

City of Coral Gables City Commission Meeting
Agenda Items E-1 and F-9 are related
September 26, 2023
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Vince Lago

Vice Mayor Rhonda Anderson

Commissioner Melissa Castro

Commissioner Ariel Fernandez

Commissioner Kirk Menendez

City Staff

City Attorney, Cristina Suárez

City Manager, Peter Iglesias

City Clerk, Billy Urquia

Public Speaker(s)

Agenda Items E-1 and F-9 are related [9:53 a.m.]

An Ordinance of the City Commission amending the Chapter 82 Vegetation of the City Code in order to clarify tree protection provisions and associated code enforcement actions and fines, providing for a repealer provision, severability clause, codification, and providing for an effective date.

(Sponsored by Mayor Lago)

A Resolution of the City Commission directing the City Manager to develop a Best Practices Guide for code violations related to the City's Tree Protection Provisions.

(Sponsored by Vice Mayor Anderson)

Mayor Lago: We'll move on to public hearing items. E-1.

City Attorney Suárez: E-1 is an ordinance to the City Commission amending Chapter 82, “Vegetation,” of the City Code, in order to clarify tree protection provisions and associated code enforcement actions and fines providing for a repealer provision, severability clause, codification, and providing for an effective date. There have been no changes since first reading, and this is a public hearing item.

Mayor Lago: Mr. Clerk, do you have any public comment?

City Clerk Urquia: Yes, sir, we do.

Mayor Lago: Okay.

City Clerk Urquia: Maria Cruz.

Mayor Lago: Mr. Clerk, also, since it’s related, F-9 will also be heard now. Thank you. That is sponsored by the Vice Mayor.

City Clerk Urquia: Yes, sir.

Maria Cruz: Okay, on -- what is it? What number are we doing? E-1. On E-1, I am so glad that this is here because I had an opportunity this weekend to see some beautiful orchids on a tree, the trees that were put there with nails. Not thumbtacks, not rope, nails. They were nailed to the tree. And I had to basically push my way to say that is wrong. And there needs to be something happening here. And the last thing I heard, they’re going to -- let’s see, the person has not been given a ticket yet because instead -- I don’t know, I’m very confused. The bottom line is we have trees in the City of Coral Gables that have nails, not one nail, not two nails, lots of nails to affix beautiful orchids on Aledo and we’re still deciding what we’re going to do to the people that did that. That is wrong, it’s bad, and I don’t know why we’re waiting, because to me, and just in case you’re wondering, it has nothing to do with code enforcement because the trees were not cut or killed. Okay, it has to do with abusing a tree. Okay, so that’s my comment on E-1, and since you brought up E-9 -- what was it, F-9? Can I do it at the same time? Or should I...?

City Attorney Suárez: Mayor, may I read F-9 into the record?

Mayor Lago: Yes, ma’am, you may.

City Attorney Suárez: And then we can just consolidate public comment for both. F-9 is a resolution of the City Commission directing the City Manager to develop a best practices guide for code violations related to the City’s tree protection provisions.

Ms. Cruz: I -- okay. I think it was very appropriate that this was here because if we’re talking about protecting trees, certainly hammer and nails should not be used on trees. And I -- if maybe

we need to write it down very specific, no nails so that people that are supposed to enforce know what it means. Thank you.

City Clerk Urquia: That's it, Mr. Mayor.

Mayor Lago: Thank you. Gus.

Assistant City Attorney Ceballos: Good morning, Mr. Mayor, Vice Mayor, fellow Commissioners. Assistant City Attorney Gus Ceballos. So, the first item is the ordinance. The ordinance, there have been no changes. If the Commission would like to add the word "nails," that's a very easy fix. We can definitely include that. If there's any other comments in regards to any of the changes, I'm here to make those changes.

Vice Mayor Anderson: You know, as long as it's clear that it's nails in the trees, because we do put bracing on trees where the nails go into the bracing into another piece of wood and then that's fine, but it has to be actually in the tree, which is usually a wrapping that goes first and then braces are put on.

Assistant City Attorney Ceballos: I can include the word "nails" and I will create a minor carve out specifically not for bracing of the tree.

Vice Mayor Anderson: Right as long as it doesn't penetrate the trunk itself or the branches themselves.

Mayor Lago: Pretty self-explanatory.

Vice Mayor Anderson: Yeah.

Commissioner Fernandez: Just a couple of points. I think it's important to protect or treat canopy. And I think that is a priority that this Commission and prior Commissions have said it was a priority and I think this is phenomenal. F-9, I think, is a great step in the right direction. I need one -- I do have one concern and it was brought about by a couple of residents. If we are -- and I guess, explain the legislation to me. Are we giving people an option if they cannot replace their tree canopy to pay in order for the City to place a tree, is that what we're doing?

Assistant City Attorney Ceballos: So, the process itself is not being modified. What is being modified is any sort of tree canopy mitigation, the increase from \$1,500 to \$2,500.

Commissioner Fernandez: Okay.

Assistant City Attorney Ceballos: Now, F-9 is a separate item.

Commissioner Fernandez: Right, right. I'm on E-1.

Mayor Lago: So, let me explain this. Obviously, it's pretty self-explanatory, but I'll go more in-depth with it. The reason why I brought this forward is because we've had issues in the past, adjacent to my home on University, where an individual cut down a beautiful tree on a Sunday. I witnessed it. I stopped it halfway through. I'm the one that called Code Enforcement, even though the individual's a friend, an acquaintance of mine. We have certain trees in our community, like the black olives, which people get very furious over as a result of the sap that they release. But again, if we start cutting trees on swales, and we don't go through the process, and we're not going to be cutting down trees, at least I won't, unless this Commission has a different, you know, plan moving forward. I think that cutting down a tree because you're -- and I have a black olive adjacent to my house with a white wall that is constantly having to be cleaned three or four times a year. And I have to pay somebody to come, and pressure clean it and then potentially paint it. But I'm not asking to cut down a 50-year-old tree because it provides shade. I think it's something that I have to tolerate, and I'm -- we're trying to treat it, and I make sure that I clean my sidewalk four or five times a year along with that wall. So, you just can't, number one, cut a tree without a permit, even if it's on your own property. And number two, you can't cut a City-owned tree. So, the extent is to make sure that it costs a lot more money than \$1,500 or \$500 just to cut a tree down. And in the past, people would say, listen, I'll just pay the fine, I get rid of the tree, and then we replace it with a small, little, tiny tree which doesn't provide shade for 25 years. That to me is the reason why I brought forward this legislation, and I think it will hopefully provide dividends, and it will be a deterrent for people who are considering committing an act like this against the City, because the City owns the trees on the swale. The residents have to maintain them, and we do our part to maintain them and make sure that they're in proper order and they're clean, and if there's an issue like a lightning strike or a car hits one and it's dead, we'll remove it and we'll replace it with a tree that is potentially not a black olive, because I know we're trying to get away from that. So, this is a deterrent. This is an opportunity to make the fine a little bit more hefty so that people reconsider attacking something that, number one, attacks our quality of life, and number two, attacks our property values because if you look at other cities that don't have a canopy like we do, there's a reason why their property values are not as high as ours. Our tree canopy plays a part in that so...

Commissioner Fernandez: On the -- I agree with you wholeheartedly. I think we definitely do need to protect the tree canopy. The other concern that was brought up was regarding properties in the North Gables. There are people who are being forced to move the septic tanks from the rear of the house to the front of their house. Because of the location of the new septic tanks and the drain field, they are also limited on their ability to replace whatever tree was on their front lawns and they are mandated to move it to the front. Are we putting any exceptions for these situations, or are we just basically going to be putting those people in a hardship?

Vice Mayor Anderson: May I respond?

Mayor Lago: Yes, of course.

Vice Mayor Anderson: You know, I think perhaps we should have more of a full discussion on this item because it will also play into, you know, what areas get prioritized for septic to sewer. The North Gables is a fairly high area.

Commissioner Fernandez: Right.

Vice Mayor Anderson: But there are -- you know, do we need to move the septic tanks now, you know, with our projections of where we're going to --? We'll know next year in September where we can start hitting first on septic to sewer, and then there's the choice of the tree. There's trees that don't impact sidewalks and septic tanks so much. So, like a gumbo limbo, there's wonderful examples where they're not impacting, you know, structures. So, planting those now, by the time the septic to sewer conversion comes through there, they're not going to be impacting those septic tanks. And I've literally had conversations with some folks that, you know, you can prolong the life of your septic tank by pumping it out regularly because it's coming. You know, it's not fall that's coming, but it is coming that we're going to be dealing with the septic tank conversion. And the more we can keep the cost down for the individual resident, the better, because it seems just like a waste of money to be doing these changes on septic tanks now when we know we're going to be, you know, putting in a sewer system in relatively short order, at least our lifetimes, you know.

Commissioner Fernandez: Right.

Vice Mayor Anderson: So -- at least my lifetime. You've got a little longer to go. But -- so that's my thought. I think we need a fuller discussion on this. And while I'm at it, I'm just going to touch upon the thinking behind E-1, to establish a best practices guide. Because it's not spelled out in the ordinance itself, you know, what range the fines should be to try to provide guidance to the Code Enforcement Board. I know that our City Attorney's Office does a great job, but just like a lot of the code provisions that I've been kind of coming with and cleaning up so there's clearer information for Code, clearer information for future City Attorney's offices, future code enforcement, board members, et cetera, I think we need a matrix. You know, a tree of this amount of inches gets this kind of fine, this kind of damage to a tree gets that amount of fine. You put a nail in a tree, it gets this amount of fine, so that there's clear definition, you know, on it. I mean, there's trimming that hurts a tree, there's trimming that doesn't hurt a tree, but you know, when it comes around the City trees, they really need to be saying, you know, City, please take care of your trees.

Mayor Lago: So...

Vice Mayor Anderson: I have a couple -- I have a couple that I've requested trimming on.

Mayor Lago: So, I think that on that front, the purpose of my legislation is nothing to do, like the Vice Mayor, with the issue of septic to sewer conversion. I'm pretty well versed on septic to sewer conversion. I know we're dealing with septic tanks. And as a matter of fact, septic tanks are

getting smaller, smaller, and more compact. As I sent a memo out to my colleagues, giving them a little bit of an explanation on new technology that's being used. This is -- we're talking about trees that are on the swale. Trees that, again, people are cutting down without the proper permit because, you know, a black olive is a nuisance. It doesn't give you the right to cut a tree, no matter what it is. If it's a black olive, it's an oak. Certain people tell me, you know, Vince, I have all these oaks in my front yard and they're just putting leaves everywhere. Those oaks are on the swale, they provide a canopy, they provide relief, they drop the heat island effect. And if everybody starts cutting the trees on their swale to get rid of the leaves, pretty soon, we'll just be like any other city. We won't be a Tree City USA 40 plus years. We've got to be thoughtful and methodical, and there's ways around things to do things. I'll give you an example. They are now doing the new -- throughout my neighborhood, they're doing the water meters. And they're relocating the water meters. I had to basically remove all the landscaping in my backyard, along with the little house that I had built for my kids, to basically relocate the line that they're doing in behind my house. It's not me doing it, it's Miami-Dade County that's doing it. They're the ones pulling all the permits, they're the ones that are doing everything. But we were able to find a way that was less intrusive, still caused damage, but less intrusive than what they had proposed. So, again, this is about making sure that people are held accountable that cut down trees in our community. I think that it's a no-brainer. I don't think this is even -- I think we're having way too much discussion over this. I think it's an opportunity to really address issues where somebody cuts a tree down and gets a \$500 fine that's a 50-year-old tree. To me, it just -- again, it goes against our principles and our values here in the City.

City Manager Iglesias: Mayor?

Mayor Lago: Yes, sir.

City Manager Iglesias: Excuse me, may I suggest that we -- instead of no nails, we say no penetrations?

Mayor Lago: Of course.

City Manager Iglesias: Because there could be nails, spikes, screws...

Mayor Lago: A hundred percent.

City Manager Iglesias: (INAUDIBLE), et cetera, so no penetrations.

Mayor Lago: I'm more than willing to make that amendment -- to accept that amendment, excuse me.

Commissioner Castro: Mayor?

Mayor Lago: Yes, ma'am.

Commissioner Castro: I agree with everything you're saying. The only thing is that I think I'd rather have a palm tree than no tree. There's a lot of lots that are smaller and they might have a hardship in the North Gables. I foresee this being a problem in the North Gables since the lots are a lot smaller.

Mayor Lago: May I respond?

Commissioner Castro: Absolutely.

Mayor Lago: What we're trying here to do is to stop people from cutting the tree down. We're not talking about the species we're going to be replacing them with. This is about having a deterrent from somebody cutting a tree down. We're not talking about not planting trees or planting palm trees. We're talking about if there's an existing tree and you want to touch that tree for one reason or another, you have to come to the City and get a permit. If not, you will have a fine that you have to pay. The tree is on the swale, it's owned by the City. That's all we're talking about. We're not talking about palm trees. We're not talking about replacing trees with palm trees or not replacing trees. We're...

Commissioner Castro: Well, yeah, I believe last time we were having a discussion, you said that if -- no more palm trees and then it would go to a fund, a tree fund, right?

Mayor Lago: What I said was -- what I said was, I would like for developers who are coming here -- who are coming here to the City to do certain projects to not install palm trees. We want shade trees, we want shade trees. And if you go anywhere through the City, most of the trees on the swale -- you know, I'll venture to guess -- are over 90 percent -- more than 90 percent, probably 95 percent are trees that offer some sort of shade. I mean, maybe around the golf course, Vice Mayor? I don't know but...

Vice Mayor Anderson: Just...

Mayor Lago: Yeah, go ahead.

Vice Mayor Anderson: Let me just explain. Commissioner Castro, our landscape architect is very capable of selecting trees that fit in place of palm trees that provide some shade and beauty and they exist in the North Gables. One example that you'll notice near, you know, the Target now is the white tab. Little white flowers, it attracts hummingbirds and bees, et cetera, and it's not a palm tree, and therefore, it doesn't create the seeds that the palm trees do that are a trip hazard, the palm fronds falling that are a trip hazard. So, I think we should trust our landscape architect to make the proper selection for the trees.

Assistant City Attorney Ceballos: Commissioner -- Mr. Mayor...

Mayor Lago: Of course.

Assistant City Attorney Ceballos: If I may. So, just for clarification, Commissioner Castro, so we're not increasing the mitigation of the actual canopy itself, meaning if you have a thousand square feet of canopy that needs to be replaced, you still have a thousand square feet of canopy to be replaced. We're not increasing that; we're not modifying that. If you are paying in lieu of, we are increasing that in order to encourage the placing and the planting of some sort of tree and rather -- instead of just basically making a payment. We are reducing the size of a specimen tree from 24 to 18 inches for the purposes of possibly requiring more canopy mitigation. And the big item that I think we've all addressed is that palm trees can no longer be used as part of canopy mitigation.

Mayor Lago: Because there is no canopy. Because when you plant a palm tree, you're not going to produce a canopy, which again, in my opinion, endangers our community. And if you look at a community that has palm trees, like a lot of other cities, they -- all the people tell me, we envy the foliage and the canopy in the City of Coral Gables. So, if somebody can knock down a beautiful shade tree on University like they did adjacent to the hospital and plant a palm tree, you're exposing a whole area, 50 feet, 100 feet circumference, to the sun. And that happened on Ferdinand, where they cut down two massive trees that were sick. And now when you go drive by there, they were replaced with two -- and Deena and I had this conversation like two years ago. They were replaced with two small trees, two toothpicks, when you compare them to the magnitude of these trees that were probably, would you say, 75 years old, Deena, maybe even older? And the neighborhood feels the effects. The neighborhood feels the effect. So, that's the intent of this legislation. It's to deter people from doing that. And if we have to go down that route, for some reason or another, that we don't use palm trees to replace beautiful mature trees. We can relocate the tree. We can plant the tree maybe a few feet away, so we get out of the way of a sewer line connection, a water main connection, like I'm dealing with right now at my house. But I think that, again, protecting quality of life, protecting our values here in the City, and ensuring that we lower the heat island effect and we're as sustainable as possible is the intent of the legislation.

Commissioner Fernandez: And Mr. Mayor, I guess the point that at least I was trying to make was I don't want to give an option where there is no replacement at all, where you can just pay the fine and not replace the tree. I would like to see some sort of replacement. I think the Vice Mayor said there are options out there. Maybe we can find a way to include in there that there has to be some sort of canopy replacement. It's not just a payment.

Assistant City Attorney Ceballos: So, there are zoning requirements on your property. You need to maintain a certain amount of trees. So, that is not being adjusted here. That remains the same. But in some homes in let's say North Gables or throughout the City have an overabundance of trees and far exceed that zoning requirement, so we're not modifying that zoning requirement, and that's the reason why we have the canopy mitigation.

Mayor Lago: Yes, ma'am.

Vice Mayor Anderson: Sorry to belabor this a little bit, but I'm going to give you a concrete example. My house has three oaks and about like seven other trees in the swale, fruit trees in addition to that and so forth, and I chose to put in solar panels on my east side of my house, which is the backyard. It's like a bowling alley. I had palm trees back there, little de minimis things. Gave away most of them, but replacing those would have defeated the purpose of having the solar panels. I planted a tree somewhere else in the City. There was no way, no way I could fit another tree on my lot. There just was no space. So, there's an example for you. And I, you know, went through the survey. I gave the options to staff at that time. And we found a location for a nice oak. And it's going to be a nice big tree, much more than those palm trees ever would have been.

Mayor Lago: So, I'll entertain a motion.

Vice Mayor Anderson: I'll move it.

Commissioner Menendez: I have a question before, I apologize.

Vice Mayor Anderson: Sorry, you're slow today.

Commissioner Menendez: I was listening.

Vice Mayor Anderson: Okay.

Commissioner Menendez: The reason I was slow, there was a lot of talking, so that's why. The cost of replacing a palm tree versus another type of tree that provides greater canopy. I'm, you know, thinking about the individual property owners' undue burden with this legislation. I agree, we need greater canopy. I think back in the day, compared to today, we have much more canopy in Coral Gables than we did 50 years ago. But I just -- I'm a little bit concerned, at least at this moment, on what it would be financially to property owners going with a different type of tree.

City Attorney Suárez: So...

Vice Mayor Anderson: Mayor?

City Attorney Suárez: Can we just clarify, this is not replacing a palm tree with a palm tree, right? It would be -- you cannot use palm trees to replace other canopy.

Mayor Lago: That's all I'm saying.

City Attorney Suárez: Is that...?

Mayor Lago: That's what I've been trying -- the problem is that we've let the train -- you know, train's left the station. So, now this legislation is not even anywhere close to what my colleagues are talking about. So, can you -- can we get back to the point of the legislation?

Assistant City Attorney Ceballos: I mean, I'll have to -- in terms of pricing, I'll have to defer to Green Space Management if they want to chime in on what the difference in cost is. So, the tree mitigation that currently stands are not small palm trees. Even your small palm tree, which only granted you 100 square feet of canopy mitigation, had to be a six foot clear trunk. So, these were not small palm trees. And the large palms were 10 feet clear trunk, so they were substantial in size. So, I'm not sure what the cost difference would be.

Mayor Lago: But the point of the legislation is, if you cut a tree down like was cut in my neighborhood without a permit, you cannot replace it with a palm tree. You can't. That's the whole point of the legislation. It's not -- I'm not saying that anybody can't install palm trees in the City wherever they like, you know, on their property. They can do that. But if you cut down a beautiful oak, a beautiful black olive, something that is substantial, that has a canopy, that is really part of the community, you can't just replace it with a small, thin palm tree. And that was allowed before. We're just basically qualifying the fines and making sure that people understand that if you cut down a tree, you're going to have to replace it with a tree that Deena and her team will review to make sure it's up to the certain standards. Can we replace it with the same 50-year-old tree? It's an impossibility. The cost would be -- how much would it --? I mean the cost could be 30, 40, \$50,000 to replace a tree of that magnitude. Plus, we can't find them.

Assistant Public Works Director Bell-Llewellyn: We can't find them.

Mayor Lago: We can't find them. So, we have to replace it with a smaller, similar variety which will provide shade in the future. We do not want to see our people cutting down trees on the swale like this happened, which is owned by the City and replacing them with palm trees. Unless that's the will of the Commission. I mean, it's not my will and what I want to do because I think it would negatively affect our property values and our quality of life here. That is the intent of the legislation. There's nothing else out there. Am I correct with the intent of the legislation?

Assistant Public Works Director Bell-Llewellyn: Yes, to encourage a tree canopy with shade trees. And just addressing issue with costs, I want to bring up that the Tree Trust Fund, we use that in our division. We use those funds to plant trees all over the City in public right-of-way, wherever we find the need. The cost of construction has increased to find trees of any size. Like the Mayor's requesting we put larger trees where we can. It's very difficult. It's more costly. The cost of everything has gone up to hire the contractors to come in to plant the trees so...

Commissioner Menendez: Recently, I -- you know, we passed legislation regarding landscaping, trucks, and stuff like that. And we agreed to have a period of education, letting everyone know that the changes are coming. I don't know if my colleagues would be open to having that period

of educating the public as to these changes prior to it taking effect. I mean, we did it with the landscaping trucks out of a courtesy. And I think that would be a good compromise.

Mayor Lago: Commissioner, if I may, as a sponsor of the legislation. This deals with trees on the swale that belong to the City that are cut down without a permit. This is not an issue where, you know, somebody's unaware of what's happening. This is happening on the weekends and at night, as Deena will tell you. People know exactly here in the City that you require a permit to do certain things. I sponsored the legislation years ago that does not allow for construction to happen on weekends in the exterior of a home. People know that when they come to pull a permit because staff provides them with a letter that says, you know, these are some of the requirements in regards to doing construction in our City. You know everything from the dumpster companies that are approved to the fact that you need to have -- that you can only do work during these certain hours, you know, what permits do you need to get. All these kind of things are very clearly delineated when you come and pull a permit. In regards to the trees, I don't have an issue with what you're saying, but I have a concern. Are we giving people a window to continue doing this before we could fine them appropriately for actually cutting down a tree on the swale? For example, the one on University. The one on University cut down a huge tree, taking away a huge portion of tree canopy and shade from an area that needed it. I drive through that street every single day. And they planted a tiny little tree that will take -- how long, Deena? I'm not a tree expert. How long do you think that tree will take to maybe get to 50 percent of the tree canopy?

Assistant Public Works Director Bell-Llewellyn: If it's a live oak -- I believe it's a live oak that you're talking about -- 30, 40 years.

Mayor Lago: So, why does that community have to pay the consequences because an individual did not want to have a black olive -- a black olive sap, you know, staining their property or their sidewalk? I think the appropriate thing to do is come and have a conversation. Like, Deena, we deal with residents probably on a weekly basis where you and I have to speak to them and explain to them and go visit them and say, look, we can't cut this tree. Maybe what we'll do is we'll trim it back here. We'll try to push it away. Let's see if we can move the parking area. Let's treat it with the process that we have to treat it so that the larva, you know, which is a real issue in regards to black olives, is minimized as much as possible. You know, we try to find solutions because when you cut that tree down, there's no solution when you replace it with a tiny little tree that's going to take 40 or 50 years to eventually provide a canopy. So, this is a simple -- I never thought that on second reading this would have so much back and forth on trying to protect our trees and increase fines to ensure that people abide by the rules. But again, if it's not the will of the Commission, I completely understand that. We're not stopping anybody from planting palm trees in their house. We're not stopping anybody from, you know, coming to Deena and say, hey, Deena, I'd like to cut this tree down for one reason or another because I have a septic tank that's in the way, I have a pool that's in the way, or I want to build a pool, I want to build an addition, but I'm going to mitigate it in this fashion. But that's not really up for discussion today. What we're discussing is protecting the City's canopy, correct? Protecting the City's canopy, which belongs to everyone. Yes, Vice Mayor.

Vice Mayor Anderson: So, the unintended consequence of doing something like that is people behave in response. They did it when the state statute passed allowing trees to be removed, where you cut it down and you give the excuse later as to why you cut it down. You're going to give them a window of opportunity to get it done at a lower fine. You know, I see the same behavior in the industry. You know, taxes are going up on something, therefore we take that window of opportunity to clear as much stuff that we can through customs at the lower excise tax rate or the lower duty rate before the law changes. The unintended consequences here could be dramatic. Everybody in Coral Gables knows you're not allowed to touch a City tree without asking the City. You know, we have seven tree trimming trucks out there, seven crews, as opposed to the one that the County has. We can cover it. Deena has been fantastic. I sent her pictures of dead trees or trees that are of concern, and she's on it right away. So, let's not promote people to damage our City's trees by giving them a window of opportunity to do so and hurry up and get it done before the fines, you know, are implemented. This has been a long time overdue. We've called for this before on our Commission. Let's take the leadership position and get it done.

Commissioner Fernandez: Mr. Mayor, if I could. Perhaps a way to provide some notice is to approve the item and require the staff put out the information as to what has been -- the action that has been taken by the Commission and what the process is to apply for the permit on our eNews. That way we are taking action and we're providing information so that residents are alerted tomorrow because the eNews will go out tomorrow as to the action taken by the Commission today and what the process is for them to legally follow to take whatever steps they need to take.

Mayor Lago: Hoping that this would have passed, never count your chickens. Hoping that something this simple and beneficial for the City would pass with so much less discourse. I had already spoken to Martha and Deena about putting it out there like we do with garbage and like we do with a lot of different things. So, that's already discussed. It's an afterthought in regards to continuing to do everything in our power as a City to educate the residents about upholding our standards. Is there any other further conversation or issues or concerns?

Commissioner Menendez: Last legal question, is this retroactive in terms of, I guess, if someone did cut prior to this vote and they're in the process of replacing, does it impact them or future action? Because it's sort of -- I don't think we should pass anything that's retroactive.

Mayor Lago: It's not retroactive.

City Attorney Suárez: So, I think Assistant City Attorney was going to clarify a little bit of the intent of the legislation. If you...

Mayor Lago: Yeah.

City Attorney Suárez: Thank you.

Assistant City Attorney Ceballos: Yes. So, taking a step back, this particular ordinance has a couple of changes. There's 16 pages of the tree code that is here. There are small changes throughout. A lot of it's cleanup.

Mayor Lago: Yeah.

Assistant City Attorney Ceballos: There's a lot of mention and reference to court or common jurisdiction. We never take these items to court. And if we wanted to take it to court, we don't have to write it on the code. We can still do that. So, this is a lot of cleanup. We have increased the tree mitigation for the canopy. If you want to pay it out, it's from \$1,500 up to \$2,500. Palm trees are no longer included as part of mitigation. The fines for cutting a tree in the City right-of-way, we are capped by state statute. That is \$15,000.

Mayor Lago: Okay.

Assistant City Attorney Ceballos: That's what we have here. I think F-9 may be addressing that a little bit better because that's going to be our -- for the lack of a better term "sentencing guideline" that we're going to do for best practices, our recommendation as staff before the Code Enforcement Board, because at the end of the day, we do not want to bind a quasi-judicial board. We do not want to bind the Code Enforcement Board and say, for every single case, you have to do \$15,000. No, they still have the ability to review the facts of the case and make their decision.

Mayor Lago: But if I may add something to that...

Assistant City Attorney Ceballos: Yeah.

Mayor Lago: For the consideration of the Commission and our team, we should send -- when we send out notice in regards to the changes, we should send a notice stating very clearly there's a \$15,000 fine, possible up to \$15,000 fine if you cut a tree that belongs to the City, okay. That should be stated very, very clearly. And again, the Commission can talk about it. You know, if they like, we can have a Sunshine meeting. I don't think there should be any mercy for anybody who, on a weekend, on a weekday, cuts down a tree on a swale, especially a tree that takes 50, 60, 70 years to grow. Because that tree doesn't belong to you. That tree belongs to my daughters. That tree belongs to all the future kids who live in this community who walk on this street. And to me, that's an assault, a direct assault on our quality of life here in the City. And someone needs to be made, you know, made very clear that it's up to \$15,000. And you know, we should repeat that over and over and over again so that people do not make that mistake and come to the City and have a conversation in regards to whatever ails them in regards to a tree that could be potentially affecting their sidewalk, could be potentially affecting their property, whatever that may be. There's always a way, there's always an answer to find a solution. We just dealt with a resident right now who we trimmed her tree, and it was staining her car. We were able to find a solution to that. It may be temporary, but we keep working on it. We're not cutting down a massive tree in North Gables. Because remember, it's very easy to cut that tree down. It's very

difficult to replace it. And it affects our property values. So, we have to be very, very, very careful and send a strong message to not allow this to perpetuate in our city. So, if there's any other further comment, we have a motion on the floor.

Commissioner Menendez: With all due apology, you know, I don't know if I got an answer. Let's say there's a property owner in the process of mitigation. A tree was cut, it hasn't been replaced. We're working with the City -- they're working with the City. We make these changes. I'm for greater fines protecting our tree canopy, but what happens to those property owners that are halfway through the process?

Assistant City Attorney Ceballos: If the Commission has a particular will, if you'd like to make it if the request is already in permitting that it would not apply, we can include that as part of the language.

Commissioner Menendez: I'd be comfortable with that. Just out of...

Assistant City Attorney Ceballos: But obviously, if you cut your tree yesterday, but you're not in permitting, you're still liable. But if you're already fixing it, you were going through the permitting process, if you've pulled the permit, then that would no longer apply.

Commissioner Menendez: I think the concern that somebody, if we wait three -- a month or two months, that somebody will start cutting trees, if we just do it going forward, you know, you cut a tree, it impacts you. But if you're halfway through the miti -- you know, process with the City, I don't know about, you know, changing some of the rules and procedures halfway through their -- through the due process we allow them.

Assistant City Attorney Ceballos: As currently drafted, it becomes effective immediately upon passage, but we can include some language that basically it...

City Attorney Suárez: I think we can perhaps specify that for those changes to the mitigation, that would be effective for those who apply for permits after today. We can do it that way just for that specific change to the code.

Commissioner Menendez: Okay.

City Manager Iglesias: Which, Commissioner, that's a -- I think that's -- the mitigation issue would be -- going forward would be that prior permits would be -- prior issues would be under the current procedure. I think the mitigation is the issue that you're worried about.

Commissioner Menendez: Yeah, I just want to make sure that it's clear and that if there are property owners halfway through the process, that we don't all of a sudden move the -- like the goal line or the goalpost a little bit while they're in process. But going forward, you know, the stricter the better because we need to protect our canopy.

Assistant City Attorney Ceballos: We can make that change. That's not an issue.

Commissioner Castro: Yeah, I want to go ahead, and I want to confirm that it's -- the palm trees are allowed on a property, however, you cannot replace it for canopy loss. You cannot use a palm tree for canopy loss. That's what this legislation is saying, correct?

Assistant City Attorney Ceballos: That is 100 percent correct.

Commissioner Castro: So, let's just make it -- let's just put it on the record, palm trees are allowed. You cannot -- just you cannot replace it -- you cannot replace canopy loss with a palm tree.

Assistant City Attorney Ceballos: Correct.

Commissioner Castro: Okay.

Commissioner Menendez: It sounds right.

Mayor Lago: That was always the intent.

Assistant City Attorney Ceballos: Yes. I'm not sure who made the motion and who made the second.

City Attorney Suárez: I don't think there's a second.

City Clerk Urquia: I have a motion but no second.

Commissioner Fernandez: But is it amended?

Assistant City Attorney Ceballos: As amended by Commissioner Menendez?

Vice Mayor Anderson: As amended.

Commissioner Fernandez: I'll second that.

Vice Mayor Anderson: Yes.

Commissioner Castro: Yes.

Commissioner Fernandez: Yes.

Commissioner Menendez: Yes.

Mayor Lago: Yes.

(Vote: 5-0)

Mayor Lago: We have a 10 a.m. time certain.

City Clerk Urquia: I'm sorry, Mr. Mayor, before you move on...

Assistant City Attorney Ceballos: We have F-9.

City Clerk Urquia: Would you like to take a vote on F-9?

Mayor Lago: I apologize, F-9.

Assistant City Attorney Ceballos: F-9, I believe I already kind of gave a quick recap.

Mayor Lago: Yep.

Assistant City Attorney Ceballos: Basically, we don't want to bind the Code Enforcement Board, but we want to provide some sort of guidelines more for staff so when we take cases to the board, we kind of have some consistency across the board specifically when it comes to City trees and things of that nature.

Mayor Lago: Great idea.

Vice Mayor Anderson: All right, I'll move it.

Commissioner Fernandez: Second.

Commissioner Castro: Yes.

Commissioner Fernandez: Yes.

Commissioner Menendez: Yes.

Vice Mayor Anderson: Yes.

Mayor Lago: Yes.

(Vote: 5-0)