



MIAMI BEACH

City Commission Workshop

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
April 30, 2008

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| Mayor Matti Herrera Bower | Absent |
| Vice-Mayor Saul Gross | Absent |
| Commissioner Jerry Libbin | Absent |
| Commissioner Richard L. Steinberg | |
| Commissioner Edward L. Tobin | |
| Commissioner Deede Weithorn | |
| Commissioner Jonah Wolfson | |

City Manager Jorge M. Gonzalez
City Attorney Jose Smith
City Clerk Robert E. Parcher

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ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's Office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

Times based on the digital recording in the City Clerk's Office.

WORKSHOP AGENDA ON CONVERSION OF ABOVE GROUND UTILITIES TO UNDERGROUND

1. **Overview of Conversion of Above Ground Utilities to Underground**
 - a. Evolution of Regulatory requirements
 - b. Current Roles and Responsibilities
 - c. Nature of Benefit/Improvement to be Constructed
 - d. Steps in Project Process
2. **Construction Approach**
3. **Pending Projects Status**
 - a. Palm/Hibiscus Islands
 - b. Sunset Islands 3 & 4
 - c. Venetian Islands (San Marino & DiLido)
4. **Scope of Construction**
 - a. Main Line Utility Construction
 - b. Connections from Right-of-Way to Dwelling (lateral connections)
 - c. Connection to Home
5. **Construction Management**

6. Special Assessment District Process

- a. Process Steps
- b. Formula for Assessment
- c. Public Involvement and Vote Requirements

7. Special Assessment Financing

- a. Costs to be Assessed
 - o Issuance Costs
 - o Construction Management Costs
 - o Utility Costs
 - o Lateral Connection Costs
 - o Reserve for Loan Instrument

- b. Market Conditions and Challenges

Commissioner Weithorn called the meeting to order at 5:27:44 p.m.

Robert Middaugh, Assistant City Manager, gave an overall presentation.

Lisette Goldstein, Sunset Island 3, stated that residents were told that Florida Power and Light (FPL) undergrounding and flooding problems would be addressed at the same time.

Commissioner Weithorn asked the Administration to address the question of doing the project concurrently with G.O. Bond.

Robert Middaugh, Assistant City Manager, explained that during the process they learned from FPL that the best thing to do is put utilities in first, do minimal amount of restoration and follow closely with a CIP project, but not do the projects at the same time.

Commissioner Weithorn asked the reason why FPL cannot do the projects concurrently.

Ian Kaplan, representing Palm and Hibiscus, spoke.

Jeremy Goldstein, Sunset Island 3, expressed his concerns of having three separate trenches, three separate remediations and resurfacing of the streets and added that perhaps they need to ask FPL to come in front of the Commission and find ways to minimize the remediation costs.

Jorge Gonzalez, City Manager, explained that the City is reacting to the real frustration of the residents and the fact that the City cannot control FPL. FPL doesn't really want to do this and is doing everything it can to frustrate the City. The City has stated that the proposed plan may not be the cheapest and most efficient way to accomplish the work, but it is the quickest way to get undergrounding done. The City is proposing to take some of the responsibility, with some hardships to the neighborhoods because of the multiple trenches, but the goal will be accomplished. Working with FPL has been an effort in futility.

Discussion continued.

Ian Kaplan spoke about the project and also stated FPL has been told that the residents just want to reconnect everyone the way they are connected today. The residents just want to make sure that it is all going to work.

Commissioner Steinberg commended Mr. Kaplan and stated that he is troubled that there will need to be three (3) trenches and asked why this cannot be done all at one-time, as oppose to getting it done

through multiple trenches. This has to be a more expensive method.

Commissioner Weithorn also asked who is responsible for the coordinating efforts of this work.

Robert Middaugh, Assistant City Manager, stated FPL's first position was that they would be happy to underground but all of the homeowners would have to give them an additional easement outside of the road way to allow them to do the construction. The City fought with FPL for a year over this issue. The Administration was finally able to get FPL to agree to use the right-of-way. FPL work will be done in the City's right-of-way (ROW) and coordinated with the water and sewer currently underground. He asked Jorge Chartrand to explain the sequencing.

Jorge Chartrand, CIP Director, stated that the methodology recently discussed with all three associations is the correct one, because it deals with utility companies that are extremely powerful in how they manage their business, it deals with narrow and restricted ROW, dealing with having to let FPL do their installation and follow their regulations; the coordination is difficult, but the CIP Office and Administration are committed. The documents have been submitted and they have agreed to review them; they also have agreed that the installation of cable and phone is much simpler than FPL and installation concurrency may happen and the City is committed to work with all three utility companies. The difficulty of doing the ROW project, which is the storm and water construction, is greater due to the possible conflicts which may occur during construction. He stated that the recent experience on Belle Isle was a disaster because FPL was allowed to do some work related to the work the City was doing as well as the work being done at the pump station. The conflicts while doing the construction were significant. He added that we want to avoid a similar situation. He stated that it is better to allow FPL to install their duct bank and the City help with the installation of the telephone and cable undergrounding in a coordinated manner. From a construction perspective it makes sense to have FPL complete their work first. FPL will have to deal with any underground surprises which will benefit the City. The City expects to have FPL's drawing in two to three months and the City will be able to make a decision in moving the ROW project from 30% today to 100%. By the time FPL has completed their installation the expectation is the right-of-way documents will be complete and construction can start immediately perhaps allowing for partial restoration. The residents will always be kept informed.

Ian Kaplan asked for clarification from the Commission that bids from FPL and the others be separated between restoration work and the other work; he added that if getting separate trenches is the easiest method, the associations are in support, but if additional expense can be minimized by the City taking responsibility of being the final contractor for the restoration work above the ground that would be a step forward and the final decision needs to be made before the special taxing district figures are locked in.

Discussion continued.

Jorge Gonzalez, City Manager, asked if the binding bid that FPL provides, if for some reason the project progresses and less is spent, can the additional dollars be applied to the remainder of the project and how does it affect the assessment.

Raul Aguila, Deputy City Attorney, clarified that under Chapter 170 of the Florida Statutes, there is a certain amount of strictness in creating these districts, and in creating the first resolution there have to be hard and soft costs in final form. The City cannot exceed the amount being levied for the special assessment.

Patricia Walker, Chief Financial Officer, stated that under special assessment the City cannot begin collecting the assessment until the project is complete. Timing is very important because of the County's deadlines for tax assessment which occur once a year.

Commissioner Weithorn stated that there will have to be strict definitions of timing and she needs to see the project details because they are critical.

Jeremy Goldstein spoke and requested to see the timelines.

Commissioner Tobin stated that separate trenches are not needed and suggested two ways to do the project: 1) the City hires a contractor supervised by CIP to have joint trench or 2) let each individual subcontractors do their own trench.

Robert Middaugh, Assistant City Manager, stated that the City can build the duct bank and provide the common infrastructure for all of the utilities; however, because of the procurement process the project will be elongated at least a year. Based on the plan today construction for Palm/Hibiscus should start early next year.

Jeremy Goldstein stated that he does not care how the project is done but wants someone from the City to state what is a reasonable timeframe for when the entire projects (Sunset Islands, Venetian, and Palm/Hibiscus) can be done.

Robert Middaugh, Assistant City Manager, stated that the timeline for Palm/Hibiscus to construction drawings from FPL is around June. At this time the special assessment process will begin. FPL's current position is that they will not start Sunset Islands until they have completed Palm/Hibiscus and will not start Venetian until they have completed Sunset Islands.

Discussion continued.

Jorge Gonzalez, City Manager, stated that there is a policy question which needs to be addressed regarding the laterals, and if the laterals will be included in the binding estimate or the installation of laterals will be the responsibility of the individual homeowners.

Ian Kaplan, stated that the question is can the cost be included in the binding estimate because it would be on private property.

Commissioner Weithorn asked about the \$1 or \$2 million of upfront engineering costs, although it may be the best solution from an efficiency standpoint, financially it is impractical because of the number of neighborhood associations.

Patricia Walker, Finance Director, explained that the sentiment of previous Commission had been that the City would facilitate financing but not be the financial vehicle; but at the present time, FPL is requiring that the City be the contracting agency the City needs to be the financing vehicle because the City needs to control the funds. The Administration is looking into where the financing is tax-exempt or taxable financing. The issues are the installation of the laterals, which are on private property, and the completion issue. She explained the credit and financing requirements and possible options.

Commissioner Weithorn stated that FPL needs to be part of this discussion and asked what the Administration wants today and believes everyone is in agreement to do what is needed to get the Palm and Hibiscus project moving.

Jorge Gonzalez, City Manager, stated that option one is the more practical solution but not the most ideal solution. The Administration believes option one will move the project along.

Discussion continued.

Robert Middaugh, Assistant City Manager, explained the total process.

Lisette Goldstein stated that regarding the laterals, FPL required the property owners to sign a petition and required 100% compliance. Every single property owner has signed the petition.

Robert Middaugh, Assistant City Manager, explained the petition process and the lateral process.

Discussion continued regarding laterals.

Jorge Gonzalez, City Manager, stated that the laterals are a complication to the financing issue but if they are defined as part of the overall project then there is more likelihood that they will be 100% participation which then gets the 25% reduction off of the FPL price.

Robert Middaugh, Assistant City Manager, stated that if the laterals are to be done by the City and the financing is available, the City would have to install the conduit and FPL would pull their lines through the conduit.

Jorge Gonzalez, City Manager, stated that this is intended to be a special assessment and the City cannot begin collecting on the assessment until the project is completed. If one or more chose not to complete their connection it will create complications.

Ian Kaplan stated that the cost per household will be different for every home. Some homes may have to upgrade their entire service to meet code. The plan between FPL and the City is that right now there is no interest in the laterals, but to get the backbone installed and disconnect and reconnect to the existing service. All that is being requested is for those homes that have service from a power-pole to the house is to connect the underground service to the bottom of the pole and nothing else changes.

Commissioner Weithorn recommended taking the laterals out of the equation at this moment and figure out how to do the basics at this time.

Scott Dutcher, homeowner on San Marino, spoke regarding exhibit #3 and the petition process.

Robert Middaugh, Assistant City Manager, stated that the petition process is not a legal requirement but a policy choice established by the previous City Commission. He gave the example of the Normandy Shores guard gate vote and how it failed.

Discussion continued.

Commissioner Weithorn stated that when the homeowners receive the real cost and when they find out that it will cost them some amount of money they may no longer be in favor of the project. The last thing the City wants is the bond to default, therefore, it is prudent that we ask for a re-vote.

Lisette Goldstein asked that the Sunset Islands continue to move forward and give us a timeline.

Ian Kaplan stated that the Commission needs to do a political push.

Commissioner Wolfson asked when an FPL representative can be present for questions and answers.

Jorge Gonzalez, City Manager, suggested putting the item for discussion at the May 14, 2008 meeting.

Commissioner Weithorn recommended placing an item on the May 14, 2008 City Commission Agenda, with a Time Certain of 5:01 p.m., and invite the best representative from FPL to answer questions. In addition, she suggested that when the Capital Improvements Projects Oversight Committee meets to have FPL provide monthly status reports.

Jorge Chartrand, CIP Director, explained that FPL does not want to work on private property, but will assist the City on how to reach the new location of service from new transformers on public ROW and will provide conduits in their binding estimate, but the installation of conduit is something they will not do.

Discussion continued.

Commissioner Tobin asked if AT&T and Atlantic Broadband have been requested to submit non-binding cost estimates.

Jorge Chartrand, CIP Director, stated that meetings have been held but today it was suggested that AT&T and Atlantic Broadband work together and put their cables in their own separate trench. They also have the information they need and both cost proposals should be given to the City in a matter of days.

Commissioner Tobin stated that based on the schedule, Palm/Hibiscus is behind because they have not done their binding estimates for the other utilities to get the final design cost estimates.

Commissioner Weithorn suggested modifying the order in exhibit three to make it more sequential, since FPL has to do the work first.

Robert Middaugh, Assistant City Manager, explained exhibit three.

Discussion continued.

Robert Middaugh, Assistant City Manager, explained the statutory steps to follow, which were distributed by Raul Aguila, Deputy City Attorney.

Commissioner Weithorn thanked everyone for their input.

Meeting adjourned at 7:18:06 p.m.

Handout or Reference Materials:

1. PowerPoint presentation titled Legal Requirements for Creation of Special Assessment Districts under Chapter 170, Florida Statutes.

City Clerk's note: Materials Related to the Commission Workshop and distributed in the Agenda.

1. Commission Memorandum
2. Exhibit 1: Commission Memorandum from the 2-13-2008 Commission Agenda, Item R7I
3. Resolution 2008-26770
4. Exhibit 2: Commission Memorandum from the 2-20-2002 Commission Agenda, Item R7A
5. Resolution 2002-24761
6. Exhibit 3. Document titled: Process steps for conversion of above ground underground electric facilities
7. Exhibit 4: Chart titled: Undergrounding Options, City of Miami Beach, dated February 22, 2008
8. Exhibit 5: Florida Statute Chapter 170 – Supplemental and Alternative method of making local municipal improvements
9. Color diagram of an underground electric distribution system