

**UTILITY ADVISORY COMMITTEE
CITY OF FORT LAUDERDALE
CITY HALL 8TH FLOOR CONFERENCE ROOM
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA 33301
APRIL 27, 2010 – 6:30 P.M.**

Cumulative
January 2010-
December 2010

Committee Member	Attendance	Present	Absent
Bunney Brenneman, Chair	P	4	0
Maria Canady (arr. 6:40)	P	4	0
L. Thomas Chancey	P	3	1
Robert Cole	P	3	1
Don Larson	P	4	0
Dr. Magdalene Lewis	A	0	4
Ruchel Louis	P	3	0
Terri Murru	P	3	1
Frances Smoot	P	2	2
Stephanie Toothaker	P	3	0
Jay Weiss	P	3	1

Staff

Peter Partington, City Engineer, Public Works Department
Liz Davila, Recording Secretary, Prototype, Inc.

Appointed members to the Board: 11
Needed to constitute a quorum: 6

Guests

Lynn Shatas, FPL
Tim Hall, Keith & Schnars, P.A.

Communication to City Commission

Motion made by Ms. Murru, seconded by Mr. Cole, based upon the 93% approval rate for Jupiter Island and best practices of Palm Beach at an 80% approval rate, the Committee reiterates their recommendation to the City Commission to increase the percentage of 66% to 80%, based on a realistic expenditure of staff engagement. In a roll call vote with Mr. Weiss, Mr. Larson and Ms. Smoot dissenting, the **motion** carried (5-3).

I. Call to Order

Chair Brenneman called the meeting to order at 6:36 p.m.

II. Roll Call

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

III. Self-Introductions

The Committee members, Staff, and guests introduced themselves.

IV. Minutes of March 23, 2010 Meeting

Motion made by Mr. Larson, seconded by Ms. Louis, to approve the minutes of the March 23, 2010 meeting. In a voice vote, the **motion** carried.

V. New Business

- **Tree Removal Near Guardhouse Entrance to Bermuda Riviera**

Chair Brenneman explained that there are three palms exceeding 20 ft. in height that were located on private property in the guardhouse area. Historically, Bermuda Riviera has had an arrangement to maintain its own trees. They received a notice that FPL had arranged for a subcontractor to cut down the trees. At this point, City Commissioner Roberts was contacted by the homeowners' association, and the matter eventually reached the City Attorney's Office.

Ms. Shatas advised that Bermuda Riviera and FPL have worked out an arrangement through which the neighborhood will maintain the trees in question, which are close to the power lines. Homeowners were experiencing momentary power outages.

Mr. Chancey commented that there are many varieties of palm trees, some of which may be successfully maintained next to wires and some of which may not.

Chair Brenneman recalled that the Tree Subcommittee had recommended a palm removal program, which was approved by the City Commission. The program states that palms located in rights-of-way and growing up into wires are to be removed. The neighborhood had "run afoul" of this policy as well as failing to properly maintain the trees.

Mr. Chancey asserted that this is "a big problem," and clarified that a native Sabal palm will not affect a power line, even in storms; however, a royal palm, if

trimmed, will grow back into the wires “in three months.” He concluded that each situation must be addressed individually.

Ms. Shatas stated she had been contacted, as this had become a “heated issue.” The situation had been reviewed on-site by City Forester Gene Dempsey as well, and it was determined that Bermuda Riviera’s agreement regarding tree maintenance would continue. She explained that the City, FPL, and the homeowners had all been involved and the decision “wasn’t done blindly.”

Chair Brenneman noted that the Item had been placed on the UAC’s Agenda prior to resolution of the issue. No members of the community or homeowners’ association were present because an agreement had been reached prior to the meeting date.

- **Recap “People and Planet Fair” – April 17, 2010; 2010 Version of Green Expo Updated**

Chair Brenneman reported that this event was held in Snyder Park on April 17. She had regularly attended meetings with the Kids’ Ecology Corps, as well as City Staff members. Approximately 500 trees were planted at the event. She noted that overall attendance was estimated at 2000.

She advised that the People and Planet Fair was “already in planning” and no additional funds had been necessary in order to add information and vendors that had traditionally been associated with the Green Expo, although the two groups were not characterized as “wildly compatible.”

Chair Brenneman pointed out that vendors were not easily grouped together at the event; the concert stage was set up facing in the wrong direction; and public relations efforts “left a lot to be desired.” She recommended against combining with the same group in the future or lending the UAC name and efforts to this event.

Mr. Chancey agreed that the issue seemed to be “the people who put it together” rather than the workers at the event. He felt the City’s diverse population and interests contributed to attendance issues when “too many events... [were held] on the same weekend.” He added that he will host an event on June 5 that will feature “something similar” including wildflower planting for butterflies and birds.

Ms. Murru recalled that there had been prior UAC discussion of planning events “a year in advance.” She suggested that the UAC might work with a primary funding partner who has the capability to “bring all these groups together” and create a single event; the planning stage could be launched at Mr. Chancey’s upcoming event. She concluded that with months to plan an event, there was “no reason for us to not do this right” as well as to be fiscally responsible.

Mr. Partington advised that if the UAC wishes to begin planning 11 months in advance, they will have to “commit [their] own dollars” to an event, as it is not possible to be sure that the City budget will have the necessary funds. The last two Green Expos have cost between \$10,000-15,000 in City funds, predominantly on publicity. He suggested that the recent event in Snyder Park might not have been adequately publicized.

Ms. Murru felt the Committee’s time and service to the City should be used wisely, and there are Committee members with expertise in media and business as well as in environmental issues. She believed they can be “infinitely efficient,” with limited use of tax dollars.

Mr. Partington explained he meant the City had previously budgeted for the Green Expo, and it could not be guaranteed that they would continue to do so in the future. If they wished to go forward with an event, the Committee should attempt to “get onto [the City’s] budget” in September of this year.

Mr. Weiss stated the problem seems to be communication. He suggested that the UAC recommend the City Commission create a “department for green matters,” in which someone is dedicated to coordinating all environmental efforts rather than various departments taking on pieces of this responsibility.

Chair Brenneman advised the City has an internal and cross-departmental Green Team, which has been functioning for approximately three years. Ms. Louis noted that the difficulty with an interdepartmental group is “they are all busy with their own departmental [issues].”

Ms. Murru reminded the Committee that they had made a motion in March to encourage the City’s partner utilities, such as FPL, to consider budgeting to sponsor the event. If the utilities entered into a public-private partnership to sponsor the Green Expo or a related event, it would “outsource” the event and the City’s budget would not be affected.

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

- **Line Clearance Update and Recap FPL Workshop Saturday, April 17, 2010**

Ms. Shatas noted that she could not commit any monies from FPL at this time, but felt the possibility of sponsoring an event is “something that can be worked on.” She felt if the City can be shown that a money-making project could arise from an event, both they and the community would become more involved in the project.

She continued that FPL recently held its annual "Power to Care Day," in which FPL staff volunteered their time throughout the utility's service area. She suggested the Committee consider sponsoring a volunteer project of this nature.

Ms. Murru proposed that the Expo include this volunteer support, and reiterated that FPL could underwrite some of the event's budget burden and provide expertise in strategies. Ms. Louis felt this would be an opportunity for educational programs as well.

Mr. Chancey invited the UAC to join his effort on June 5, 2010 at I-95 and Broward Boulevard.

Ms. Murru asked if Ms. Louis could donate her time and work with the City's Public Information Office. Mr. Partington agreed this is possible, with the objective of publicity planning for the 2011 Green Expo.

Chair Brenneman advised that the Committee would need to select a date and determine what kind of event would be held. Suggestions were made for Earth Day or Arbor Day 2011.

Mr. Partington recalled that publicity for the Green Expo was developed by an "informal Staff team" consisting of the Public Information Office, the recycling coordinator, the Parks and Recreation Department, himself, and Chair Brenneman. He proposed that the UAC look "beyond the historical perspective" and consider passing a motion asking Ms. Louis to meet with the City's Green Team and discuss working toward an event in 11 months' time. In this way the UAC could learn what the Green Team "could bring to the table" and any suggestions they might have.

Chair Brenneman clarified that the Citizens Sustainability "Green" Committee has a different purview than the UAC, as they primarily address ways to make buildings "greener" and other sustainability rather than educational issues. She asserted that the educational message remains with the UAC.

Motion made by Ms. Murru, seconded by Ms. Smoot, that Ms. Louis lead a team from the Utility Advisory Committee at the advice of both Chair and Staff of who should be on the initial email communication that talks about how we can move forward with a coordinated effort on the Arbor Day/Green Expo/Earth Day celebration in April 2011.

Ms. Louis agreed to lead the team as moved. Chair Brenneman suggested that Water Conservation Month and Water Matters also be included in this coordinate effort.

Ms. Shatas offered to be part of this team as well.

Mr. Partington explained that one problem will be questions about whether or not there is a budget, once emails are sent out regarding the prospective event. He felt a more appropriate first step would be for Ms. Louis to meet with the City's Green Team, as he could approach the individual who composes the Green Team's Agenda and advise them that a member of the UAC would like to meet with them. It was determined that this was acceptable to the Committee.

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

- **Draft City Undergrounding Ordinance – After 4/06/10 Second Reading at Regular Commission Meeting**

Mr. Partington stated that the first draft of this proposed Ordinance was heard on March 16, 2010; the second reading, which had been scheduled for April 6, has been deferred until May 4. The City Commission has raised some points for discussion, primarily the process neighborhoods must follow for undergrounding. The process is as follows: a neighborhood submits a petition to the City, which proceeds "to a detailed design;" once the design is complete, a public hearing is held on the assessment. At the public hearing stage, if the City Commission does not pass the Ordinance, the City is then "out the cost" of all preparation, plans, and documents. The City Commission had expressed concern with this, as the typical cost for 100% design plans for a neighborhood would be approximately \$120,000. If the assessment goes in, however, the funds fronted by the City would be recaptured through the assessment.

He continued that he did not believe, on a Staff level, that there has yet been any recommended resolution to this problem. The draft of the Ordinance that appeared at the second reading has been "very slightly" amended to remove language related to a possible second petition that had appeared in an early version of the Ordinance. The amended version calls for only one "ballpark estimate," based upon the figure determined by City consultants and FPL. The petition is submitted to the City on the basis of this figure, after which point the City proceeds with a detailed design.

At this point, the City Commission has deferred the second reading until May 4, 2010. Staff's recommendation is likely to be for further deferral until May 18, as there is not yet a recommendation to address the issue of the City potentially losing the money it fronted if the assessment does not pass.

Mr. Cole asked if the initial petition must ask every property owner in an area, or only a specific percentage of property owners, to agree to the second study. Mr. Partington responded that at this point, all that is required is a petition signed by 66% of the property owners. This would mean that hypothetically, if the petitioners are aware of an individual who is opposed to undergrounding, he

might not be asked to sign. However, at least 66% of the property owners must sign the petition in order to proceed.

Mr. Cole asked who would verify that the petition was signed by property owners. Mr. Partington replied that Staff would do this, as they already perform this verification with other kinds of petitions.

Ms. Murru asked if Staff determines that the cost of undergrounding would be, for example, \$30,000-50,000 per single-family property, what would happen next. It was determined that if the neighborhood then elects to proceed with undergrounding, all its residents are required to pay regardless of their support or opposition of the project.

Mr. Partington explained that the ballpark estimate is written into the petition, so its signers would be aware of their approximate share of the cost.

Ms. Murru recalled that the issue of “wasting Staff resources” to come up with the detailed design had been discussed at previous meetings. Mr. Partington stated that this is the City Commission’s concern. He also noted that the ultimate decision regarding whether or not to underground would lie with the City Commission and not the neighborhood, as the conclusion of the process would be a public hearing to place the assessment: at that point, in theory, only one person could show up to speak in favor of the project, and 99 people speak against it, and the City Commission could still impose the assessment, although this would be extremely unlikely.

Ms. Murru asked if the UAC’s message of concern had been passed on to the City Commission, as they had been “very clear on what we thought and why we thought it.” Chair Brenneman recalled that the Mayor had alluded to the UAC’s specific Communication, although no action was taken with regard to their recommendation of 80% rather than 66%.

Mr. Partington added that individual citizens spoke at the hearing, and some asserted that the City should not proceed without 100% approval by residents of a given area. The City Commission had discussed whether or not a higher percentage of petitioners might be more likely to guarantee the City would not lose the costs of the detailed design. He did not feel it is “out of the question” that this percentage might be changed.

Chair Brenneman reported that the Mayor had specifically asked what other cities in Florida have done with regard to undergrounding. The example given was Jupiter Island, a municipality which went entirely underground due to a mandate by their government. Other cities have only undertaken “piecemeal undergrounding.” Mr. Partington cited Palm Beach as another example, pointing out that they did not adopt a specific undergrounding Ordinance: by adopted

procedure, they require a town-produced petition, signed by no less than 80% of the property owners in the proposed area. None of the communities with which Palm Beach is working has yet submitted such a petition with the required percentage of approval. Chair Brenneman pointed out that it had not been made clear that Jupiter Island's government had taken action.

Mr. Partington introduced Tim Hall of Keith & Schnars, P.A., which has been retained as the City's consultant on these projects. He asked Mr. Hall to comment on the points raised by the City Commission at the second reading.

Mr. Hall advised that the percentages are under discussion because the City Commission does not want to "put money out" without a strong commitment from the public. Once it is determined how areas will be identified for undergrounding, the City Commission had felt comfortable stating that 66% of the signatures on a petition are considered positive, while absence of signatures should be considered "a vote against."

He reminded the Committee that some neighborhoods have been petitioning the City "for five years" to allow undergrounding. The issue is that in order to take advantage of available credits, undergrounding must be implemented through the City. The City is not comfortable proceeding with a project without a commitment from the neighborhood in question, as shown by the 66% bar. Mr. Hall added that some communities are protesting that 66% is too high.

With regard to Jupiter Island, Mr. Hall noted that that municipality "has lots of money," as well as 93% of residents in favor of the project. The entire municipality of Jupiter Island is "very small," with approximately 600 residents.

Mr. Cole felt what is "driving" the undergrounding Ordinance is Las Olas Isles, which, he asserted, "will not pay for [undergrounding] when they hear the price tag." He recalled that the Committee had seen this occur in the past with 17th Avenue.

Ms. Murru felt the Committee should consider a new motion, based on the information that Jupiter Island had had 93% approval for their undergrounding project before proceeding to the next level, as well as another strong recommendation to the City Commission that they again consider requiring 80% approval rather than 66%.

Mr. Cole noted when the costs of undergrounding are considered, including necessary upgrades to homes, this would be likely to generate a larger percentage of overall responses, particularly if assessments are determined to be roughly \$20,000.

Ms. Murru stated she wished to go on record as asking “what are we doing” if the Committee consults research, data, outside experts, and City Staff, and makes a recommendation that is not considered because “someone is afraid of offending a community group.” She asserted that “going round and round again” on the issue is a waste of tax dollars “when the research is very, very clear.”

Mr. Cole felt some specific neighborhoods would be able to reach 80%, particularly if those neighborhoods are the ones pushing for the Ordinance. He explained his concern is for other neighborhoods, some of which might be single-family and condominium dwellings. Mr. Partington clarified that each condominium unit is considered to be one parcel toward the 66%. Mr. Cole pointed out that this is “a problem,” as a condominium building’s cost would be less, with only a single service line coming into the building. Mr. Partington agreed a condominium with several owners in a community with a few single-family homes would have a much easier time reaching the 66%, as the individual condominium units would only be bearing “one-tenth or less” of what the single-family homes would be required to pay.

Ms. Murru pointed out that defaults will occur by homeowners who cannot pay their assessments, which meant the City would be investing tax dollars they will not be able to recoup. She concluded that undergrounding is “not a wise investment” of public resources.

Mr. Partington reminded the Committee that the City Commission has the final vote determining whether they would proceed with undergrounding and recoup their costs, or not, with an up-or-down vote on the assessment. Ms. Murru felt they might be able to vote for the assessment, but would not necessarily be able to collect it.

Mr. Hall added that the neighborhoods promoting the program, which the City Commission is attempting to accommodate, are the neighborhoods that would be able to afford the assessment.

Mr. Partington asked Mr. Hall to share his opinion on whether a neighborhood should have “100% design” in order to proceed to the assessment phase. Mr. Hall advised this is an issue with which the City is struggling: there is a State statute in place that determines how an assessment process is conducted, including “different checkpoints” and due diligence. The State standard brings the consultant to a point at which the documents they prepare are “90% complete.”

He continued that another question, raised by residents who would like undergrounding, is why the consultant cannot assess them based on the ballpark estimate. The problem in this case is that an individual who is not in favor of the project could object to being assessed based on a ballpark estimate. Ultimately,

he concluded, the City Commission will have to make a decision on “what [they are] comfortable with.”

Mr. Weiss observed that even a neighborhood such as his own, which has an improvement district as well as “a significant interest in undergrounding,” also has residents who are opposed to such a project, including some who “don’t have the means;” he felt even at 66%, it would be “a closed issue” in this neighborhood. He felt imposing an 80% requirement would be the same as “saying ‘I’m just opposed to this Ordinance.’” He was not certain that the Ordinance would be workable for a number of reasons, and did not feel any neighborhoods would be able to reach 80%. In addition, he did not believe an Ordinance that benefits only “a few neighborhoods in a City of this size” would ultimately accomplish its goals of hardening the infrastructure against hurricanes and/or neighborhood beautification.

He continued that “what everybody wants is undergrounding for free,” although neither the City nor FPL would be willing to absorb the necessary costs. He felt what might make sense would be an Ordinance proposing a City-wide undergrounding project, in which FPL is given a financial incentive to do the work.

Ms. Murru noted that there are also “a huge amount of foreclosures” in some neighborhoods, including her own, despite the former value of the homes in those neighborhoods. She stated the reality may come down to “how much do you know about your neighborhood;” in addition, if undergrounding costs of up to \$25,000 are imposed upon residents, a neighborhood may not be able to show the number of foreclosures. In this case, when some residents are unable to pay, she asked who would pick up the costs.

Mr. Weiss estimated that in his neighborhood of 75 homes, there were “probably a few homes” that cannot afford to maintain their houses, as well as 10 additional homes owned by longtime residents with significant equity in their homes and insufficient fluid money to “make up the difference.” He reiterated that it would be “more honest” of the UAC to tell the City Commission they are opposed to the Ordinance rather than recommending an 80% bar.

Ms. Toothaker and Ms. Canady departed the meeting at this time (8:23 p.m.).

Motion made by Ms. Murru that based upon the 93% approval of Jupiter Island and the best practices of Palm Beach County at 80%, we reiterate our recommendation to the City Commission to increase the percentage of 66% to 80%, based upon a realistic expenditure of Staff engagement and involvement.

She asked what the City would do in the event that 66% of a neighborhood was in favor of undergrounding, but the remaining 34% did not want to proceed or

could not afford the assessment. Mr. Partington replied that a lien would be placed on those individuals' homes; Ms. Murru pointed out that the City cannot collect the liens it already has in some neighborhoods, and asked who would pay in this case.

Mr. Cole **seconded** Ms. Murru's **motion**.

Mr. Chancey asked if it would be possible for other homeowners who want undergrounding to "chip in" and pay additional money to make up for residents who cannot pay. Mr. Weiss explained that there are more issues at stake, such as the fact that if one homeowner refuses undergrounding, FPL may remove its 25% commitment. He felt once this is made public, in addition to the idea of boxes being placed on private property, 66% approval would not be reached.

Mr. Cole recalled an earlier attempt at undergrounding by a neighborhood, pointing out that even though there were issues with placement of the boxes, "you still had an interest that exceeded 66%" and may have been close to 80%. He stated that in areas that can afford undergrounding, the 80% was attainable; however, in other parts of the City, a condominium may "skew" a portion of the neighborhood, and he felt it would be unfair that 66% of the neighborhood could now force the remaining 34% to pay for undergrounding. He added that even with undergrounding, residents would be "really upset" when the overhead feeder lines that lead to their neighborhood go down and their power goes out anyway.

Mr. Weiss felt it would be "more honest" to table the Ordinance and take a new approach. He stated that the numbers, such as 66%, 80%, or higher are arbitrary. Ms. Murru disagreed, as she felt the numbers were reflective of expert opinions, best practices, and "lessons learned." She also clarified that she is in favor of undergrounding "that everyone can afford," in which the City is not burdened with additional costs.

In a roll call vote, the **motion** carried 5-3 (Mr. Weiss, Mr. Larson, and Ms. Smoot dissenting).

Ms. Shatas clarified that FPL has always maintained that 100% of an area must be undergrounded.

- **Other New Business**

Chair Brenneman stated that there are "neighbors...residents and businesses" that are under the Water Works 2011 assessment for sewer line connection. The residents have been offered a long term over which payments may be made; however, businesses and apartment buildings have not been offered this same opportunity.

Mr. Chancey explained that 95% of these already connected buildings have paid for their hookup to the City; he felt there are three specific instances in which the businesses cannot make their payments in full, and they should be allowed to “stretch [their payments] out” over time.

Motion made by Mr. Chancey, seconded by Ms. Murru, to allow the Days Inn Broward Boulevard, an apartment building in Shady Banks, and Community Acres to have payment over time for their sewer hookups. In a voice vote, the **motion** carried unanimously.

VI. Unfinished Business

None at this time.

VII. Good of the Committee

None of this time.

VIII. Announcements:

- **UAC Next Regular Meeting, Tuesday May 25, 2010 at 6:30 p.m.**
- **RSVP Needed: Better Meetings Academy, Monday June 7, 2010, 3rd Floor of City Hall, 5:45 p.m.**

IX. Adjournment

There being no further business to come before the Committee at this time, the meeting was adjourned at 8:46 p.m.

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