the issue would be placed on an upcoming Conference Agenda.

Mr. Chancey encouraged the members to attend the upcoming Green Expo^[b4] in the City of Plantation. Ms. Murru asked for more information on Plantation's funding source. Mr. Chancey advised there are "many vendors" at this Expo, including the County and State and businesses with environmental interests. He recommended again that the members attend Plantation's Expo to learn how it is successfully put together.

Mr. Partington explained that no money was budgeted for Fort Lauderdale's Green Expo; the City Manager has stated that if the Committee asks that it be held, and provides an estimate of the cost, he will take the issue to the City Commission. Last year's costs for the Expo came to approximately \$15,000^[b5].

Motion made by Ms. Canady, seconded by Ms. Louis, to reconsider the Green Expo.

Mr. Weiss asked when the Expo would be held if it went forward. Chair Brenneman replied the Expo could be scheduled for April 17 at Snyder Park in conjunction with a children's Earth Day event. This combined event could mean a great deal of savings. Another suggested date and location was May 1 in Stranahan Park.

Ms. Murru asked if it would be possible to appoint a task force to look into the logistics and details of the Expo, such as observing the best practices of the Plantation Expo, contacting for-profit vendors, and other responsibilities. Chair Brenneman advised she had considered asking the Infrastructure Subcommittee to do this, as this Subcommittee only meets when necessary.

Ms. Louis departed the meeting at this time.

Attorney Dunckel suggested using one-way communication to Mr. Partington, as this would create a "central hub" for information and would be within the limits of the Sunshine Law. The information could be sent via email with "Green Expo" in the subject line.

Ms. Murru stated she would like to support both the motion and the Green Expo, but did not wish to spend \$15,000 in tax dollars.

Mr. Partington requested clarification that the City would provide the budget for the Expo. Chair Brenneman confirmed this, and added that the event would need "the City Commission's blessing."

In a voice vote, the **motion** carried 6-1 (Mr. Weiss dissenting).

Motion made by Ms. Canady, seconded by Mr. Larson, to proceed with the Green Expo in a similar fashion to last year.

Chair Brenneman pointed out that the internal staffing committee had met regarding the possibility of holding the Expo, so it would not be a "last minute" effort. It is not yet known, however, whether the Expo would partner with the children's event on April 17 or take place as a separate event on May 1.

In a voice vote, the **motion** carried 6-1 (Mr. Weiss dissenting).

VII. Good of the Committee

There was no information at this time.

VIII. Announcements

- **UAC Next Regular Meeting Tuesday, March 23, 2010 at 6:30 p.m.**

IX. Adjournment

There being no further business to come before the Committee at this time, the meeting was adjourned at 8:06 p.m.

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