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LETTER TO COMMISSION  
CITY CLERK'S OFFICE

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: September 29, 2011

SUBJECT: **Summary And Follow-up Actions Responding To Mr. Estrada's Swale Planting Issue Presented At The July 13, 2011 Commission Meeting**

The intent of this Letter to Commission is to provide you with a summary of the issues and action steps taken to address Mr. Joseph Estrada's request made at the July 13, 2011 Commission meeting's Sutnick Hour, concerning the replacement of a palm in the swale in front of his home. In short, due to the unique circumstances regarding the removal, replacement, and apparent declining condition of the palm in this swale, the City, with Mr. Estrada's concurrence, is proceeding to provide alternate plantings that will meet the County code requirements regarding plantings near power lines.

## **Background**

Mr. Estrada resides at 1760 Bay Drive on Miami Beach. Mr. Estrada's neighborhood underwent capital project improvements in December of 2007 and was completed in early 2010. The improvements included: enhanced storm water drainage collection and disposal; landscaping; extension or widening of sidewalks to comply with ADA requirements; street resurfacing/pavement markings; pedestrian access ways; and, the incorporation of traffic calming features.

Mr. Estrada stated that, during construction, the contractor removed two (2) Royal Palms he had previously purchased and planted in the swale in front of his house because there was work to be done on this swale as a component of the improvement project. According to Mr. Estrada, the palms were relocated to Trouville Esplanade, at the neighborhood's entrance; however the work that was planned for the swale was never started. At that time Mr. Estrada expressed his concern to the CIP office that the palms he planted had been removed and then no work was done. The CIP staff subsequently had the contractor doing the capital project work in Mr. Estrada's neighborhood plant two (2) Royal Palms back in the swale. In Mr. Estrada's opinion the replacement Royal Palms were of lesser quality than those he originally planted. Eventually, the two replacement palms began to show stress, with a wound opening on one of them. Mr. Estrada then contacted CIP seeking to have the palms replaced thinking that perhaps they were still under warranty from the contractor.

On May 26, 2011, Fernando Vazquez, the Director of Capital Improvement Projects Office sent an email to Mr. Estrada responding to Mr. Estrada's request for assistance. Mr. Vazquez informed Mr. Estrada the City could remove the damaged palm and but could not plant another Royal Palm in its place as it would grow too close to the powerlines. Mr. Vazquez did however offer to have an appropriate species of palm or shade tree planted in the swale to resolve the problem. Mr. Estrada responded that he didn't understand this rationalization as the City had planted Royal Palms under powerlines in other projects near his home. Mr. Estrada also sent his request for assistance to the Mayor and Commissioners' Office. From June to mid July, the City attempted to find an acceptable solution that would address Mr. Estrada's concerns. Unfortunately, none were identified.

At the July 13, 2011 Commission meeting's Sutnick Hour, Mr. Estrada presented his concerns, requested that the City remove the existing damaged palm and plant another Royal Palm to match the existing ones in the swale in front of his house. The Administration advised the Mayor and Commission that it is a violation of the Miami-Dade County Landscaping Ordinance (Chapter 18A. Sec. 18A-6. Minimum standards. (C) Trees. (3) Powerlines.), which states that tree planting under power lines "...shall meet the following requirements: (c) Maturing to a height and spread not encroaching within five (5) feet of overhead distribution lines." The City Commission and Administration expressed their regrets to Mr. Estrada for the situation but also stated the City can not condone violating the Miami-Dade County Landscaping Ordinance. The matter concluded with the Commission requesting the Administration to do whatever is possible, within established ordinance, planting guidelines and professional standards, to identify a viable solution to address Mr. Estrada's concern.

Following the July 13<sup>th</sup> Commission meeting, City staff completed a survey of swale in front of Mr. Estrada's home to determine if there was adequate space to safely and properly plant a palm. The survey results showed that the swale between the power line and the edge of pavement was approximately 14 feet in width. Florida Power and Light's planting specifications requires that palms, such as Royal Palms, with a frond length of 10 feet be planted a minimum of 13 feet from the power line. In this case this would leave 1 foot from the edge of pavement to plant the Royal Palm, which is not possible without cutting the roadway and creating a safety hazard.

Dr. Chris Latt contacted Mr. Estrada to advise him of our efforts and to once again offer the option of having the City remove the palms in question and replace them with a species of palm or tree that was appropriate for planting under power lines. Mr. Estrada told Dr. Latt he would think about it and let him know of his decision. On August 29, 2011, Dr. Latt called Mr. Estrada to see if he had come to a decision. Mr. Estrada responded that he would like to retain the existing Royal Palms, and requested that the city plant four triple-trunk Veitchia Palms between the Royal Palms, that way if the Royal Palms die, the Veitchia will be in place. Mr. Latt advised Mr. Estrada he would discuss this option with the administration and get back to him.

On September 6, 2011, Dr. Latt called Mr. Estrada to follow-up. At this time Mr. Estrada requested a substitution of the Veitchia Palms with four (4) Foxtail Palms (*Wodyetia bifurcata*) which are appropriate for this planting area. Dr. Latt confirmed this was an acceptable species and that the City would be contact Mr. Estrada when the palms are ready to be planted.

Taking into consideration the previously stated unique set of circumstances related to this matter, it is the City's intention to proceed with the planting of the four (4) Foxtail Palms in this swale at an estimated cost not to exceed \$3,000 in total. The funding will be identified by Capital Improvement Projects Office and provided to the Parks and Recreation Department to make the purchase. The Administration considers this to be a fair and equitable solution and should conclude the matter.

Please advise if you have questions, comments or concerns.

  
JMG/DB/HME/FV/KS