



**MEETING MINUTES
CITY OF FORT LAUDERDALE
INFRASTRUCTURE TASK FORCE ADVISORY COMMITTEE
MONDAY, APRIL 4, 2022 – 2:00 P.M. TO 5:00 P.M.**

CITY OF FORT LAUDERDALE

January-December 2022

Attendance

Marilyn Mammano, Chair	P	4	0
Gerald Angeli	A	3	1
Shane Grabski	P	3	1
James LaBrie	P	4	0
Charlie Ladd	A	1	3
Michael Marshall	P	2	2
Peter Partington	A	3	1
Jacquelyn Scott (dep 3:00)	P	4	0
Roosevelt Walters	A	2	2
Ralph Zeltman	P	4	0

As of this date, there are 10 appointed members to the Committee, which means 6 would constitute a quorum.

Staff

Tracy Van Cott, Senior Administrative Assistant / Staff Liaison
Chris Bennett, Assistant Director of Public Works
Jill Prizlee, Chief Engineer
D'Wayne Spence, Assistant City Attorney
Sylejman Ujkani, Program Manager
Karen Warfel, Transportation Planning Manager
Jamie Opperlee, Recording Secretary, Prototype, Inc.

Communication to the City Commission

None.

1. Call to Order

i. Roll Call

The meeting was called to order at 2:02 p.m. Roll was called and it was noted a quorum was present.

ii. Approval of Agenda

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

iii. Approval of Previous Meeting Minutes – March 7, 2022

Motion made by Mr. LaBrie, seconded by Mr. Zeltman, to approve the minutes. In a voice vote, the **motion** passed unanimously.

2. General Discussion and Comments by Committee Members

Ms. Scott suggested that in the future this Item be moved closer to the end of each meeting's Agenda, as there have been times when general discussion has taken a number of tangents.

Motion made by Ms. Scott, seconded by Mr. LaBrie, to change our Agenda and process and put General Discussion and Comments by Committee members at the end of the Agenda. In a voice vote, the **motion** passed unanimously.

3. Public Comments (at Each Item)

4. Old Business

i. Sunshine Laws and Committee Communication – City Attorney's Office

Assistant City Attorney D'Wayne Spence gave a PowerPoint presentation on Florida's Sunshine Law, explaining that the State Constitution provides that all meetings of any public body of the state, County, municipality, School Board, or special district, at which official actions are being taken and public business is transacted or discussed, shall be open and noticed to the public. This Law provides the general public with the right to be a part of the decision-making process by their presence. The Sunshine Law's language is incorporated into State Statutes.

The three basic requirements of the Sunshine Law are as follows:

- Meetings of the public or City Commission must be open to the public
- Reasonable notice of such meetings must be provided
- Minutes of the meeting must be taken and promptly recorded

Sunshine Law requirements apply to advisory board and committee members who are delegated decision-making authority and/or advisory bodies appointed by a single public official. They do not apply to strictly information-gathering or fact-finding meetings, or to Staff meetings regarding decision-making responsibilities.

Attorney Spence continued that the Florida Supreme Court has determined that a committee serves as an alter ego of a town or city council or other elected body in making tentative decisions. For this reason, they are subject to the provisions of the Sunshine Law. Even though the Committee makes recommendations in an advisory

capacity, these recommendations are considered a part of the total decision-making process as a tentative decision, which makes them subject to the Sunshine Law.

Any gathering, either formal or casual, between two or more members of the same board or committee to discuss a matter on which foreseeable action could be taken by that advisory body is prohibited. Attorney Spence explained that “foreseeable” in this case refers to an issue upon which the entity may possibly take action.

Chair Mammano requested clarification of how it is determined that an item might come before the advisory body for action. Attorney Spence replied that this refers to anything that foreseeably falls within the purposes and duties outlined in the advisory body’s enabling legislation.

Attorney Spence further clarified that the prohibition of discussing an item does not apply only to advisory body meetings, but also to conversations between two (or more) members on an item that could foreseeably come before that body. This discussion is considered to be a meeting, which constitutes a violation of the Sunshine Law.

Mr. LaBrie asked if this restriction would still apply if the advisory body has already made its recommendation on a particular item and has concluded discussion of it. Attorney Spence stated that there is a risk that this item may come back to the advisory body for further discussion: if the item is within the scope of the advisory entity’s responsibilities, members should refrain from having any discussion of it outside noticed meetings. If more than one City Commissioner is in attendance at a given advisory body meeting, no discussion or debate may take place among those Commissioners on the issues raised at that meeting, per an opinion rendered by Florida’s Attorney General.

Chair Mammano recalled that the Mayor has attended Infrastructure Task Force Advisory Committee (ITFAC) meetings in the past to discuss infrastructure issues with the Committee. She asked if this meant the Mayor was in violation of the Sunshine Law. Attorney Spence explained that this is not the case, as only the Mayor was present from the City Commission. He read from the Florida Attorney General’s opinion on this issue, pointing out that if members of the City Commission in attendance at such meetings do not engage in discussion or debate among themselves on the issues raised, there is no violation.

Mr. LaBrie asked if one member of an advisory body may comment on an item at a Commission meeting. Attorney Spence confirmed this; however, he clarified that the second member of that same advisory body who comments on the same item would create a violation of the Sunshine Law, as it can be perceived as two or more members having a meeting “outside the sunshine.” Mr. LaBrie pointed out that in this case, the Commission meeting at which the members wish to speak has been publicly noticed and is being recorded. Attorney Spence explained that the meeting in question was not a noticed meeting of the ITFAC, and the general public was not provided notice that two or more ITFAC members were in the room together and commenting upon an issue.

Mr. Zeltman asked if this prohibition would also exist if both individual members identified themselves as members of the ITFAC but clarify that they are not present at the City Commission meeting in their capacity as ITFAC members. He pointed out that a member or members may be present to speak on behalf of a neighborhood association. Attorney Spence advised that there are many items on a City Commission Agenda on which ITFAC members may comment without identifying themselves as members of that Committee. A Sunshine Law violation occurs when more than one member addresses an item that involves the purpose and duties of the board.

Mr. LaBrie asserted that if the ITFAC has made a recommendation on an item and passed that recommendation on to the City Commission, the Committee will no longer discuss that issue and it will not come back before them. Attorney Spence reiterated that he was advising the members of the penalties that come with violation of the Sunshine Law: one member of the ITFAC, for example, may address an item at a City Commission meeting and there is no violation. The violation occurs if a second member addresses the same item.

Chair Mammano asked if all City Attorneys of all South Florida municipalities interpret the Sunshine Law in the same manner. Attorney Spence explained that all City Attorneys rely on the Florida Attorney General's opinions regarding the Sunshine Law.

Mr. Zeltman asked if he would be unable to address an issue as a member of a neighborhood association because he is a member of the ITFAC. Attorney Spence stated that he may still communicate with his City Commissioner outside of a public meeting, but may not address a specific issue if another member of the ITFAC has already addressed it at a City Commission meeting.

Chair Mammano noted that at community or civic meetings, she is sometimes asked to speak on items that have gone before the ITFAC. Attorney Spence confirmed that this is not an issue if she is the only ITFAC member speaking on that item. If a second ITFAC member attends that meeting, they may listen but may not address the same item.

Attorney Spence continued that the Sunshine Law equally binds all members of a governing body, whether that entity is an advisory committee or board, a member of that committee or board, or an elected official. All parties are held to the same standard.

The consequences of Sunshine Law violation include a criminal penalty for a knowing violation, which is a second-degree misdemeanor punishable by six days' imprisonment and/or fines up to \$500. Removal from elected office is also a possibility. Non-criminal violations are punishable by fines not to exceed \$500, attorneys' fees assessed against the advisory body members, and civil actions. The validity of an action taken in violation of the Sunshine Law can be revoked.

Mr. LaBrie asked for clarification of an instance in which a committee member has been asked to attend a City Commission meeting and speak on behalf of that advisory body. Attorney Spence advised that in this case, that member becomes “a committee of one,” and the advisory body’s Staff Liaison is asked to make sure this member’s representation as such is noted on the item. He reiterated that another member of the advisory body would not be permitted to speak on the same item at the same meeting.

Attorney Spence advised that Resolution 20-30, which governs the Committee, specifies the ITFAC’s responsibilities. These include review of existing City infrastructure, including but not limited to roads, sidewalks, airports, seawalls, water and wastewater distribution and collection systems, treatment plants, wellfields, and parks, and examine their current conditions

It was asked if the Committee’s responsibilities as listed in the Resolution are limited to fact-finding only. Attorney Spence replied that this depends upon how an item is approached: if the ITFAC is eliminating any options for the Commission, for example, this is considered to go beyond fact-finding or information-gathering. The Committee may also compile information and pass it on to the Commission in a fact-finding capacity.

Mr. Zeltman commented that during his initial appointment to the ITFAC, he had performed inspections of City-owned properties, such as the Fort Lauderdale Police Department and the Fiveash Water Treatment Plant. The City has recently advised him against making further visual observations at these types of facilities. He expressed concern with this advice, pointing out that these observations are within his area of expertise as an engineer. Attorney Spence stated that he did not have sufficient information on the specific circumstances of this concern to provide an opinion at this time.

Chair Mammano observed that there is some interaction between the Committee’s purview as a fact-finding entity and its responsibility to review and identify items. She pointed out that this refers to the need to review and identify information for another party. Attorney Spence explained that the determining factor of Sunshine Law application is whether or not the Committee is in discussion or deliberation related to the decision-making process.

Chair Mammano offered the example of discussion among members outside a formal meeting of a national trend as represented in news articles, requesting clarification of what would apply if the Committee is later asked to make a formal recommendation related to this trend. Attorney Spence advised that if the discussion outside the meeting included sharing opinions on opposition to or recommendation of a particular trend, this could present a problem, as this discussion would need to be held before the public with appropriate notice and other Sunshine Law requirements.

It was asked whether two members of the Committee, each representing their own civic or neighborhood association, could participate in a discussion at a separate meeting, such as the Council of Fort Lauderdale Civic Associations, if that discussion involved infrastructure issues within the Committee's purview. Attorney Spence reiterated that both members could be present at that meeting, but only one of them would be permitted to comment on that issue. It was further clarified that individual neighborhood or other associations, including the Council of Fort Lauderdale Civic Associations, are not subject to the Sunshine Law.

Chair Mammano also asked if she would be required to recuse herself from voting upon an item before the ITFAC if she had participated in discussion of that item at a civic or neighborhood advisory body that is not subject to the Sunshine Law. Attorney Spence replied that this would not be necessary, and added that a member may not legally recuse themselves from voting upon an item unless there is a legal conflict of interest as defined under Chapter 112 of Florida Statutes.

Attorney Spence concluded that if a Committee member has a question regarding a more specific circumstance and the Sunshine Law, they may reach out to him for an opinion.

ii. Update on the smart meter project (AMI)

Program Manager Sylejman Ujkani showed a PowerPoint presentation on the City's Advanced Metering Infrastructure (AMI), or "smart meter," project.

At present, manual reading of all water meters is required. The City has contracted with a vendor for this purpose at a cost of approximately \$500,000 per year. There are also inconsistencies in water billing and usage for which the cause is not easily identified. AMI technology reads the usage of water from a location and communicates it back to the Department, calculates this information, and creates the bill. This information updates every 15 minutes, which makes it easier to identify leaks and inform customers about them.

In the past, smart metering relied heavily on investment in cell towers; at present, however, the system piggybacks on existing cell towers, which is simpler and less expensive. There is no restriction on the depth that can be read by AMI technology, which works in real time in a similar manner to how Florida Power and Light (FPL) meters read electrical use.

Assistant Director of Public Works Chris Bennett advised that AMI technology reads electronic meters using a cellular system that reports to a home base. Another option is for meter readers to collect information while driving through a neighborhood, which serves as a backup method in case there are any dead spots in the cell network or other reporting issues. This prevents meter readers from having to visit every meter each month. It also allows them to identify any problems in reporting data.

Mr. Ujkani continued that operational savings to the City will begin with the \$500,000 saved from the previous contracted meter reading program. There will also be increased accuracy of water usage and real-time alerts for leaks.

Concerns include the cost of implementation, which is currently estimated at \$30 million. This amount has been approved in fiscal year (FY) 2022 and the City will issue debt to cover this cost. Another challenge can be the increase in water bills, as the new system will read usage more accurately. While billing will be available online, customers will still have the option to receive a paper bill in the mail. The City is planning an educational campaign to explain AMI to customers.

Ms. Scott left the meeting at 3:00 p.m.

Mr. Ujkani reviewed a timeline for the project, noting that at present, the City is soliciting a consultant to help them develop the criteria for a request for proposal (RFP). Once this is complete, they will solicit vendors to install and operate this technology. This is estimated to complete the RFP development in November 2022, after which it will be advertised in December. The implementation period is estimated to take 24 months. The anticipated completion date for the project is July 2025.

Mr. Zeltman expressed concern with water that may be unaccounted for when the City flushes its fire hydrants, and suggested attachment of a meter to these lines in order to help account for this wasted water.

Mr. Grabski asked if smart meters can be shut down remotely if necessary. Mr. Ujkani confirmed this, stating that the RFP will specify the criteria the City will need to operate this system.

Chair Mammano asked if evaluation of the City's water rates include the additional amount that would be received as a result of smart metering. This could offset some of the other costs. Mr. Ujkani replied that a performance-based study has been conducted on these rates, which estimated how much savings the City could realize over the long term. Mr. Bennett noted, however, that this amount may not factor significantly into a rate study.

5. New Business

i. Penny Surtax Annual Report

Transportation Planning Manager Karen Warfel showed a PowerPoint presentation on the City's Mobility Advancement Program (MAP). She briefly recalled the history of the Broward County penny surtax program, which was passed on referendum. Since that time, an amendment has passed at the state level which further narrows the interpretation of how surtax dollars may be used.

The two main types of projects on which surtax dollars may be spent are traffic calming and roadway widening. The County will no longer fund multimodal development for its own sake. This means some projects, such as sidewalk improvements planned by the City, are no longer eligible for surtax funding use, although sidewalk projects that are part of larger roadway or traffic calming projects may proceed.

As a result of the amendment, the City has reviewed and reworded a number of its projects and plan to submit them again for surtax funding. Ms. Warfel noted, however, that there is not a great deal of surtax funding available: roughly \$30 million is raised each year and shared by all Broward County municipalities.

Chair Mammano commented that the surtax program funds community buses. Ms. Warfel confirmed this, stating that surtax funding pays 100% of community bus service costs, including new vehicles. The costs of these programs come from the 10% of surtax funding the County provides to its municipalities each year. Most projects funded by the County surtax are on County roads and will be limited to traffic calming or roadway widening in the future due to the restrictions of state law.

Chair Mammano expressed concern that surtax funding cannot be used toward repair or maintenance of the City's bridges in the future. Chief Engineer Jill Prizlee advised that the City has eligible bridges they would like to be considered for funding and will submit applications seeking these monies in the future.

Ms. Warfel continued that the County surtax funding is administered using a five-year plan. This application process for the current five-year cycle will end later this month. Significant federal funding is also expected to be available in the future.

Chair Mammano recalled that this was also discussed at a previous meeting, including the fact that state guidelines for the use of these federal dollars have not yet been determined. Ms. Warfel noted that a range of allocations will be available, some of which will come through the Broward Metropolitan Planning Organization (MPO). These will include new programs for which funding guidelines have not yet been established.

Mr. Marshall asked if the Broward County Attorney has issued an opinion on the State Statute restricting the use of surtax funds to traffic calming or roadway widening projects. Ms. Warfel replied that this is a written opinion by the County Attorney. Mr. Marshall recalled that the County oversight board dedicated to the surtax had initially identified four priorities, one of which was an increase in multimodal capacity. Ms. Warfel advised that this has been a challenging process for City Staff, as the rules of the program have changed many times.

Chair Mammano asked if other Florida counties have issued different interpretations of the State Statute. Ms. Warfel explained that other counties with preexisting surtaxes may have spent money on other types of projects: however, state law has not changed.

Chair Mammano characterized this as an interpretation by the Broward County Attorney, while other counties' attorneys may have taken different positions on the state legislation. She felt the Committee may have a role to play in this process by suggesting to the City Commission that they urge the County to take a stronger position in favor of multimodal improvements.

Mr. Marshall pointed out that it is not possible to widen roads in many areas of Fort Lauderdale. Ms. Warfel confirmed this, stating that this meant the City will instead focus on traffic calming, possibly including larger projects which include traffic calming elements. She added that there is a significant need to have sidewalk gaps filled in the City, many of which are the result of requests from the community; however, this need cannot be met as part of traffic calming measures.

Mr. Marshall requested clarification of what constitutes traffic calming. Ms. Warfel replied that the intent of traffic calming is to slow vehicles to a more appropriate speed in order to lessen the number of crashes. Sidewalks or tabletop crosswalks may be included in some traffic calming projects as an ancillary improvement, although they themselves do not constitute traffic calming measures.

Chair Mammano commented that this would mean any sidewalk improvements would fall within the Capital Improvement Plan (CIP). She asked if they should be moved to a higher priority on the unfunded priorities list. Ms. Prizlee recalled that a number of sidewalk gaps were discussed in last month's presentation on the City's top 10 unfunded priority projects. At present, the City only repairs damaged sidewalks or makes Americans with Disabilities Act (ADA) related improvements: they currently do not install new sidewalks.

Chair Mammano suggested that the Committee may wish to take a position on the inclusion of funding for new sidewalks in the CIP as part of the City's upcoming budget. It was noted that the City pays approximately \$300,000 to \$500,000 each year in claims related to sidewalks. Chair Mammano proposed including an item on the next Agenda to further discuss the top 10 unfunded priority list, including recommendations the Committee may make to the City Commission on the FY 2023 budget.

Chair Mammano advised that there is an item on the City Commission's April 5, 2022 Agenda which addresses the appointment of special counsel to represent the City in connection with the unsolicited proposal and project submitted by IDE Technology for design and construction of a new water treatment plant. The firm will work with the City to put together the comprehensive agreement with IDE Technology. Consultant Hazen and Sawyer will assist with the technical aspects of this agreement. She asked if the Committee wished to provide the Commission with any input or support related to the agreement. It was determined that the Committee would not address this issue further at this time.

6. Public Works Update

i. Water & Sewer Breaks Report 2021 w/Mapping

The Committee reviewed the list of sewer breaks provided in their backup materials. Mr. Bennett advised that the list provides detail of leaks, breaks, and other issues addressed in previous months, along with the locations and estimated amounts lost. The sewer issues reported in February and part of March 2022 were relatively minor, including gravity pipe blockage and stoppage of flow due to a break.

Chair Mammano requested that a list of water system breaks from 2021 be placed on the Committee's next Agenda.

Mr. Zeltman stated that he would like to see information on the percentage of water use that is unaccounted for from breaks, flushing of hydrants, or other incidents. He noted that this amount has an impact on utility customers.

Mr. Bennett advised that there are a number of issues to be considered, including the water use unaccounted for due to planned flushing as well as the unaccounted-for use due to breakages or other issues. Inflow and infiltration (I&I) coming into the sewer system is another consideration. Costs include the amount of water treated as well as the electricity used in treating water at plants. This cost is borne by taxes and income brought into the City through utility rates: if more breakages and flushing occur, this cost will be higher. This is one reason the City is working to comply with Consent Orders as well as to continuously improve the efficiency of its plants.

Mr. Zeltman commented that water costs are expected to double within five fiscal years. This will not have a significant impact on sewer costs, which are based upon a percentage of the domestic water consumption to calculate the return to the wastewater system to determine the appropriate cost of wastewater treatment. He concluded that identifying the costs resulting from this consumption could serve as an added incentive to conserve water. Chair Mammano requested an update on how much water was lost from breaks in 2021.

ii. CIP Financial Report

1. Unfunded Balance Report

7. Adjournment

There being no further business to come before the Committee at this time, the meeting was adjourned at 3:56 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.]