



**MEETING MINUTES
CITY OF FORT LAUDERDALE
INFRASTRUCTURE TASK FORCE ADVISORY COMMITTEE
MONDAY, JUNE 7, 2021 – 2:00 P.M. TO 5:00 P.M.**

CITY OF FORT LAUDERDALE

February 2021-January 2022

Attendance

Marilyn Mammano, Chair	P	5	0
Gerald Angeli	P	5	0
Shane Grabski	P	5	0
Charlie Ladd	A	3	2
Michael Marshall	P	4	1
Peter Partington	P	5	0
Jacquelyn Scott	P	5	0
Roosevelt Walters	P	5	0
Ralph Zeltman	P	5	0

As of this date, there are 9 appointed members to the Committee, which means 5 would constitute a quorum.

Staff

- Raj Verma, Director of Public Works
- Patricia Jolly, Sr. Administrative Assistant and Board Liaison
- Brandy Leighton, Senior Project Manager
- Felicia Powell, Senior Management Analyst
- Dr. Nancy Gassman, Assistant Director of Public Works – Sustainability
- Talal Abi-Karam, Assistant Director of Public Works – Utilities
- Victor Carosi, Assistant Director of Public Works -- Engineering
- Omar Castellon, Chief Engineer
- D’Wayne Spence, Assistant City Attorney
- Jamie Opperee, Recording Secretary, Prototype, Inc.

Communication to the City Commission

None.

1. Call to Order

i. Roll Call

Chair Mammano called the meeting to order at 2:00 p.m. and roll was called.

ii. Approval of Agenda

Motion made by Mr. Walters, seconded by Mr. Angeli, to approve the Agenda. The **motion** passed by unanimous consent.

iii. Approval of Previous Meeting Minutes May 3, 2021

Mr. Partington noted the following corrections:

- P.10, paragraph 3: clarify that the last sentence means the Committee will seek direction from the Commission on how to move forward
- P.14, paragraph 6: change \$180 million to \$1.889 million

Mr. Zeltman noted the following corrections:

- P.7, paragraph 2: follow "...moratoriums issued" with "to other utilities in the past"
- P.12, paragraph 1: change "use" to "wastewater flows"

Motion made by Ms. Scott, seconded by Mr. Walters, to approve. In a voice vote, the **motion** passed unanimously.

2. General Discussion and Comments by Committee Members

Mr. Zeltman addressed a proposal to the City for a tunnel for rail service, stating that he had concerns regarding the geology and conditions of South Florida which would affect this option. Ms. Scott added that she had attended a meeting at which the proposed tunnel was discussed, and characterized the option as extremely innovative. She added, however, that the Committee should not spend significant time discussing this proposal until more information is available, and requested that someone knowledgeable about this option be invited to discuss it further at a later meeting.

Mr. Walters commented that his primary concerns with the tunnel proposal were its feasibility as well as how it would be financed. He also requested clarification of whom the tunnel would be intended to serve, and advised that the City needs a better transportation system for working residents rather than a tunnel with few stops.

Mr. Partington felt the discussion is being driven by the Mayor's preference for a tunnel beneath, rather than a bridge above, the New River for Brightline rail service. The Florida Department of Transportation (FDOT) has estimated that a tunnel would be significantly more expensive than a bridge.

Ms. Scott advised that the City has not received a formal proposal for the tunnel. She noted that the boring company that has presented this option feels it would not take more than two years to construct a tunnel "from Brightline to the beach." She also pointed out that the City has difficulty transporting residents from the west to the beach, which affects several neighborhoods and corridors. She concluded that if a tunnel to the beach is successful, this effort can continue and provide north-south connections as well.

Chair Mammano agreed that the Committee should see a presentation on the tunnel option at their next meeting, as none of the members have extensive knowledge about this option at present. She noted that the Committee's mission statement asks that they

consider all the City's infrastructure systems, including transportation, and make recommendations, even though they have not been asked to comment specifically on the tunnel proposal.

Ms. Scott commented that the City should do a better job communicating with its residents to let them know about the work that is being done on the City's infrastructure. She suggested that the City undertake a public relations campaign to ensure the public is informed. Chair Mammano stated that this would be discussed further when the Committee and the City Commission meet for a joint workshop. Mr. Partington observed that the City's new Public Information Officer could be asked to disseminate information about work on the City's infrastructure to other organizations, such as the Chamber of Commerce, the Realtors' Association, and the local press.

3. Public Comments (at Each Item)

Public comments were heard as each Item is discussed.

4. Old Business

i. Continued Discussion on Moratorium

Resolution Statement – *To evaluate and provide a recommendation on the feasibility and impact of implementing a moratorium on the acceptance of an application for or issuance of a development permit within the City.*

ii. Update on Commission Communication Regarding the Moratorium from June 1, 2021

Chair Mammano recalled that the Committee had sent their communication to the City Commission following their May 2021 meeting. The Mayor and Commissioners had agreed that the Commission and the Committee should meet for a workshop in September 2021 to discuss how the Committee reached their decision. The workshop would also address any other efforts the Commission wishes the Committee to undertake before the group sunsets in February 2022.

Ms. Scott observed that the Committee could continue in a manner similar to the Charter Review Committee, which does not meet regularly unless they have business to discuss. The Committee could meet to address City facilities, ongoing transportation or infrastructure issues, or other items as they arise. She cited the upcoming Item discussing unsolicited proposals for the water treatment plant on today's Agenda.

Mr. Partington commented that the Committee's primary charge was to bring pressure on the City to repair and replace its infrastructure. Another function could be to "keep the pressure on" the Commission with regard to funding for these repairs and replacement.

Mr. Zeltman requested a status report on other aspects of the City's infrastructure, as well as the current status of the infrastructure issues the Committee has already discussed. Mr. Partington suggested that this update could be provided at the Committee's next meeting.

Chair Mammano concluded that there may be City residents who are disappointed that the Committee did not recommend a moratorium on development. She pointed out that the members reviewed all the information provided to them before coming to the agreement that they could not recommend a moratorium, although they did suggest changes to the City's approval processes. She felt Staff could put together a comprehensive list of all the backup materials provided to the Committee at past meetings, some of which may have been updated, to show the depth of the work they have done.

Mr. Angeli pointed out that the best-case scenario for sewer infrastructure is that it goes unnoticed, as this means it is working properly. Ms. Scott did not agree, noting the progress the City and Staff have made in a relatively short period of time in addressing breaks and other issues, which she felt was worthy of notice and should be communicated to the public.

Mr. Walters spoke in favor of outreach, providing information to the public, and attending public meetings, such as homeowners' associations and the Chamber of Commerce, to communicate this information. Ms. Scott proposed making a presentation to the Council of Fort Lauderdale Civic Associations to provide an update on the City's progress in making infrastructure improvements. Chair Mammano reiterated that this could be suggested to the City Commission as a way to publicize the work the City has done.

Dr. Nancy Gassman, Assistant Director of Public Works (Sustainability), advised that infrastructure is one of the City Commission's top priorities, and a monthly newsletter, LauderTrack, is sent out to provide updates to residents on these stated priorities. This information is also available on the City's website. These notifications are also provided on NextDoor and are shared with the media as well as homeowners' associations.

Chair Mammano concluded that Staff is asked to provide a comprehensive appendix of all the documents the Committee has reviewed at the August meeting.

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

5. New Business

i. Ordinance Modification Discussion

Chair Mammano explained that after the Committee's recommendation was sent to the City Commission, the City Manager sent a memorandum to the Commission stating that it would be difficult for the Committee to address the condition of infrastructure: they were

tasked only with addressing capacity. The memo cited a number of procedural and conceptual problems that were likely to arise if condition is addressed.

Assistant City Attorney D'Wayne Spence advised that Memorandum 21-03, dated April 19, 2021, states that only the impacts on existing infrastructure which can be directly attributed to development can be considered. In considering permits for any development, the City must consider the effect of that specific development on the existing infrastructure. The current system, which is capacity-based, is relatively easy for engineers to calculate: a development can be expected to include a specific number of units and as a result would generate a specific amount of volume. This would be added to the existing capacity to determine the impact on existing infrastructure.

Attorney Spence continued that to determine the connection between proposed development and the public purpose the Committee is seeking to address, which is the condition of existing infrastructure, they must demonstrate some kind of formula that shows how the number of units in the development creates a certain impact in the pipes that would have a specific effect on the system. This would involve knowing the actual condition of all the pipes that would be affected by that development.

Ms. Scott requested clarification that the Public Works Department is aware of the condition of the City's pipes. Raj Verma, Director of Public Works, replied that this is true in most cases. Ms. Scott continued by asking if it has been calculated that a pipe will meet capacity, but the condition of the pipe is an issue, it can be determined whether or not the pipes may fail based on this condition. She asked how this could be tied into the Committee's purview, pointing out that the public is greatly concerned with overdevelopment and would be more comfortable knowing what can and cannot be handled by the City's existing infrastructure.

Attorney Spence explained that this becomes an engineering question that would be addressed by developers' attorneys: the City would be challenged to show that it is certain that a proposed development would cause specific pipes to fail.

Mr. Grabski recalled that the City has contracted for the creation of a risk matrix, which includes identification of the risk level of failure of specific pipes. Attorney Spence explained that the issue is more closely related to the criteria that are in place for the issuance or denial of a development permit. A legal determination was made that it would be very difficult to justify the denial of development permits based on the type of technical information referred to earlier.

Mr. Partington noted that the work done by consultant team Hazen and Sawyer includes the calculation of which infrastructure is at low, medium, or high risk of failure, particularly pump stations and force mains. If a proposed development will generate a significant increase in flow on high-risk infrastructure, and if it is possible for engineering staff to opine that this infrastructure may fail as a result, Memorandum 21-03 suggests that the

City cannot prohibit this development because the infrastructure has been permitted to deteriorate to this state through no fault of the incoming development.

Attorney Spence advised that this is addressed by Florida Statute 70.45, which prohibits any condition imposed by a governmental entity on property owners' use of their real property which lacks an essential nexus with legitimate public purpose and is not roughly proportionate to the impact of the proposed use. A development may contribute to the failure of an asset, but the failure is in proportion to the actual use by the development.

Mr. Partington asserted that it may be possible for an engineer to give the opinion that a high-risk piece of infrastructure is likely to fail due to the addition of new development. Attorney Spence confirmed this, but pointed out that the infrastructure was already at risk of failure before the new development is added. Chair Mammano also felt an engineer should be able to state with some certainty that adding more use to the high-risk infrastructure could result in its failure. She continued that the answer may not be to deny a permit for the new development, but to postpone construction until the high-risk infrastructure has been fixed.

Mr. Marshall stated that while the existence of failing infrastructure throughout a system could constitute the basis for a moratorium, what the Committee saw instead was that not all incoming development would connect to a piece of high-risk infrastructure. He felt the existence of this connection could be a sufficient basis to deny a permit; however, he acknowledged that the result would likely be disagreement among experts regarding whether or not the proposed development would accelerate the failure of that infrastructure.

Attorney Spence reiterated that the issue on the table is the role of adequate capacity in the City's adequacy review process. The Committee's recommendation was to consider amending this position so the City Commission may also consider the condition of infrastructure as well as capacity when reviewing development permits.

Ms. Scott emphasized that the Committee is no longer discussing a potential moratorium: instead, they are discussing the issue of individual projects in an area that includes infrastructure in high-risk condition. She asked if Staff can communicate to a developer applying for a permit that the area in which they plan to construct their project includes infrastructure in poor condition, and caution that this infrastructure may not be fixed for a number of months. She felt the developer, in this case, may wish to assist in the repairs. Chair Mammano also pointed out that the cost of the developer's assistance can be offset against his impact fees.

Attorney Spence reiterated that the issue is whether or not the condition of infrastructure, as part of adequacy review, can be a legal basis for denial. Ms. Scott recommended that the discussion focus on the delay of permit issuance rather than the denial. Attorney Spence advised that this would not make a difference with regard to the issue at hand.

Mr. Verma explained that it is the City's responsibility to maintain the system in a timely manner so it does not reach a condition at which infrastructure can potentially fail.

Chair Mammano expressed concern that this argument meant no development could be refused or denied for any reason other than capacity. If this is the case, she questioned why the Committee was tasked with reviewing the system and identifying weaknesses. Mr. Verma replied that if a developer has paid into the system, and the City has failed to maintain that system adequately in a timely manner, it is not proper to penalize that developer. In addition, if the City were to inform developers that the infrastructure in the area where they plan to build is likely to fail, this would accomplish nothing more than putting the developer on notice.

Chair Mammano recalled that the Committee had not been tasked with telling the Commission how to proceed: instead, they were asked to observe the weaknesses in the system and recommend that the Commission determine a way to deal with condition as well as capacity.

Chair Mammano continued that City Commissioner Ben Sorensen has indicated he would like the City Attorney's Office to conduct research into whether or not, and how, other municipalities have included condition in their development review process.

Mr. Partington commented that if the previous City Commission had been better informed regarding the state of the City's infrastructure, its condition might never have deteriorated to its recent state. He felt there would be value in informing every developer of the condition of the infrastructure on which new development would place an additional load. He concluded that the addition of condition to the Ordinance by which development review is governed should inform the City Commission of the state of infrastructure.

Attorney Spence advised that the Committee's dialogue on this issue, as well as their previous recommendations to the City Commission, was well thought out. He noted that Staff has the authority to add the information the Committee has discussed to their reports, so the City Commission will have more information on the City's infrastructure when projects come before them for review. He felt this information could be used to better prioritize infrastructure improvements, although it could not be used to deny projects.

Mr. Verma advised that Staff has already prioritized the improvements and/or repairs that need to be made to the City's infrastructure: providing the City Commission with additional information about condition would keep their attention focused on the need to make these improvements, so when Community Investment Plans (CIPs) are submitted, this would emphasize the need to prioritize those projects. The goal is to ensure that all major pieces of infrastructure with higher likelihood of failure are prioritized in the near term.

Ms. Scott asked if Staff would also provide information on condition to the Planning and Zoning Board (PZB) as well. Mr. Verma replied that the PZB could be provided with this report for all projects.

Chair Mammano recommended placing this inclusion in an Ordinance so it is codified and will be provided into the future, even if Staff and the Commission turn over significantly. She requested that Attorney Spence consider how this might be done. Mr. Partington also requested that Mr. Verma ensure his Staff members who are conducting adequacy reviews are thoroughly familiar with the Hazen and Sawyer report, which addresses the risk levels of different facilities.

ii. Discussion of Two (2) Unsolicited Proposals to Build the New Water Treatment Plant

Mr. Verma advised that the City has received two unsolicited proposals with respect to construction of a new water treatment plant. There are two elements required of these proposals: technical sufficiency and financial sufficiency. The City was asked to consider the technical aspect. The technical sufficiency proposed by one of the proposals was deemed to be sufficient to advance forward. The financial component was reviewed by another consultant, who reviewed financial details. The proposals are expected to be brought forward at the next Commission meeting for further discussion.

Mr. Verma concluded that the City cannot discuss all the details of the proposals, and Staff is not yet privy to the findings of the consultant reviewing financial sufficiency. Since the Commission has expressed interest in reviewing these proposals, it has been determined that other parties may also submit competing proposals within the next 90 days.

Chair Mammano requested additional detail regarding the unsolicited proposals. Mr. Verma advised that detailed information cannot be shared due to the prohibitions of Florida Statute 255. He noted, however, that one of the entities submitting an unsolicited proposal extracted one of Staff's recommendations from the 2017 Reiss report and used this recommendation as the basis for their proposal.

Mr. Zeltman recalled that some time ago, a proposal was brought forward suggesting a pilot study be conducted at the Prospect wellfield and Fiveash Treatment Plant. He requested an update on this proposal. Mr. Verma replied that regardless of what may occur with the unsolicited proposal(s), it will be a number of years before a new treatment plant is constructed. Until that time, the current plant must be kept running, which requires some minimal upgrades that are underway. These include improvements at the wellfield, as well as additional tests and studies, all of which have already begun.

iii. Status of City Representative regarding the Water Treatment Plant

Mr. Verma continued that at the next City Commission meeting, there will be discussion of selecting an owner's representative for the City. Staff recommends retaining the services of consultant Hazen and Sawyer in this position to guide the City through this process. This was a result of the receipt of the two unsolicited proposals: Mr. Verma emphasized that absent those proposals, the City would have issued a request for proposal (RFP) for a representative.

6. Public Works Update

i. Water & Sewer Breaks Report 2021 w/Mapping

Chair Mammano noted that this map was included in the members' backup materials. She pointed out the existence of a cluster of breaks in the middle of the City, commenting that a comprehensive mapping and review of the City's water system is currently underway and can be used in the future to overlay these breaks.

Mr. Verma stated that there is a scope of work for this map, which must be completed as part of the City's water Consent Order. The existing maps are not sufficiently detailed to be useful to Staff in future years.

Mr. Verma further clarified that the City is under two Consent Orders, one for water and one for sewer. In addition, there are two parts of the mapping process: mapping of the water system from wells to the treatment plant, as well as from the treatment plant to the rest of the City. The latter part may take approximately two years, as it includes hundreds of lines. Chair Mammano requested that the Committee be provided with a copy of the water Consent Order.

Mr. Zeltman advised that one of his primary concerns was for the City to perform dynamic fire flow testing, particularly at suspicious areas to ensure that fire hydrants can deliver the required fire flows, maintaining a minimum residual pressure of 20 psi. Talal Abi-Karam, Assistant Director of Public Works (Utilities), stated that this testing has been carried out through the City's ongoing hydrant testing program in recent years, as discussed in previous meetings. Consultant Hazen and Sawyer is responsible for modeling the City's entire water system, including directional flushing, in addition to their other responsibilities.

ii. CIP Financial Report

This Item was not discussed.

iii. Impact Fees – Usage

Chair Mammano recalled that at the previous meeting, the Committee received a list of all impact fees over a certain period of time. She called the members' attention to a memorandum from Business Operations Manager Kymberly Holcombe, which clarifies

how these funds were spent. The memorandum states that \$2.7 million of these dollars was used toward the City's water and sewer bond debt payment, with the remaining funds used for other expenses.

Chair Mammano pointed out that while paying off the bond debt could be construed as adding capacity, she felt this described use of funds was broad and therefore a concern, particularly in light of a new state law that requires municipalities to account for the spending of all collected impact fees. Mr. Verma advised that he would look further into this and provide more information at a later date.

7. Next Regular Meeting – TBA Summer Break?

Chair Mammano noted that the City Commission will be in recess for the month of July. She requested feedback from the Committee regarding whether or not to take a break in July and reconvene in August.

Motion made by Mr. Walters, seconded by Mr. Partington, that we skip the July meeting unless there is an emergency that requires it. In a voice vote, the **motion** passed unanimously.

The next meeting is scheduled for August 2, 2021.

8. Adjournment

There being no further business to come before the Committee at this time, the meeting was adjourned at 4:25 p.m.

Any written public comments made 48 hours prior to the meeting regarding items discussed during the proceedings have been attached hereto.

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