

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON PARKS AND RECREATION

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May 21, 2009
Start: 10:21am
Recess: 12:09pm

HELD AT: Council Chambers
City Hall

B E F O R E:
HELEN D. FOSTER
Chairperson

COUNCIL MEMBERS:
Elizabeth Crowley
Alan J. Gerson
Letitia James
John C. Liu
Melissa Mark-Viverito
James C. Oddo
Helen Sears

A P P E A R A N C E S (CONTINUED)

Michael Schnall
Director of Government Relations
New York City Department of Parks and Recreation

Megan Shane
Million Trees NYC Director
New York Restoration Project

Sheelah Feinberg
Director of Government and External Relations
New Yorkers for Parks

Corey Bearak
President
Queens Civic Congress

Carsten Glaser
Independent Consulting Arborist
For the Queens Civic Congress

Roland Wade
Horticulturist
Former Executive Director of Queens Botanical Garden
Teacher John Baum High School
Chair of the Parks Committee of Community Planning
Board Seven
President and founder of Kissena Corridor Parks
Conservancy

Gene Kelty
Chairperson
Community Board Seven

Myra Baird-Herce
President
Flushing Chamber of Commerce

Beverly McDermott

President of the Kissena Park Civic Association

Director of Friends of Kissena Park

Licensed tree climber/pruner, tree steward, citizen
pruner

Flushing Representative for the Queens Coalition for
Parks and Green Spaces

Fred Gerber

Education Director Emeritus

Queens Botanical Garden

James Trikas

Board Member

Holly Civic Association of Flushing

Claudette Trimmingham

Member

Kissena Corridor Park Conservancy

Eugene Sadowsky

Member

Holly Civic Association, Democratic Club of Flushing,
Kissena Park Corridor

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[background noise]

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CHAIRPERSON FOSTER: Good morning.

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I'm Council Member--Is this on? Oh, you can hear

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me? [technical] Good morning, I'm Council Member

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Foster, I'm sorry for running late. I was waiting

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for my seniors, and you know, you don't mess with

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seniors. [laughter] So, we are going to get

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started, I know that John Liu was here, and we're

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going to try to get him back, because this is his

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bill that he's introducing. And welcome Mike.

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MICHAEL SCHNALL: Thank you.

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CHAIRPERSON FOSTER: Nice to be

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able to have you testify.

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MICHAEL SCHNALL: We'll see about

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that. [laughter]

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CHAIRPERSON FOSTER: Exactly,

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right. We are conducting this meeting on--

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[technical] We've been joined by Council Member

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James, who has a lot going on across the street.

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We are going to hear testimony on Intro 916. It's

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927? It's two of them. 919, 916 and 927. Thank

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you. We're going to, Mike Schnall, Director of

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Government Relations for the New York City Parks

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Department will start off with testimony.

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2 MICHAEL SCHNALL: Thank you. Good
3 morning, Chair Foster, and members of the
4 Committee. I am Michael Schnall, Director of
5 Government Relations for the Department of Parks
6 and Recreation. On behalf of Mayor Bloomberg,
7 First Deputy Mayor Harris, and Parks Commissioner
8 Adrian Benepe, thank you for allowing me to speak
9 with you today on Introduction numbers 916 and
10 927. First I'd like to thank Council Members Liu
11 and Oddo, and members of this Committee for taking
12 the lead to raise awareness of the need to protect
13 New York City's tree canopy. New Yorkers love
14 trees, and as the stewards of over 600,000 street
15 trees and over two million trees on public green
16 spaces, we love them, too. As you all know by
17 now, Parks is in its second year of the Million
18 Trees NYC Campaign, to plant one million new trees
19 on public and private property throughout the City
20 over a ten year period. Along with our partners,
21 our goal is to increase tree canopy across all of
22 New York City. And with the help of
23 private/public partnerships, stewardship by
24 private citizens, and support of our local elected
25 leaders in identifying places to plant and

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2 educating constituents on the benefits of trees,
3 we can green our city together. To date, we have
4 planted over 202,136 trees towards our one million
5 tree goal, and we're just getting started. As
6 again, we've testified earlier on this, trees are
7 the workhorses of the environment, contributing to
8 cleaner air and water, cooling the atmosphere,
9 reducing energy use and carbon production, and
10 providing homes for wildlife. They also define
11 the character of a community, connect people to
12 nature, and add tangible value to property. The
13 U.S. Forest Service, using a sophisticated
14 computer program called Stratum, analyzed the
15 City's street tree population and calculated that
16 each year the over 600,000 street trees that line
17 our streets provide almost \$122 million in
18 environmental benefits and additional property
19 value. In air quality alone, street trees remove
20 272 tons of particulate matter each year, valued
21 at \$5.3 million. With regards to Introduction 916
22 and 927, 916 seeks to prevent the removal of
23 trees, caliper of 12 inches or more, from private
24 property, unless permitted by Parks. A violation
25 of this proposed bill would carry a penalty of at

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2 least \$100 to \$250 per violation. Introduction
3 927 would give authority to Parks under the
4 administrative code to enforce penalties for the
5 unlawful damage or removal of a tree, in violation
6 of the zoning resolutions for special, natural
7 area districts, with a fine of \$5,000. While
8 Parks certainly lauds the intents of these bills,
9 we oppose these bills, these two bills for
10 primarily the same reasons: both would unduly
11 burden the agency to take on the monitoring and
12 enforcement without the necessary resources to do
13 so. Simply put, we do not have the resources to
14 handle these types of enforcement matters right
15 now, and in financially austere times, where we're
16 facing doing more with less, these two demands
17 would reduce the agency's ability to satisfy our
18 core responsibilities and competencies.

19 Additionally, both bills would require Parks to
20 be, in essence, stewards of private trees. The
21 sheer volume of responsibility would overwhelm our
22 ability to perform the most basic maintenance on
23 our 2.6 million public property trees. So the
24 Parks Department is committed to protecting our
25 current tree stock on our streets and open green

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2 spaces. We agree with the Council that protecting
3 trees on private property is essential to keeping
4 our City clean, green and sustainable, and look
5 forward to working with the Council to continue
6 our great work of stocking New York City with new
7 trees, and continuing our work to green our City
8 one tree at a time. Thank you.

9 CHAIRPERSON FOSTER: Thank you.
10 Thank you, oh yeah, that works. Thank you. We've
11 been joined by Council Member Oddo. Council
12 Member would you like to make a statement.

13 COUNCIL MEMBER ODDO: Yeah, thank
14 you, Madam Chair, and let me just start by
15 thanking you and the Speaker for having a hearing
16 on this bill. And I appreciate the testimony by
17 Mr. Schnall and the Parks Department, and if we
18 need to go back and rewrite the bill and put the
19 jurisdiction into the Department of Buildings'
20 portfolio, I mean, that's a point that's well
21 taken. I just think that what we're trying to do
22 here is have a structure in place that actually
23 saves the tree. Because what's happening now is
24 the tree gets cut down, the homeowner gets a
25 violation, and a tree that took 30 years to get to

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2 that point is gone, never to be seen again. So,
3 what we're, the intent of the bill is simply to
4 put into the minds of the guy with the saw in his
5 hand, that he's going to pay a price if he
6 illegally takes down a tree. And I think that's
7 an, that's a goal that all of us can agree is a
8 worthy one, the path to getting there is proving
9 to be a little bit more challenging, but I think
10 if we all sit around the table, we'll get there.
11 So, I thank the Chair, I thank the administration,
12 and I look forward to working with DOB and the
13 Parks to find the right language to get this done.

14 CHAIRPERSON FOSTER: Thank you.

15 Does Parks currently work with the Department of
16 Buildings when construction is going on, or how's
17 that, how's that happening?

18 MICHAEL SCHNALL: Yes, actually,
19 last year, the City Planning and the Council
20 passed regulations requiring ho--new building
21 construction, mainly residential, and also
22 properties that are expanding beyond a certain
23 square footage, to either replace trees that are
24 removed on private, on public property, or add
25 trees to the public green space. So, yes, we do

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2 work with them, we actually set the penalty
3 structures, the cost of remediation, mitigation
4 types of trees, locations, and the like.

5 CHAIRPERSON FOSTER: Now, how is it
6 that, let me just, I have a house, I have a tree,
7 on my property. If it is, if I take it down, then
8 what?

9 MICHAEL SCHNALL: You've taken down
10 the tree on private property, which is your
11 property. And--

12 CHAIRPERSON FOSTER: Then nothing.

13 MICHAEL SCHNALL: We have no
14 jurisdiction over private trees.

15 CHAIRPERSON FOSTER: Okay. If I--
16 we've been joined by John Liu, or joined again by
17 John. Do you want to make a statement before we
18 keep going, or are you good?

19 COUNCIL MEMBER LIU: No, we'll hear
20 from him first, and then--

21 CHAIRPERSON FOSTER: We did hear
22 from him.

23 COUNCIL MEMBER LIU: Okay.

24 CHAIRPERSON FOSTER: I'll give you
25 a minute to, to read the testimony, if you want.

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Okay? So you want to talk now.

COUNCIL MEMBER LIU: I'll talk now and I'll ask a few questions later.

CHAIRPERSON FOSTER: Sure.

COUNCIL MEMBER LIU: I want to thank you, Madam Chairperson, for holding this hearing. This bill is quite a bit, a long time coming, and it's certainly necessary. And I got to say, our interest was most piqued when the Mayor announced that we should plant a million new trees in the City; which is a great thing. The problem is that as we plant these million new trees, a million other trees are being taken down. So where's the net gain in that? How is that going to help provide for greener, more sustainable City? Trees are really, in many ways, the lifeblood of communities in New York City. They help clean the air, they provide shade and other source of comfort. Trees are an important part of New York City. This is not a concrete jungle that anybody wants to live in. And so to the extent that we can enact measures that will help keep these trees up, I think the administration should support us on this. In

1 fact, there, you can say that this is all about
2 private property. There are lots of cases where
3 the construction and development that takes place
4 in this City, that the Administration strongly
5 encourages, rightfully or wrongfully, that
6 construction, if taken with greater care, could
7 actually help protect these trees. And if the
8 Administration would just set the ton for that, by
9 supporting legislation such as this, or by working
10 with us to tweak the legislation to a form that
11 the Administration could support, that I think
12 would be beneficial for all the people. And it
13 would help, help the Mayor's NYC 2030 plan
14 progress. So, that's my opening statement. I'll
15 have a few questions for you, but nonetheless, I
16 encourage you to, rather than just simply oppose
17 this legislation, and not you personally, but I
18 encourage the administration to, rather than just
19 oppose this legislation outright, to work with us
20 on this, so that we can craft a bill that sets
21 measures, implements a set of regulations. And I
22 think even more important than all of that, set a
23 tone for the entire City--developers, communities
24 alike--that sends a strong message that trees are
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2 a very important part of our City's fabric. Thank
3 you, Madam Chairperson.

4 CHAIRPERSON FOSTER: Thank you.
5 We've been joined by Council Member Crowley from
6 Queens. Okay, so, let me get back to my question.
7 Private property, private tree, tree's cut down.

8 MICHAEL SCHNALL: Mhm.

9 CHAIRPERSON FOSTER: Now, if I'm on
10 a natural preserve or reserve, and I cut down a
11 tree.

12 MICHAEL SCHNALL: You mean the
13 natural, the special, the natural--

14 CHAIRPERSON FOSTER: Right, right,
15 those three--

16 MICHAEL SCHNALL: I believe the
17 same rules apply, that if it's private property,
18 it's the responsibility of the property owner, to
19 maintain and care for those trees. And if it's on
20 public property, that's under the jurisdiction of
21 Parks.

22 CHAIRPERSON FOSTER: Well, I think,
23 I think that, thank you for being here. I think
24 you aren't really--

25 MICHAEL SCHNALL: I'm not a

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2 forester, but I, I love trees.

3 CHAIRPERSON FOSTER: But you're not
4 really, I don't even, I really don't even know
5 that this is a Parks issue, as much as it is a
6 policy issue having to do with the Administration.
7 When we look at projects that we have, and "we" I
8 mean by the Administration, has pushed forward
9 with Yankee Stadium. And of course we were
10 replacing new trees, but there was a way to do it
11 so that we didn't have to--what happened in Van
12 Cortland Park. We have, I think, one clear legacy
13 that this Administration will leave, is
14 development over everything else. And we've seen
15 that in terms of communities and even with trees.
16 So, I'll turn it over to John for some questions,
17 but you're, you just happen to be the person
18 that's sitting here. I really don't think it's a
19 Parks Department issue. It came here because it's
20 a tree, but it has to do with the attitude or the
21 tone that we're setting. John?

22 COUNCIL MEMBER LIU: So, the
23 Administration is opposed to this legislation
24 simply for the fact that these trees are on
25 private property.

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2 MICHAEL SCHNALL: Well, that, the
3 fact that it's on, they're on private property,
4 and that Parks doesn't have, under 916, and 927
5 for that matter, don't have the resources right
6 now to take on another two million plus trees on
7 private property, to maintain and care for them as
8 we do with the 2.6 million that we take care of
9 right now.

10 COUNCIL MEMBER LIU: So it's about,
11 it's a budget issue.

12 MICHAEL SCHNALL: It's a
13 jurisdiction issue, first, but it's also, yes, we
14 are doing more with, with less right now, as it
15 is, to just keep, take care of our core
16 competencies.

17 COUNCIL MEMBER LIU: So you don't
18 want more work.

19 MICHAEL SCHNALL: I think we're
20 happy to take on more work, I mean, as a matter of
21 fact--

22 COUNCIL MEMBER LIU: No, it doesn't
23 sound like you're happy about it.

24 MICHAEL SCHNALL: With Million
25 Trees NYC, we've taken on a lot more work. But

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2 there's also been the resources to back that work.

3 COUNCIL MEMBER LIU: The problem,
4 and this is what I stated earlier, the problem is
5 that the, not you personally, don't, don't take it
6 personally. The Parks Department took on the, the
7 challenge of seeing to it that a million new trees
8 get planted in New York City, and I've, I've
9 planted trees, we have a whole, a whole number of
10 activists from Queens here. We've all planted
11 trees in Kissena Corridor, in many other places in
12 New York City. And the Parks Department has led
13 these efforts to plant new trees. But you're,
14 you're literally doing something with one hand,
15 and allowing something else to happen with the
16 other hand.

17 MICHAEL SCHNALL: Well, a major
18 component of Million Trees NYC is planting trees
19 on private property. And doing that, we're
20 engaging private homeowners, private businesses,
21 non-profits, to join us in stocking the tree
22 canopy in New York City. So, there are trees
23 being planted on private property, as part of
24 Million Trees NYC. And part of the reason why you
25 do that, is to create stewardship. One of the

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2 reasons why you're going to these events and
3 planting trees is to create an awareness among
4 kids and adults and seniors, the necessity--

5 COUNCIL MEMBER LIU: That sounds
6 great. Sounds great.

7 MICHAEL SCHNALL: And that's the
8 policy behind it, is to--

9 COUNCIL MEMBER LIU: You know
10 what's, you know what's really being happening,
11 you know what's really happening? We're planting
12 sticks. And meanwhile 50 year old trees, hundred
13 year old trees in some cases, are being taken
14 down. I don't know what, what kind of message
15 that really sends. It, it is a contradictory
16 message that this Administration is sending. The
17 tone is too cavalier. It is ridiculous for the
18 Administration to think that it is encouraging the
19 planting of a million trees, while another,
20 perhaps not a million, but a substantial number
21 are being taken down at the same time. It is not
22 adding to the greenery of our City. It is not
23 adding to the environmental sustainability of New
24 York City. So, if you're going to argue the
25 jurisdictional issue, let's talk about the

1 jurisdictional issue. There are lots of ways that
2 we can, can really help define what can and cannot
3 be done by City government. And there are lots of
4 other areas where City government has intruded on
5 what normally or traditionally would have been
6 considered a jurisdiction of private property
7 owners. So let's talk about that, but let's not
8 talk about the resources involved because, you
9 know, it's, the Parks Department, the resources
10 are still substantial. I know they're, the
11 Department is responsible for a lot. But
12 nonetheless, we got to understand. I think it's
13 far more preferable to not spend any money
14 planting new trees and keep all the trees that we
15 have in the City alive and well, first. Let's do
16 that basic job first, and then see how many more
17 trees we can plant. But don't tell the public,
18 "We're planting a million new trees," and then
19 thousands, if not hundreds of thousands of trees
20 are being taken down. That, that is smoke and
21 mirrors, that is fooling the public. That is a
22 political platform that sounds great in other
23 parts of the country, but it's not working here in
24 New York City. So, if you want to talk about the
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1 budget issues, the Parks Department should say,
2 "How much would it cost?" How much would it cost
3 to enforce something like Intro 916, and Intro
4 927, for that matter? But to simply come here and
5 say, "Oh, we can't take on any more work because
6 we got a lot to do already," that's not
7 acceptable. I mean, it's, it's so clear cut,
8 Madam Chairperson, I don't know what kind of
9 questions I can ask about this. If you would like
10 to respond, please feel free to, to do so, Mr.
11 Schnall. We know you're a forester.
12

13 MICHAEL SCHNALL: No, I'm not a
14 forester.

15 COUNCIL MEMBER LIU: Oh, you're not
16 a forester.

17 MICHAEL SCHNALL: No, I'm the
18 political guy at Parks. But I will tell you this,
19 in my limited knowledge of forestry, I do know
20 that we have 110 climbers and pruners, and 44
21 foresters right now, that service our 600,000,
22 600,00 plus street trees. And we've been lucky in
23 the last few years to, to really sort of build up
24 our, our reserves to be able to prune over 200,000
25 trees in the last two years, and will make it

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2 through these times based on the fact that we're
3 coming from a point of strength. If I were to, I
4 couldn't give you a number on what it would cost
5 to maintain an additional two million trees. But
6 right now, where we're maintaining 600,000 on the
7 streets and maybe two million or more on public
8 property, the number would be, would be great, and
9 I'd be happy to get back to you on that if that's
10 something that you'd like to follow up with.

11 COUNCIL MEMBER LIU: Well, Mr.
12 Schnall, it's--Let me ask you this, then. As the
13 Mayor and the Administration encouraged the, the
14 planting of a million trees, what if anything has
15 the Administration done to actually discourage the
16 taking down of trees?

17 MICHAEL SCHNALL: Well, when it
18 comes to taking down trees on public property,
19 we've enacted the zoning, the new zoning text from
20 last year, that required new construction to put
21 trees on public green spaces, the streets or other
22 open spaces, where the, depending on the frontage
23 of the property, we've required new tree planting
24 on public property where an expansion happens on a
25 residential commercial property of a certain

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2 square footage or larger. So we've encouraged
3 them to embrace the idea that where they're
4 building, they need to put up tree canopy.

5 COUNCIL MEMBER LIU: Well, the--
6 Let's, let's take another part of the Plan NYC
7 2030 plan, the City encouraging people to ride
8 their bicycles. The City's introduced 2000 new
9 miles of bike lanes throughout the City, and at
10 the same time, the City is pushing for
11 legislation, changes to the building code that
12 would require building owners to provide for
13 bicycle parking within those buildings, so that
14 when people are able to take those new bike lanes
15 to work, they actually when they get to work have
16 a place to, have the ability to bring it into the
17 buildings and have a place to put their bikes
18 while they're working. So that to me is a
19 comprehensive strategy. On the tree front, you
20 have a Mayor talking about a million new trees.
21 But where's the back end of that? Million new
22 trees, there is total hesitation with regard to
23 imposing some requirements on the part of private
24 property owners, on their private property.
25 Meanwhile, there's no hesitation in cases such as

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2 the, encouraging people to ride bikes. The City's
3 proceeding with instituting requirements on
4 private property owners in their buildings. Why
5 not set the tone so that it's a true comprehensive
6 plan on how to introduce and preserve greenery in
7 New York City, and not simply a press release that
8 says, "One million new trees." What, what's the
9 Parks Department doing? What is the
10 Administration doing with regard to encouraging
11 people to keep their trees up on their private
12 property? Not on public property, on their
13 private property.

14 MICHAEL SCHNALL: Well, I think
15 again, with, within the confines of what we
16 legally can do right now on public property, as
17 the Department and the Administration, again I'm
18 going to ta--tree stewardship might not sound
19 exciting, but it is. I mean, it encourages people
20 to appreciate trees. And what the hope is, is
21 that when they're taking care of their street
22 trees, they're also taking care of the trees on
23 private property. And that they're going into
24 their gardens, their backyards, their neighbor's
25 property, and looking at those trees and

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2 appreciating them in the same way that they do
3 that tree, that on a Saturday morning they planted
4 with a bunch of their neighbors at a, you know,
5 it's my Park Day event, or a Million Trees NYC
6 month event. So I think it's, it's not right now
7 what you're, you're talking about a sort of a
8 legal construct, but we're talking more of a, an
9 educational push, and sort of a way to get people
10 to understand the importance of trees, so that
11 they're not going to just cut down a tree for the
12 sake of cutting it down, but will actually think
13 twice about taking that tree down, and work around
14 it to preserve the tree, maybe put some more in
15 their yards when we give them away for free, and
16 when New York Restoration Project gives away
17 trees. So it's, it's an education campaign to, to
18 grow, to raise awareness. The, the legal aspects
19 of it we can talk about. But in terms of what we
20 can do right now, I think the Administration has
21 been pretty progressive.

22 COUNCIL MEMBER LIU: What you're
23 saying is that you're doing everything you can
24 that's legal right now. Meanwhile, on the bicycle
25 front, the Administration is trying to change the

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2 law, so that more is required. What I'm
3 suggesting, what I'm imploring the Administration
4 to consider, is that the law has to be changed.
5 That's why Intros, that's why these two intros,
6 916 and 927, are on the table right now. So,
7 rather than just simply coming to this hearing and
8 saying "The Administration can't support it," the
9 Administration really should, it needs to do more.
10 And as a sponsor of one of these pieces of
11 legislation, I am ready to talk about what can be
12 done and what cannot be done. But to simply go
13 out there and have the Mayor and the Parks
14 Commissioner and everybody saying, "Hey, trees are
15 good," and expect people to say, "Oh, yeah, trees
16 are good, let me not build my house, let me not
17 build my extension," that's not good enough. We
18 need to have some kind of a legal construct. We
19 need to expand the requirements, and that's what
20 these two bills are about. Do that, or stop
21 talking about how great it would be to have a
22 million new trees, because that's, that's
23 duplicitous. It really is. I bet you the City
24 has no idea how many trees are being taken down.
25 Do we have any idea how many trees are being taken

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down on a monthly basis?

MICHAEL SCHNALL: We know what's being taken down on public property, in terms of the mitigation and the fines for public trees, but I couldn't give you a number on private property.

COUNCIL MEMBER LIU: Okay. Well, that's because it's not enough of a priority for the Administration. So, again, to say that we're planting a million new trees, that would be far more meaningful if we could say that a million new trees while only 10,000 or 20,000 trees are taken down in the process. That's, and that's over a period of a couple of decades. It's, it's not, it is not sufficient for the Administration not to know how many trees are being destroyed out there. And once again, I also do want to point out, and I will continue to point out, that it's great that all these trees are being planted, but they're sticks that are being planted. And meanwhile, we have mature trees that are 50 years old, decades old, and they are being taken down. And the Administration and the City has no idea that that's being done, because they keep saying it's on private property. Well, but, anyway, I want to

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2 thank you for being brave enough to sit there.

3 [laughter]

4 MICHAEL SCHNALL: Sure.

5 COUNCIL MEMBER LIU: Madam Chair, I
6 tried to be as civil as possible.

7 MICHAEL SCHNALL: I appreciate
8 that.

9 CHAIRPERSON FOSTER: You're always
10 civil, John. [applause] Oh, look at you, John.
11 You got applause.

12 COUNCIL MEMBER LIU: I tried to be
13 as nice as--

14 CHAIRPERSON FOSTER: You're always
15 civil. We've been joined by Council Member Mark-
16 Viverito and Council Member Sears. Council Member
17 Oddo has a statement.

18 COUNCIL MEMBER ODDO: Thank you,
19 Madam Chair. And John, if you want to learn how
20 to be less civil, by all means consult the
21 Republican delegation. [laughter] That is not
22 true, act--it's a good joke, though. Thank you,
23 Helen. I just, Madam Chair, I'd just like to make
24 a statement to make sure the record is complete,
25 and maybe demonstrate why I'm perhaps a little bit

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2 more willing than Council Member Liu, although I
3 understand his point, why I'm a little more
4 willing to accept Mr. Schnall's testimony and the
5 Administration's position, for my bill at least,
6 that there's a jurisdictional issue. My bill
7 speaks specifically to special natural area
8 districts, or as we call them, SNADs. There are
9 four of them in three boroughs, one, two in my
10 district, one in Fort Taunton, Queens, and one in
11 The Bronx. And these are areas designated back in
12 1974 as having a unique natural characteristic.
13 And in '74, there were rules put in place to
14 protect them because of that. And those rules
15 were updated most recently in 2005. So, in SNADs
16 there are rules existing right now, pertaining to
17 trees. When you need to plant trees, when you're
18 having construction, how to protect trees. And
19 that's written into the zoning resolution. And
20 that's why, I think at least for my bill, the
21 Administration's position that this is a
22 jurisdictional issue, and not fall within the
23 bailiwick of Parks, is something that I can accept
24 because the Department of Buildings is actually
25 the entity that enforces the zoning resolution,

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2 which is a discussion in and of itself, how one
3 hand writes it, and another hand enforces it. But
4 I think that's a distinction, and I think that's
5 why Council Member Liu is much more, I think,
6 frustrated with this process. And I understand
7 his frustration. But I think that's an important
8 distinction to make, and that, that's why I
9 understand the Administration's testimony. And
10 again, I'll just repeat what I said earlier:
11 there are rules in place to protect trees in
12 special natural area districts. The problem I
13 have is when those rules are violated, the fine
14 goes on the homeowner. I don't have a problem
15 with that, but I also want the fine to come down
16 on the entities that are actually taking down the
17 trees, because I think that increases our
18 likelihood that they will not engage in that
19 activity, and at the end of the day, the goal is
20 to save the 20 or 30 year old tree. So I just
21 wanted to make that distinction, so that it's
22 clear why I am not as "civil" as Council Member
23 Liu has been. Thank you, Madam Chair.

24 CHAIRPERSON FOSTER: Thank you very
25 much. Council Member Sears, Crowley, or Viverito,

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do you have any--? [off mic] Sure.

COUNCIL MEMBER MARK-VIVERITO:

Thank you, Madam Chair. I decided to come by.

I'm actually co-lead sponsor with Council Member

Liu on Intro 916, and I heard some of the

concerns. Obviously, I will completely stand by

my colleague, because I feel as strongly as he

does about it. And the concern here about people

taking down trees and there being some sort of a

measure as to what, you know, getting, having to

get authorization in order to take down any sort

of mature trees, and trying to define that and

give a measure, and really make a stand, make a

statement that this is an important matter to us.

And I know that you indicated that you're only

able to really determine the number of trees that

are taken down on public property. And I'm just

going to make a statement, although it's a little

bit off topic here, with regards to that matter.

Because I just see sometimes there's real serious

contradictions with regards to what the

Administration is putting out, versus what we're

actually doing. And I always bring back my lovely

matter of top choice, which is Randall's Island,

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2 that in the course of upgrading those fields,
3 there were hundreds, hundreds of mature trees that
4 were removed, that were destroyed. And you know,
5 Parks' response, "Well, we planted new trees."
6 Well, I don't think that a new growing tree is the
7 same as a mature tree that may have been there for
8 20 years, 30 years, 40 years. And so I don't
9 understand, when we talk about making--and
10 obviously the level of what they can provide in
11 terms of cleaning the air, and the contributions
12 they can make on that front. You know, it's
13 obviously a new tree, and a growing tree is not
14 the same as a mature tree, I would think. So, you
15 know, there really needs to be a little bit more
16 consistency in terms of what is the message that
17 we're putting out there when we talk about
18 greening New York City, when we talk about
19 planting trees, and the respect that we give to
20 that. So, this is, again, on my end, and I know
21 with Council Member Liu, you know, we really are
22 focusing on, on the importance that mature trees
23 play in really cleaning our air and providing,
24 contributing to a healthier New York City. And
25 that we really should be willing to regulate,

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2 maybe this is something we can do in partnership
3 with non-profits, and partnership with advocacy
4 organizations. We got to be creative about it,
5 about how we would enforce this or try to get an
6 idea of how many trees there are on private
7 properties, that maybe are being torn down and
8 trying to do some level of, of regulation on that
9 front. But we've got to be creative, and I think
10 that coming here and saying that you're not
11 willing to because of staffing and resources,
12 those are issues to be discussed. But we should
13 really take this and move forward with it. But
14 I'll just leave it there, and not, and not belabor
15 the point. But thank you for your time.

16 CHAIRPERSON FOSTER: Thank you.
17 You missed it, but that is exactly what I said,
18 and your Randall's Island is my Yankee Stadium.
19 And that we put one of the legacies this City is
20 going to leave is development over everything
21 else. So we see that. Before I call on you,
22 Council Member Liu, I believe Council Member
23 Crowley was going to say something.

24 COUNCIL MEMBER CROWLEY: Sure, I
25 have a question. Is there any program that the

1
2 Parks Department does with homeowners, in terms of
3 pruning their trees in the back of their yard?

4 Taking care of their trees.

5 MICHAEL SCHNALL: There isn't any
6 established program, but I think there is a rare
7 instance, every once in a while, where we will, we
8 will assist them, where--I don't, I don't know of
9 instance, I've heard of one or two instances in my
10 years at Parks that that has happened, but not--

11 COUNCIL MEMBER CROWLEY: Right.

12 MICHAEL SCHNALL: I think it's a
13 rare occasion where it's a real extreme
14 circumstance.

15 COUNCIL MEMBER CROWLEY: I agree
16 with my colleagues, I think it's very important to
17 have an idea of what our tree stock is. And, and
18 this aggressive effort in planting a million
19 trees, we should try to put a map together and
20 figure out where our existing trees are, and how
21 to protect and maintain 'em. Especially on
22 private property, because a lot of homeowners
23 don't know how to protect trees. And if there
24 could be some type of partnership, and this could
25 help the trees grow, and less, lessen the burden

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2 of a tree ever falling down because it wasn't
3 properly maintained. I think it makes sense and I
4 think that the Department should look at putting
5 together a map, and really keeping track of what
6 we do have. And that's it.

7 MICHAEL SCHNALL: In terms of the
8 trees that we have, again, a jurisdictional issue,
9 all the public trees, we do a tree census every
10 few years. And so we do keep tabs, and have
11 volunteers and staff going out to identify the
12 trees, check the health of the trees. We also
13 have encouraged council members, I know there are
14 a few now that have, every, once a year, they send
15 a team of interns and staff out into their
16 district, street by street, block by block,
17 identifying trees that are unhealthy, that are
18 diseased, open tree pits. And that helps us, too,
19 to keep tabs on things that are going on in the
20 district.

21 COUNCIL MEMBER CROWLEY: Right.
22 Recently, in my district, we had the Department of
23 Agriculture in the United States put in the
24 pesticides to prevent the spread of Asian longhorn
25 beetle. And I think that, you know, I know they

1
2 went into the backyards, and they protected the
3 green, green space on private property. And that
4 was so important, because if they didn't do that,
5 it wouldn't prevent the spread. And I think using
6 that ideology, where the government is helping to
7 cure a problem, prevent the spread, it just
8 continues to make sense and follow along that
9 philosophy of that we are in touch with where our
10 trees are, we can prevent the spread of something
11 like that.

12 MICHAEL SCHNALL: Right. And we've
13 worked with the federal government, the State, on
14 that LB issue. I myself been involved with
15 setting up the community briefings, and all the
16 elected official briefings. And so I know that
17 the federal--

18 CHAIRPERSON FOSTER: Well, I didn't
19 get any briefing, I had everyone calling me up,
20 afraid about their dogs--

21 MICHAEL SCHNALL: I'd be happy to
22 talk with you after and work on that. But the
23 federal government has different jurisdictional
24 abilities than we do. But they still do talk to
25 the homeowner and ask permission, and they, they

1
2 don't just walk onto the property. And I think
3 that's--

4 CHAIRPERSON FOSTER: Oh, they
5 don't?

6 MICHAEL SCHNALL: I don't believe
7 so. I believe that they do provide information
8 and they talk to the homeowner, and--

9 CHAIRPERSON FOSTER: --in my
10 backyard, I don't think they - -

11 MICHAEL SCHNALL: Okay, well, you
12 know, I think that's sort of a rare, and again
13 another instance where you have a predator that's
14 eating trees and, and the potential for damage to
15 the tree canopy is tremendous for New York City,
16 so, but you know, we're happy to talk to you about
17 the differences in jurisdictional issues.

18 CHAIRPERSON FOSTER: Council Member
19 Liu?

20 COUNCIL MEMBER LIU: Just going
21 back to the jurisdictional issue for a second, you
22 are aware that, I'm sure, I hope, that there are
23 other municipalities and local governments that do
24 have certain kinds of requirements.

25 MICHAEL SCHNALL: Yes.

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2 COUNCIL MEMBER LIU: We're not
3 saying, this bill does not say, "No private
4 property owner can cut down any tree." It simply
5 says that they have to get a permit from the Parks
6 Department when it's a big tree, caliper of twelve
7 inches or more. That's a pretty big tree in New
8 York City. Would you--?

9 MICHAEL SCHNALL: Well, I do know
10 that there are a lot of tree protection ordinances
11 out there in the United States, and we have, we
12 have staff, I have an intern who was doing
13 research for me, to figure out what the scope of a
14 lot of those ordinances are. In terms of the
15 caliper requirement in this bill, I, again, am not
16 a forester, but I do know that twelve inches is a
17 larger tree than a lot of the street trees that
18 are going in, but there are trees that are much
19 larger than that, that are, what I would call
20 "iconic" trees, that you just, you know that
21 they're there 'cause they've been there for 100
22 years.

23 COUNCIL MEMBER LIU: Yeah, that's
24 true, but, but really, I mean, let's be serious
25 here, and this is something that the Parks

1 Department really should study. And you know, you
2 can send a hundred interns out there, too, but I'd
3 like you and the Commissioner to go out there and
4 take a look also. A caliper of twelve inches or
5 more, that's a pretty big tree. That is not 50
6 percent of the trees out there. That may not even
7 be ten percent of the trees out there. It's a
8 relatively small number, it's a limited number.
9 The, the scope of this bill is not that far
10 reaching. So, it, it's, you know, it just sounds
11 like a gut reaction from the Parks Department and
12 from the Administration, to, "Oh, we don't want to
13 do that bill, because it's private property," it's
14 not really, that's not a thoughtful response. So,
15 I do not accept the jurisdictional argument for
16 the purpose, for the main reasons that other
17 municipalities and local governments have such
18 ordinances. And that the, the administration and
19 the Parks--neither the Administration nor the
20 Parks Department seems to have actually looked at
21 the scope of this bill itself. And that a twelve
22 inch caliper is, I think a reasonable threshold.
23 If, if the Parks Department thinks that it could
24 do something along these lines, but maybe a
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2 different threshold needs to be set, let's talk
3 about it. Let's discuss what kind of threshold
4 makes sense. The problem is that right now it
5 doesn't seem like the Administration or the Parks
6 Department really has any idea what's on the
7 private properties out there. Secondly, going
8 back to the cost, again, the cost cannot be used
9 as an argument when the City is out there pushing
10 this million tree initiative. That is simply not
11 acceptable to say that, to continue to lose these
12 trees, and at the same time claim that we're,
13 we're planting a million new trees. And, and so,
14 both of those arguments, I think, are baseless. I
15 hope the Administration can come up with something
16 better to oppose this legislation. And then I
17 will, I will have you remember, and this in no way
18 tries to trivialize the issue here. But you ever
19 see those movies, the "Lord of the Rings"?

20 MICHAEL SCHNALL: Mmhm.

21 COUNCIL MEMBER LIU: You know what
22 happened in the third part of the trilogy?

23 [laughter]

24 MICHAEL SCHNALL: I didn't see the
25 third one.

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2 COUNCIL MEMBER LIU: "Return of the
3 King"?

4 MICHAEL SCHNALL: No, I didn't see
5 that one.

6 COUNCIL MEMBER LIU: I, I suggest
7 you and the entire Parks Department go out and
8 rent that video. [laughter] You'll see what
9 happens.

10 MICHAEL SCHNALL: You know, we
11 might actually have it playing in one of our parks
12 this summer.

13 COUNCIL MEMBER LIU: No, see what
14 happens.

15 MICHAEL SCHNALL: I'll check, it
16 might be on one of our, playing in one of our park
17 summer series this--I'll check.

18 COUNCIL MEMBER LIU: I suggest, I
19 strongly recommend you take a look at that video.

20 MICHAEL SCHNALL: Okay.

21 CHAIRPERSON FOSTER: Thank you.
22 You're leaving all of us that didn't see it--

23 MICHAEL SCHNALL: What's the
24 cliffhanger, what happened?

25 CHAIRPERSON FOSTER: Okay, we'll go

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see it.

COUNCIL MEMBER LIU: You got to,
you got to see it.

CHAIRPERSON FOSTER: I know, he
really isn't. Thank you.

COUNCIL MEMBER LIU: The bottom
line is that that movie demonstrates that trees
are living creatures. [laughter] And that they--
Okay. To be respected and not stepped--

MICHAEL SCHNALL: We do.

COUNCIL MEMBER LIU: --and not cut
down.

MICHAEL SCHNALL: We agree with you
on that. We love trees.

[applause]

CHAIRPERSON FOSTER: Thank you.
Council Member Viverito.

COUNCIL MEMBER MARK-VIVERITO: Yes,
I, wow, hard act to follow, definitely. But just
wanted to also just say, 'cause I know that, that,
you know, with regards to the Department of Parks,
I have, you know, we have a love/hate relationship
on some items. But I do want to recognize, you
know, that I know that my community in particular

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2 has been identified as one of the under-planted
3 areas. And there's been an aggressive planting of
4 trees, and I appreciate that, and I welcome that.
5 And I know that, you know, as tough as sometimes I
6 am on, on issues of like Randall's Island and some
7 other concerns, that at least, you know, Parks is
8 responsive. But, the same way that we talk, I
9 guess the message here is the same way that, on
10 the housing front, we talk about the
11 creation/preservation of housing. You know, we
12 understand the need to plant, you know, but the
13 preservation aspect of, of trees in this case that
14 are larger, that are, you know, that are part of
15 our landscape, so to speak, in the City of New
16 York, that we've got to figure out how we can
17 protect. And that in the development discussion
18 as well, you know, we can't be this over
19 aggressive developer and just completely defy what
20 the message that we're putting out there. I mean,
21 there has to be a balance, and I really think that
22 that's been something that's really been hard for
23 this administration to do. There really doesn't
24 seem to be a balance. It's about a vision and,
25 and anything that gets in the way, kind of you

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2 know gets trampled on. And we have to deal with
3 the consequences after the fact. But, on this
4 issue of again, trees, it's very critical. And,
5 you know, some people may pooh-pooh this and not
6 really give it importance, you know, or think that
7 in the greater light of the other issues we have,
8 but I think it's just, it just speaks to maybe
9 what, what our vision is, is as a City, too. And,
10 and the way that we get to that vision. So,
11 that's basically it, I appreciate your time, I do
12 appreciate again the focus that Parks has been
13 giving to my district in particular. East Harlem
14 has high asthma rates in the South Bronx, and I
15 know there's been aggressive planting, but I wish
16 we could preserve, we could've preserved at least
17 on Randall's Island, all those beautiful trees.
18 We just lost a lot there. But okay, thank you,
19 thank you, Madam Chair.

20 CHAIRPERSON FOSTER: Thank you.

21 Thank you, Mike, for sitting in and, well doing
22 the best, doing the best you can in terms of the
23 questions. But I would strongly suggest that our
24 sentiments, especially Council Member Liu's, is
25 taken back to not only the Commissioner, but he

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2 then pass it on.

3 MICHAEL SCHNALL: Sure, I will, and
4 I'll recommend the movie to the staff. [laughter]
5 And we'll--But we agree with you on that trees are
6 really important to New York City, and anything we
7 can do to help your district, with planting of
8 trees, we will, just let us know.

9 CHAIRPERSON FOSTER: I think you
10 can help by stop cutting them down.

11 COUNCIL MEMBER LIU: Right. And I,
12 I don't like it, I don't like officials of this
13 Administration to leave with the last word saying
14 that they think something's really important. But
15 do nothing about it. So, again, Mike [laughs] I
16 know you're sitting there, you feel like the
17 target. You're not the target, I love you, man.
18 [laughter] But I'm not going to allow officials,
19 commissioners or otherwise, to leave the table
20 with the last word, saying you think something's
21 important, and then do nothing about it. That is
22 ridiculous. So, just don't say anything about how
23 important it is, do something about it. And make
24 sure that the Commissioner and the entire
25 Department understands it. I know the Parks

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2 Department is very committed. People there are
3 committed to their jobs. But there's more that
4 needs to be done. So, you can't say that
5 something's important and just leave things out
6 there with no change. You know, I got, I got to
7 get this off my chest, or I, just about two, a
8 year-and-a-half ago, we had a new private, a new
9 owner buy a large property in Flushing. They took
10 it over, they converted it to a church. It's a
11 good group, they're not bad people, they're law
12 abiding, god-fearing people. But they cut down
13 like 15 humongous trees. These were not twelve
14 inch caliper, they were more like 20 inch caliper.
15 They were huge. You still see some pieces of the
16 trunks on the front law of this large property.
17 Now, if there was a permitting process, I
18 guarantee you, these good people would've had
19 better sense, or at least some better awareness of
20 what really was a ramification, why City
21 government was paying attention, and why there was
22 a permitting process. But they just cut it down,
23 as of right, because the City, right now, doesn't
24 really care. That has to change. That's what
25 we're trying to do with this legislation. We're

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2 not trying to go all un-American about imposing
3 requirements on private property owners. That is
4 not what this is about. So let's do something,
5 and I hope that the Commissioner can say "This is
6 important." But we got to do something whenever
7 they say "This is important," and not just leave
8 it at a statement that says, "It's important."
9 Sorry, Madam Chairperson.

10 CHAIRPERSON FOSTER: No, no that's
11 fine. Thank you. Our next panel will be Sheelah
12 Feinberg from New Yorkers for Parks, and Megan
13 Shane from New York Restoration Project. We were
14 joined by Alan Gerson, he's chairing a committee
15 hearing on the 16th floor, and Helen Sears has two
16 committee hearings across the street. Thank you.
17 [pause] You can get started.

18 MEGAN SHANE: Good morning, Chair
19 Foster, and members of the Committee. My name is
20 Megan Shane, I am the Million Trees NYC Director
21 for New York Restoration Project, and I'm
22 testifying this morning on behalf of Drew Becher,
23 our Executive Director. While planting trees is a
24 critical part of building a vital urban forest,
25 ensuring tree survival and growth to full maturity

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2 is no less important and ought to be adopted as a
3 complimentary goal. We know that young, newly
4 planted trees do not yield the level of health,
5 environmental and social benefit that established
6 trees do. It is mature trees with complex root
7 systems and full canopy crowns that provide great-

8 -

9 CHAIRPERSON FOSTER: Can you talk
10 in, directly into the mic?

11 MEGAN SHANE: Yes. --that provide
12 greatest protections through enhanced air
13 filtration, urban heat island mitigation, strong
14 water capture, and other critical benefits to the
15 urban environment. Each of these functions
16 represents its own economic benefit to the City:
17 reduced hospitalization for respiratory disease,
18 reduced cooling costs, and reduced water runoff,
19 to name a few. In recognition of these benefits,
20 municipalities across the world have adopted tree
21 protection ordinances which govern the terms of
22 removal for trees above a given size threshold.
23 While New York City does regulate tree removal in
24 the public domain, there are currently no such
25 protections for private property. Given the rapid

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2 pace of development and conflicting land use
3 pressures in New York City, the absence of
4 effective tree protection could have devastating
5 consequences for our urban forest. According to
6 the New York City Parks Department, over 9,000
7 acres of vegetation cover were lost across the
8 five boroughs between 1984 and 2002. While not
9 all of that loss represents trees, it is a proxy
10 that helps us understand the threats development
11 can pose to the urban forest. Additionally,
12 beyond the obvious rationale of social,
13 environmental and economic benefits, protecting
14 our urban forest is critical at this time to honor
15 the public and private investments that have been
16 made to support our City's trees. This is
17 especially true now at a time when the City alone
18 has pledged \$400 million in support of Million
19 Trees NYC, and NYRP, along with corporate
20 foundation and individual support, is investing
21 millions of dollar planting trees in publicly
22 accessible properties citywide. We would be
23 remiss to let these dollars go to waste, and
24 especially in a time of fiscal austerity. I want
25 to commend the council members who have come

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2 together to address this gap in City legislation.
3 Through extensive research on the structure and
4 impact of tree protection ordinances across the
5 nation and world, New York Restoration Project has
6 outlined the terms of a model tree protection
7 ordinance for private property, within the New
8 York City context. Cities topping the list in our
9 research include San Francisco, Atlanta and Myrtle
10 Beach. But it is the City of Atlanta's ordinance
11 in particular that inspires the recommendations of
12 this testimony. This morning I will briefly
13 discuss what we believe is a model tree protection
14 ordinance, and I urge your partnership in adopting
15 these guidelines in a refined version of Intro
16 916. The backbone of this frame work is a formal
17 process that requires residential and commercial
18 landowners to request a permit to remove any tree
19 measuring over a minimum diameter at breast
20 height, also known as DBH. For example, the City
21 of Atlanta requires a removal permit for any tree
22 over six inches DBH. Consideration should also be
23 given to integrating any tree removal permitting
24 process in the, into the existing Department of
25 Buildings construction permitting process, while

1 tree removal permits themselves should be
2 evaluated and issues, issued by the Parks
3 Department's Forestry Unit. To pay for, for any
4 administrative costs associated with permitting
5 process, we recommend a filing fee be assessed for
6 each tree removal application, making the
7 permitting process fiscally neutral. Any tree
8 removed at or exceeding the minimum DBH should be
9 subject to recompense payment or replacement
10 planting. The New York City Tree Conservation
11 Commission, which I will outline later in my
12 testimony, shall determine whether or not
13 residential and commercial actors will make a
14 recommend, a recompense payment, or conduct a
15 replacement planting. Our tree removals are
16 compensated through payment, a fee accounting for
17 the tree's DBH measurement should apply, meaning
18 the larger the tree removed, the greater the fee
19 associated with the removal. Where tree removals
20 are compensated through replanting, permit
21 applicants must replace caliper inch for caliper
22 inch. Meaning if a tree of 20 inch caliper at
23 breast height will be removed, the permit
24 applicant would need to plant 20 caliper inches
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2 worth of new trees. NYRP also believes that
3 replacement trees planted by permit applicants
4 should be large caliper. In Atlanta, for example,
5 replacement trees must be at least two-and-a-half
6 inches or greater. NYRP also recommends a
7 progressive fee schedule for residential and
8 commercial actors who remove trees in violation of
9 the, of the terms of the ordinance. Residential
10 actors should be fined for the first tree removed
11 in violation of the ordinance, and fined at a
12 higher rate for every non-permitted tree removal
13 thereafter. Similarly, commercial actors will be
14 fined for the first tree removal in violation of
15 the ordinance, and again at a higher rate for
16 every non-permitted removal thereafter. NYRP
17 believes fines for developers should be
18 significantly higher than those for homeowners, as
19 the fines must be meaningful enough to prevent
20 unpermitted removal. For trees removed in
21 violation of the ordinance, where the tree's size
22 cannot be determined, for example, if the tree has
23 been wood-chipped, a flat and hefty penalty should
24 be issued. NYRP believes that without meaningful
25 and significant financial penalties, private

1 homeowners and residential and commercial
2 developers will continue to remove large canopy
3 trees, the very trees that provide New York City
4 with the greatest environmental, socio-economic,
5 health, and health benefits. All fees and
6 penalties collected in association with the
7 ordinance should be administered by newly
8 established New York City Tree Conservation
9 Commission, which I'll outline in a minute. NYRP
10 believes that no less than 80 percent of the fees
11 and fines collected should be used for tree
12 planting on publicly accessible property, with a
13 focus on neighborhoods with low tree canopy cover
14 across New York. Up to 20 percent of funds raised
15 on an annual basis could be used for tree
16 stewardship, outreach and education purposes.
17 Like other cities, and in the spirit of Million
18 Trees NYC's initiative, NYRP believes the
19 collected funds should be made available in the
20 form of grants to New York City nonprofit
21 organizations. NYRP recommends the establishment
22 of an independent New York City Tree Conversation
23 Commission, which we suggest be composed of 13
24 members serving two year terms. Eight
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2 commissioners might be appointed by the Mayor, and
3 the remaining five commissioners would be
4 appointed by each of the five borough presidents.
5 The Tree Conservation Commission's role would
6 chiefly, would be to chiefly provide an
7 independent enforcement body for the terms of the
8 tree protection ordinance, including hearing all
9 appeals of Parks Department Permit decisions,
10 monitoring, managing, and distributing the City's
11 tree trust funds, and assessing penalties in
12 response to ordinance violations. Special
13 protection for landmarked and historic trees,
14 known as great trees in New York City, such trees
15 shall only be granted removal if they are found to
16 be hazardous or in decline. Great tree
17 preservation shall be provided by application to
18 the New York Tree Trust. All such designations
19 shall be recorded with the New York City Tree
20 Conservation Commission. And finally, ordinance
21 penalties could be strengthened by the
22 establishment of an incentive based Million Trees
23 NYC tree protector's program. This seal of
24 approval program, administered by Million Trees
25 NYC Lead Partners, the New York City Parks

1 Department, and NYRP, would offer contracting
2 businesses, developers, and nurseries and
3 endorsement and marketing platform when they
4 proactively comply with ordinance standards.
5

6 Program subscribers shall be required to attend
7 annual training sessions and would be celebrated
8 as partners in Million Trees NYC, and in
9 protecting New York City's urban forest.

10 Together, these provisions offer a regulatory
11 platform that can go a long way in protecting
12 trees in the private domain. Other cities with
13 similar ordinances can attest to this by virtue of
14 their own efforts, including Atlanta, San
15 Francisco, and Myrtle Beach. We are here today in
16 part to ask how New York City's tree protection
17 policy measures up against these and other
18 American cities. Are we doing enough? Can we
19 truly call ourselves leaders in this cause? And
20 while we have much to celebrate with Million Trees
21 NYC and other urban forestry management programs
22 across the City, New York can do better. We must
23 acknowledge that we cannot stand a true model in
24 sustainable urban forestry until we adopt policies
25 that safeguard trees in the private domain from

1
2 arbitrary removal. Trees work in so many ways on
3 our City and its residents' behalf, they make up a
4 vital part of our urban infrastructure, in the
5 resilience of the City's environmental, social and
6 economic fabric. And science tells us that it is
7 older, more mature trees that deliver the greatest
8 of these benefits. For the many benefits that
9 established trees provide, they deserve our
10 careful protection by law. I look forward to
11 working with the Council and the New York City
12 Parks Department in crafting a refined bill that
13 will honor and protect New York City's vital urban
14 forest. Thank you.

15 SHEELAH FEINBERG: Hi, my name is
16 Sheelah Feinberg, I'm Director of Government and
17 External Relations at New Yorkers for Parks. Just
18 wanted to say that both Chairman Foster and
19 Council Member Viverito touched on two policy or
20 issue areas that we've been working on, both
21 Yankee Stadium and Randall's Island, where a lot
22 of trees were taken. And we were against that.
23 Anyhow, as the Mayor evidenced through PlaNYC, and
24 the Million Trees New York City initiative,
25 greening New York City is a priority. We would

1
2 like to congratulate the Mayor, the Parks
3 Department, and the New York Restoration Project,
4 on their progress with the Million Trees effort.
5 Additionally, we would like to thank the City
6 Council for this effort to protect existing trees
7 in our City through Intros numbers 916 and 927.
8 By regulating the removal of trees from private
9 property and increasing the penalties for unlawful
10 damage to trees, within special, natural area
11 districts. The City Council's bolstering the
12 Million Trees New York City's efforts to retain a
13 30 percent urban tree canopy by 2030. In
14 conjunction with legislation passed during former
15 Parks Commissioner Stern's tenure, which charged
16 up to a fine of \$15,000, this new legislation aims
17 to comprehensively protect all of New York City's
18 trees for arborcide. New Yorkers are very
19 protective of their trees and the streets in which
20 they are, in which they are planted. They're,
21 they appreciate the aesthetic benefits of freshly
22 planted saplings, and understand that mature trees
23 improve air quality, public health, and the
24 overall quality of life. However, in order to
25 reap these benefits, we must ensure that

1
2 sufficient funding is available in the FY 2010
3 budget, to ensure that all street trees are
4 regularly pruned to guarantee public safety, as
5 well as the health of our street trees.

6 Unfortunately, the Mayor's executive budget
7 reduced tree pruning by a total of \$3.5 million,
8 which is \$1 million beyond the preliminary budget.

9 You know, in New Yorkers for Parks, I always have
10 to talk about maintenance. So, however we look at
11 this, we always have to make sure there's
12 maintenance to cover whatever tree initiatives
13 we're putting out there. As a result, the
14 resources of the Parks Depart--Excuse me, the
15 Department of Parks and Recreation, some that
16 Michael referenced earlier in his testimony, in
17 terms of staff, time and money, are limited and
18 enforcing these new rules may be problematic for
19 the administration. Provisions should be made to
20 increase staff and the maintenance budget in order
21 to comply with this legislation. We ask again
22 that the City Council recognize the need for
23 committed funding to ensure regular pruning of our
24 new and existing trees. Thanks.

25 CHAIRPERSON FOSTER: Thank you.

1
2 Ms. Shane, how long has Atlanta had this tree
3 protection, as I'm going to call it, program in
4 place, do you know?

5 MEGAN SHANE: I believe they first
6 instituted a tree protection ordinance in 1977,
7 but there've been subsequent amendments since that
8 time. So it's, it's sort of a work in progress
9 for them.

10 CHAIRPERSON FOSTER: The reason I
11 ask is I would assume, I interned my second year
12 in law school in Atlanta, and when they were
13 getting ready for the Olympics, they tore down
14 trees; where one of the stadiums is now used to be
15 a housing project, and they literally moved the
16 poor people to another poor area. So I'm
17 wondering if this came out of a movement in
18 Atlanta, seeing the need for what was happening in
19 terms of the, the decimating of communities with
20 trees to, to build, i.e., the development thing.

21 MEGAN SHANE: Yeah, I mean, I can't
22 speak to that specifically, but I wouldn't be
23 surprised. You know, I do know that Trees
24 Atlanta, and their constituency, you know, they're
25 the local non-profit there, that does this kind of

1
2 work, does local tree planting work, and there are
3 a lot of folks in that area who really do care
4 about this. And I'm sure have done organizing on
5 the behalf of this and related efforts.

6 CHAIRPERSON FOSTER: What does
7 Atlanta's ordinance, does Atlanta's program now
8 have the ordinance with the, when a tree size
9 can't be determined, one of your points here,
10 that--they do.

11 MEGAN SHANE: Yes, that, that is a
12 term in their ordinance.

13 CHAIRPERSON FOSTER: And lastly,
14 there, I don't believe that commissions made up of
15 mayor's appointees every work, because what ends
16 up happening is they do [laughs] what exactly the
17 mayor wants them to do.

18 MEGAN SHANE: Right.

19 CHAIRPERSON FOSTER: Yeah. Or they
20 don't, or they aren't reappointed. You know,
21 Community Board Four in The Bronx--

22 MEGAN SHANE: So, the composition -

23 -

24 CHAIRPERSON FOSTER: --everybody
25 that voted against Yankee Stadium surprise,

1
2 surprise, was removed from the Board. So I don't
3 believe those commissions work. Is that a part of
4 it in Atlanta?

5 MEGAN SHANE: I'm, I'm not sure.
6 They do? Yes.

7 CHAIRPERSON FOSTER: It is?

8 MEGAN SHANE: Yeah.

9 CHAIRPERSON FOSTER: Okay. Because
10 I just, you know, I think that, that's just a
11 rubber stamp for whatever, whomever is in office
12 wants to happen. And my last question, how
13 recent, or is the, the, out of what was it,
14 Atlanta, San Francisco, Myrtle Beach, how--Or is
15 this the most progressive of the, of the four?

16 MEGAN SHANE: Atlanta's is
17 definitely the most progressive.

18 CHAIRPERSON FOSTER: And does
19 Chicago, because you know, we're always talking
20 about Chicago being the model. Does Chicago have
21 anything like this?

22 MEGAN SHANE: I don't believe so,
23 although I wouldn't be surprised if they're
24 working on it, yeah.

25 CHAIRPERSON FOSTER: Okay. Thank

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you. Council Member Liu, questions?

COUNCIL MEMBER LIU: No, I think this is very helpful, actually.

CHAIRPERSON FOSTER: Yeah.

COUNCIL MEMBER LIU: Thank you.

CHAIRPERSON FOSTER: It very much is. Thank you very much, both of you. Our next panel is Corey Bearak, President of the Queens Civic Council; Eugene T.--

EUGENE KELTY: Kelty.

CHAIRPERSON FOSTER: Kelty, Jr., that I, okay, if you say so. And Ronald Wade.

[off mic: Roland]

CHAIRPERSON FOSTER: Roland, I really just read that wrong. Sorry. And Carsten Glaser. Oh, good, got one right.

MALE VOICE: It's not pronunciation so much, as the handwriting, right?

CHAIRPERSON FOSTER: It's, yes, it's a little bit of both, but it was definitely the handwriting on Eugene. [laughter] 'Cause I don't, I got the K, everything else I'm not seeing. Is there enough room?

EUGENE KELTY: You could've just

1
2 yelled Kelly, they give me that for the last 40
3 years, so.

4 CHAIRPERSON FOSTER: That might, no
5 see--

6 EUGENE KELTY: Or Kelts, they
7 changed the last letter.

8 CHAIRPERSON FOSTER: It might be
9 your writing, Mr. Eugene. [laughter]

10 COUNCIL MEMBER LIU: Madam Chair,
11 there's no handwriting requirement for fire
12 department battalion chiefs.

13 CHAIRPERSON FOSTER: Exactly.
14 Thank you. You can get started in whichever order
15 works easiest for you. Well, why don't, no, why
16 don't we go this way first, since you're closer to
17 the mic.

18 MALE VOICE: Madam Chair, only
19 because Carsten's going to sort of follow me, - -

20 CHAIRPERSON FOSTER: Okay. So,
21 alright, however you want to go. Just make sure
22 you say your name for the record and project in
23 the mic. Thank you.

24 MALE VOICE: Sure, yeah, yeah.

25 COREY BEARAK: Okay, it's just that

1 I got to give it to Carsten right after me.
2 Essentially, I'm Corey Bearak, and I am the
3 President of the Queens Civic Congress, which is a
4 representative of over 110 civic, tenant, co-op
5 and other sorts of community organizations in the
6 Borough of Queens. And we've been long concerned
7 about tree protection legislation. And
8 professionally I've been concerned about it, as
9 well, when your dad was the Council Member and
10 chairing the same Committee, I actually had worked
11 on legislation on tree protection that kind of, I
12 guess since fell dormant. So when this came
13 resurrected by Councilman Liu's efforts, certainly
14 we were very, at the Congress, very happy to see
15 movement in this regard, 'cause it's, you know,
16 very important to save mature trees, it's part of
17 our civic 2030 platform, and we really think that
18 out of this hearing, we should, at the very least,
19 come clear that the Council can pass some
20 legislation that will in fact protect, you know,
21 mature trees and stop the destruction that occurs
22 on the, you know, frankly on a lot of places, you
23 know, where you'll have, you know, significant
24 trees that don't need to be removed, but somehow
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1
2 get removed, they bring in the bulldozers and the
3 like. And Carsten Glaser, who is the Chair of our
4 Tree Protection Committee, or that's what I'm
5 calling it in short form, is an arborist, and I'd
6 like to defer to him, you know, for the
7 technicalities of the legislation.

8 CARSTEN GLASER: Thank you, Madam
9 Chair, council members, good morning. Thank you
10 for allowing me to testify here today on the
11 proposed tree legislation, amending the
12 administrative code. My name's Carsten Glaser,
13 I'm an independent consulting arborist, with a
14 business based in the former City of Trees, which
15 is Flushing. I'm in good standing with various
16 horticultural, arbor-cultural organizations,
17 particularly the American Society of Consulting
18 Arborists, which I belong to. I also have a Ph.D.
19 in plant biology, and have been doing this
20 business, independent consulting, on public
21 improvement projects for, for a good 15 years. I
22 know what it takes to protect and preserve trees,
23 largely in the face of construction, as they
24 should be under the current administrative codes,
25 and the Department of Parks rules and regulations.

1
2 Over the past several years, I have personally
3 witnessed, and others in this forum have witnessed
4 and documented the repeat destruction, mutilation
5 and removal of 50, 100, 150 year old antebellum
6 trees across Flushing and elsewhere. This has
7 occurred in several venues, largely by developers
8 and their contractors on private lands, adjacent
9 to City curbside trees. They've occurred as
10 private trees on private lands, and more
11 disturbing that they've occurred as contractors
12 that have been invited onto public properties, and
13 have impacted publicly owned trees, often in clear
14 defiance in the administrative codes. Some of
15 those projects have been, and largely they've been
16 parkland projects: The East River Promenade; the
17 Flushing Meadow Corona Park Pool and Rink Complex;
18 the Queens Botanical Garden, mind you; the recent
19 City Field and Councilman Liu knows well, the Wyke
20 [phonetic] Elm fiasco over on Franklin Avenue by
21 the School Construction Authority, which was a
22 street tree impacted by another city agency,
23 sabotaging the efforts of parks, parks foresters.
24 Yet witnessed here today are many community
25 members from CB7 in Queens, who realize the

1
2 importance of trees, the tangible benefits they
3 provide, that tree protection and preservation
4 goes along with tree planting. Often in these
5 construction projects, and we still see that
6 today, that the mantra is "Construction first,
7 we'll worry about the damn trees later," even on
8 public lands. The tree protection legislation
9 proposal drafted by the members of CB7 is
10 unquestionably a vital step that I support, and
11 that hopefully assures that all those other tree
12 resources, those trees on private lands, that
13 contribute to the urban forest, are extended
14 appropriate protections. Bear in mind that a tree
15 ordinance or tree legislation, and one of those,
16 is one of those tools used to attain a healthy,
17 vigorous and well-managed forest. Alone, a tree
18 ordinance cannot assure that trees will be
19 improved or maintained. A tree ordinance simply
20 provides the authorization and standards for
21 management activities. If the management
22 activities are not integrated into an overall
23 management strategy, problems will arise. Without
24 an overall strategy, management, management of the
25 trees will be haphazard, inefficient and

1 ineffectual whereby burdening the taxpayer and
2 hurting ultimately the forest. A larger
3 management view is necessary in this regard. In
4 fact, this is, this we have already witnessed in
5 the absence of enforcement of the current
6 administrative codes intended to protect publicly
7 owned trees. And there's a few criteria
8 underneath the standard tree protection ordinance,
9 which would be identifying the goals of that
10 ordinance, the responsibility and authority of the
11 ordinance, basic performance standards, what's
12 best for the particular forest in the community,
13 flexibility, and my big issue of course is
14 enforcement. How do you enforce the ordinance?
15 Properly applied tree ordinance can facilitate
16 good management of community tree resources;
17 improperly applied, the ordinance can legitimize
18 counterproductive practices, encourages
19 parochialism and undermines the long term needs
20 and funding so necessary with urban tree
21 management. And in closing, I have a few comments
22 about the, the bill itself. That the legislative
23 body should consider not just adding on new
24 sections as an amendment to the administrative
25

1
2 code, without a full review of the continuity and
3 efficacy of the code as it applies to tree
4 resources. And this is largely my opinion on
5 this, mature trees shall mean a caliper, under
6 Section I of the amendment, a mature tree shall
7 mean any tree with a caliper of twelve inches or
8 more. I thought that we had talked about
9 extending this to larger sized trees, 24 inches
10 and greater. And, 'cause those are, I would deem
11 to be the more valuable trees, versus twelve
12 inches, or less. 1C of the amendment, an owner of
13 prior property of, or of a tree on public property
14 under private care, may request permission to
15 remove a tree in writing, and the Department must
16 respond in writing. And Corey just clarified that
17 for me, I didn't know that the body of the code
18 identifies the Department as Parks. Is that
19 correct? Now, whether that agency should be able
20 to take on this responsibility, that's already
21 understaffed, under funded, barely managing the
22 current stock of existing tree resources, along
23 with the 220,000 proposed new street tree
24 plantings. I also have a comment about the
25 violation section, any violations in this section

1 shall be punishable by a civil penalty of not less
2 than \$100, nor more than \$250 for such violations.

3 The current ECB penalties for violations of the
4 Parks Code, Parks Rules Code A06, is \$1,000 for
5 the intentional destruction, removal of permanent,
6 or permanent damage to trees. Clearly, trees that
7 are worth, on a cost appraisal, worth \$50,000 to
8 \$100,000, merit a greater penalty, more than \$250,
9 as stated in the amendment. On, on the flipside,
10 I think what needs to be looked at is also the
11 rewarding of homeowners, rather than this
12 punishing approach to those that violate or intend
13 to damage either private trees or public trees.
14 Why not set up a system to reward homeowners or
15 potential developers by a tax abatement that would
16 encourage them to leave trees on their property,
17 citing an example on, by Flushing Hospital, on
18 Burling Street, there's a Victorian era house,
19 currently vacant, two large trees, 55 inch
20 diameter breast height, clearly 150 to 200 years
21 old, in these folks' backyard, ripe for
22 development and ripe for removal. And I would, I
23 would leave it at that. Thank you.

24
25 CHAIRPERSON FOSTER: Thank you.

1
2 ROLAND WADE: Madam Chairperson,
3 Councilman Liu, and honorable council members and
4 Parks members, my name is Roland Wade, I'm a
5 horticulturist, a former executive director of
6 Queens Botanical Garden, and 20 years a teacher of
7 horticulture at John Baum High School, 25 years
8 chair of the Parks Committee of Community Planning
9 Board Seven, and currently the president and
10 founder of Kissena Corridor Parks Conservancy.

11 Now, I'm here as one of the authors, or person who
12 gave input, of the tree protection document
13 presented by our Councilman John Liu, in May of
14 2007, to the City Council of New York. This
15 document is presented to protect some of our
16 City's most valuable natural resources. The
17 antebellum, or great trees, that shade our
18 businesses and private homes. Now the trees are
19 often so large that 50 new trees could not provide
20 the oxygen, shade and beauty of one of the huge
21 trees that have no protection whatsoever in New
22 York City. Now we have seen these trees decimated
23 and removed at the whim of developers and property
24 owners, who know nothing of their value in history
25 in each community. Large trees, typically worth

1
2 \$50,000 to \$100,000, are irreplaceable--and
3 indeed, priceless to their ecological value to the
4 neighborhoods, and to the entire City of New York.
5 The tree protection resolution contains exemptions
6 permitting removal where necessary, in our effort
7 to discourage property owners from rushing out to
8 cut down trees in anticipation of any new
9 legislation. We must be the advocates for trees,
10 a policy that is now implemented in many parts of
11 the United States, as we have seen at Atlanta,
12 Georgia. Now, I think that a tree doesn't know
13 whether it's on a private land or a public land.
14 A tree is a tree. You can call me tree, if you
15 want to, because I believe in trees. Because
16 trees are, they only give, they take nothing from
17 the environment. And we urgently request that
18 your support and protection of our natural
19 heritage, especially in the light of the City's
20 effort to plant one million trees, why destroy
21 what's already here that would take 50 to 100
22 years to grow? The time to act is now. In
23 Section 18135(e) the punishment for cutting down
24 or damaging, or the removal of mature trees, at
25 \$100 to \$250, allows any contractor to cut down a

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2 tree and pay such a paltry fee. It just doesn't
3 make any sense, because a contractor would just
4 say, "I'll cut it down and pay that," nothing.
5 So, we need more teeth in the penalty law, and
6 besides that, we have thousands of community
7 organizations in the City of New York, who would
8 do, be very anxious to help in the support of this
9 rule. If the Parks Department says, "We can't
10 supervise," then call upon the friends in the
11 public sector, I mean in the private sector, to
12 help, because they'd be more than willing to help,
13 because people all want our trees. And besides
14 that, I think the Parks Department needs to
15 consider that if they're planting a million trees,
16 that they have some watering trucks. I don't see
17 many, I don't see them watering, and when they do,
18 or if they do, they say that those trees were
19 planted by so-and-so, and that they are to come
20 back and water them, and I don't see them getting
21 watered. And so, if you're for planting a million
22 trees, see for their aftercare, too. It's not
23 just the act of planting a tree, they need water.
24 Thank you, Madam Chairman.

25 EUGENE KELTY: Good morning,

1
2 members of the committee, my name is Gene Kelty,
3 that's K-E-L-T-Y. And I am the Chairperson for
4 Community Board Seven. And I would like to take
5 this opportunity to testify before you regarding
6 Intros 916 and 927. Back in June of 2007,
7 Community Board Seven felt that it was very
8 important to address the issues of trees on
9 private property, and how they are protected from
10 the inappropriately being damaged and/or
11 destroyed. Trees that fall under City protection
12 have specific requirements in how they are
13 treated, whether it is for pruning, relocation or
14 removal. This however is not the case with trees
15 on private property. Trees, no matter where they
16 are located, provide a valuable service to
17 everybody. They are not discriminating, they do
18 not offend anybody, and all they ask for every now
19 and then is a drink of water to keep them going.
20 Intro 916 is a great start in protecting trees on
21 private property. It identifies what is
22 considered a mature tree, and the removal of a
23 mature tree, so as to avoid any confusion. It
24 also sets up a procedure forbidding the removal of
25 any healthy trees, as well as, as long as the

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2 procedure for one that may request permission to
3 remove trees. Please note, I say may, words "may
4 request permission." And if you look at the
5 resolution that we sent in, I think there was
6 eleven exceptions that we had, knowing that there
7 is problems with trees, which was addressed, so we
8 did put that in, it wasn't done with a frivolous
9 statement. In the past, the trees on private
10 property were just yanked out of the ground like
11 an abscessed tooth. With this local law enacted,
12 permission and a review process is in place. In
13 the case of 920, Intro 927, this gives a parameter
14 for dealing with trees. The zoning resolution
15 identifies how this tree, how the City deals with
16 landscaping, sidewalks, side yards, height of
17 buildings, water access and much more. And where
18 this specifically says "specific natural area
19 district," we just passed legislation for front
20 yard requirements and stuff like that. So, if we
21 can do it for the front yard requirements that we
22 felt was affecting the, the environment, so should
23 we be able to do it for trees. It is time, it is
24 now time for it to handle the issue of trees on
25 private property. I could go on and on, but I

1
2 think the Committee get to the point. Community
3 Board Seven wholeheartedly supports both Intros
4 and thanks the Council for its excellent work in
5 the area. I would be remiss if I didn't thank our
6 local Councilman John Liu, for starting the ball
7 rolling and helping the Board with the resolution.
8 The attached resolution was a conglomerate of many
9 people and community groups that provided input,
10 expertise, and just got fed up with our trees not
11 being protected. I thank them all involved, and
12 ask the Council to expedite the enactment of these
13 two local laws.

14 CARSTEN GLASER: Madam Chair, if I
15 can just add one - -

16 CHAIRPERSON FOSTER: Of course,
17 into the mic, please.

18 CARSTEN GLASER: Of course, thank
19 you. I just want to point out that the
20 legislation was in fact given to Commissioner
21 Benepe in a draft form, back in September of 2007,
22 at a, when he was addressing the Queens Civic
23 Congress, at that moment, and then later I
24 subsequently actually emailed him a version of the
25 legislation that was before your dad's committee,

1
2 that was also, I just checked some notes, it was
3 reintroduced, but did not get to this session as
4 in, as Intro 239, in 2004, but didn't get
5 reintroduced into this session.

6 CHAIRPERSON FOSTER: Okay.

7 EUGENE KELTY: So it's something
8 that can be researched, as well.

9 CHAIRPERSON FOSTER: Thank you very
10 much. Dr.--Wait, let me--Glaser. Just briefly of
11 what you heard of what's going on in Atlanta, and
12 how they've been able to protect trees, you know,
13 given your experience in trees, what do you think?

14 CARSTEN GLASER: I know the, the
15 Atlanta ordinance is probably online, and I, you
16 know--

17 CHAIRPERSON FOSTER: You need--

18 CARSTEN GLASER: I would need to
19 review that. But, there's, the organization of
20 International Society of--I'm sorry, International
21 Society of Arboriculture, actually has a 181 page
22 guidelines for developing and evaluating a, tree
23 ordinances. And this is very detailed, if anybody
24 can read this, I think you can download it. But
25 it's, it really points out the efficacy, and how

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2 to go about to put together a comprehensive plan
3 that would, would incorporate all, all those
4 trees; not only trees that are protected on the
5 parks and the administrative, current
6 administrative code, but how, how effectively can
7 that be applied to, to the private trees
8 component, you know. My, my view is, we need
9 stronger enforcement on the current administrative
10 codes, that's protect--that is supposed to protect
11 trees on public lands. This, the private land
12 initiative is, is a significant step. I think
13 this, I think it needs support, with that. But
14 how, how do you, how do we go about and make sure,
15 citing the examples, the major public improvement
16 projects that have gone on locally in Flushing,
17 and the ravages, mutilation to trees that we've
18 been observing, how, how does, how do you stop
19 that? How do you make sure those people that are
20 in charge step up to the fold and take that stand,
21 and, and ensure those trees are protected. And
22 Councilman Liu, on your way home tonight, I, I
23 encourage you to stop by the pool and rink
24 complex, and you will be shocked what you will
25 see, to the trees that were, that were, in the

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2 footprint of that, the construction of that
3 building over there. So.

4 CHAIRPERSON FOSTER: Mr. Wade, do
5 you have any thoughts on the, what we heard about
6 what they're doing in Atlanta?

7 ROLAND WADE: They're at the
8 forefront, and it's a good move. And we should be
9 at the forefront for large cities. And I think
10 it's very important that we take a hold of this
11 and do something with it. If nobody speaks for
12 the trees, they can't speak for themselves.

13 CHAIRPERSON FOSTER: Thank you, and
14 I think it's important, in terms of what you said
15 about the watering, and that goes right to what
16 New Yorkers for Parks has been talking about in
17 terms of maintenance, once we have these million
18 trees. Thank you. Council Member Liu?

19 COUNCIL MEMBER LIU: I just want to
20 thank this panel for joining us this, this
21 morning.

22 EUGENE KELTY: Could I, I just want
23 to say--

24 CHAIRPERSON FOSTER: Sure.

25 EUGENE KELTY: --two things. One,

1
2 Chuck who was the Chair for our Parks Committee
3 before he retired--

4 COUNCIL MEMBER LIU: Madam Chair,
5 he's referring to Roland Wade.

6 EUGENE KELTY: Chuck Wade, Roland
7 Wade.

8 CHAIRPERSON FOSTER: Oh, okay.

9 EUGENE KELTY: We all know him as
10 Chuck.

11 CHAIRPERSON FOSTER: Okay.

12 EUGENE KELTY: He's the one that
13 we've been talking about--

14 CHAIRPERSON FOSTER: Thank you fro
15 the clarification. [laughs]

16 EUGENE KELTY: All our
17 transportation operations that we have when it
18 deals with trees, we're demanding that they put
19 water bags on 'em. So he put us in the forefront
20 with that, so we at least try to get some type of
21 watering for them. And Councilman alluded before,
22 about the house around, that we had, where they
23 took all the trees out--that was a landmarked
24 house. And we fought with Landmark regarding the
25 trees. We interpreted that the trees were

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landmarked as well.

CHAIRPERSON FOSTER: Yeah.

EUGENE KELTY: And it was a constant battle with them, and we lost the battle. And that's what instituted a lot of this, civic people came to that meeting, and that's what started us to resurrect the resolution to get it done.

CHAIRPERSON FOSTER: Thank you very much. Thank you for coming out and sharing with us today. Our next panel is Beverly McDermott, Myra Baird-Herce, Fernanda, Fernand Gerber, and James Trikas. Did I say closely? Okay. Do we have enough cha--Yeah, cool.

[pause]

COUNCIL MEMBER LIU: Madam, Madam Chairperson, I do, I want to thank this panel in advance for attending today. I, unfortunately, need to get over to the Health Committee Hearing across the street, so the testimony will, I will certainly read the testimony afterwards and listen to the tape. Thank you very much.

CHAIRPERSON FOSTER: Thank you. We have, as I said to you, about six hearings going

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2 on today, so everyone is all over the place. I
3 actually have two that are going on right now,
4 that obviously I can't be at 'cause I'm chairing
5 this. So, thank you for understanding and get,
6 feel free to get started in whatever order you
7 would like.

8 MYRA BAIRD-HERCE: Okay. My name
9 is Myra Baird-Herce, I'm the President of the
10 Flushing Chamber of Commerce. The Flushing
11 Chamber of Commerce regards the trees on private
12 property as an enhancement for our business
13 community; Flushing being the home of horticulture
14 in the United States. We have many old historic
15 trees which we use as a marketing tool for the
16 Flushing business area. We find the removal of
17 trees would be detrimental to the general ambience
18 of the area. When developers come in, I will tell
19 you, they do a tour around the area. When they
20 see an area that has beautiful trees, they think
21 about how is their investment going to get a
22 return. And you'd be surprised, they look for
23 these beautiful tree line streets and they want to
24 develop into them. What we do at the Chamber, is
25 whenever any developer comes in, Councilman Liu,

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2 and Roland Wade, and Chairperson Kelty, all, we
3 all talk about "Where are they going to put trees?
4 Are they going to do a garden up on the roof?" We
5 are all tree people, and it is very, very
6 important to all of us in Flushing that this
7 legislation be passed. We realize that these
8 trees are our senior citizens. And as seniors,
9 they should get the respect they deserve. Thank
10 you so much.

11 BEVERLY MCDERMOTT: Thank you for
12 allowing us to testify. We've been waiting a long
13 time. I'm Beverly McDermott, and I wear a lot of
14 hats. I'm President of the Kissena Park Civic
15 Association, the Director of Friends of Kissena
16 Park, I'm a licensed tree climber/pruner. I'm a
17 tree steward, a citizen pruner, and the Flushing
18 representative for the Queens Coalition for Parks
19 and Green Spaces. I don't have any private life.
20 [laughter] As a resident of Flushing for 65
21 years, where trees were appreciated and revered,
22 as was documented by those who visited in the 18th,
23 19th and 20th Century, I'm most eager to witness the
24 legislation of better tree protection in New York
25 City, which is long overdue. Perhaps the role of

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2 the first plant nurseries in this country, which
3 were located in Flushing, made the residents like
4 me more knowledgeable and aware of the importance
5 and beauty of trees, which is now being
6 rediscovered by those that wish to be politically
7 green. It has been very painful to see the
8 continued practice of destroying trees for reasons
9 of expediency on the part of private, business and
10 governmental sectors. The see-no-evil attitude of
11 all three, in regards to the mass destruction of
12 trees on public, private and governmental
13 properties has been appalling. The early
14 nurserymen of Flushing set a gold standard of care
15 and appreciation of trees long before it became
16 politically correct. If it had been continued, it
17 would've saved us a great deal of money and grief.
18 Now You as lawmakers have a gold opportunity to
19 bring back those standards, and ensure healthier,
20 more beautiful future for those who will come
21 after us. As I read the amendment to the
22 administration code, I realize that you suggest
23 that we stick our fingers in the dyke, when the
24 dyke has all but collapsed. The obvious lack of
25 real monetary threats in terms of penalties

1 ranging from \$100 to \$250 is a joke. Pooper
2 scooper law is \$250 a scoop. Can you compare dog
3 feces to the care of trees? It costs \$1,500 to
4 \$3,000 to remove a tree, and you're penalty is
5 laughable to developers who simply add that to
6 their operating costs. Why are newly planted
7 trees, which cost the taxpayers \$1,900 not
8 included in this amendment? There is no directive
9 that actually makes the decision to take down or
10 over prune a tree in specific terms. Specificity
11 is very important. There are very few licensed
12 pruners doing legitimate work on City trees. Most
13 of the trees that I have seen, personally seen,
14 being removed or pruned, were done by landscapers
15 and gardeners who mow, blow and go. They haven't
16 got a clue. Where is the provision that any tree
17 that is removed is immediately replaced by the
18 applicant at his cost? How is the determination
19 going to make, how is this, how is the
20 determination going to be made for the removal,
21 and by whom? And if we self-certify the tree
22 pruners, it is the same ridiculous notion that an
23 architect can certify his plans, his own plans for
24 building, and we all know where that has led us.
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2 There must be structure in code to adhere to, and
3 severe penalties which clearly state who is
4 responsible for that penalty. If a pruner can
5 lose his license for breaking the law, and the
6 homeowner is fined on his tax bill, you might find
7 it a far better deterrent than a vague amount of
8 money, and no clearly defined rules. On, and in
9 that same issue, I think what Carson said is true.
10 Maybe there should be some, something in our tax
11 laws that help people encourage them to maintain
12 trees on their property. If they could get tax
13 deductions for tree maintenance and care, which is
14 expensive if it's done properly. Assuming that
15 the regulations are clearly stated, is the City
16 going to create an agency to overlook the proper
17 use of these new rules? Will it be staffed by
18 knowledgeable arborists--not bookkeepers, not
19 interns--who are equal to the task at hand, and
20 won't be buffaloed by the wily citizens who will
21 be anxious to find and utilize the loopholes in
22 the legislation? The Parks Department, which is
23 currently responsible for investigating and
24 penalizing offenders, has recently stepped up
25 their response to calls made by private citizens

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2 and civic organizations who act as their watchdogs
3 in New York, in neighborhoods that have taken some
4 horrific hits by developers and others who are not
5 compliant with the present law. Thus I'm known as
6 the Pit Bull of Flushing. We appreciate their
7 efforts, but I find it hard to believe that they
8 can tackle, along with their present venue, these,
9 these new directives. They are understaffed, and
10 the workload will be tremendous if this
11 legislation is really going to be effective. Will
12 it be incumbent upon the Department of Buildings
13 to inform the architects, developers, and
14 engineers of these serious offenses, and that
15 ignorance of the new rules will not be an
16 acceptable defense. Last but not least, why not
17 apply the same rules to all offending parties,
18 with equal penalties for private and natural
19 districts. The result of destroying a tree is not
20 diminished because of its location. Leaving
21 obvious loopholes is the hallmark of poor
22 legislation. Is that what you want your name to
23 be attached to? Is this the best that we can do
24 for the taxpayers and the environmentally
25 concerned citizens of New York? You will be

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2 remembered by your deeds. I just want to quickly
3 say a few things on tree stewardship. I manage
4 and personally maintain a large area in my
5 neighborhood, and I have corrected things that
6 would have cost the taxpayers a lot of money. We
7 had in one instance a man who had topped five
8 trees, cut them in half, that had just been
9 planted in front of his home, creating at a corner
10 a traffic hazard because the City did not, they
11 gave him a summons, \$4,000, but they did, the
12 Parks Department never came back and corrected the
13 damage he had done. They just let it go. So, I
14 went in and spent two days pruning those trees and
15 correcting it. And proud to say, yes, Parks
16 Department cooperated, they came and picked up all
17 of the debris. But it never occurred to them to
18 send somebody out and correct it. It had to be
19 done by somebody privately and as a volunteer.
20 I've done this in many places where trees have
21 been destroyed by trucks that are meandering
22 around our streets unlawfully. We have trucks in
23 a residential area that don't belong there, and
24 they destroy trees wantonly. I've had police
25 summoned and Parks to substantiate that and to

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2 give fines. Tree, I just want to close, damage to
3 trees and parks, we have a Korean War Memorial in
4 Kissena Park, it was recently installed. In the
5 process, after very strong statements on the part
6 of our group, and deliberating with the people who
7 were going to do the contracting, they promised us
8 they would be very careful about a grove of trees
9 that we're in the process of landmarking. "We
10 will not go near it, we won't go within 30 feet of
11 the edge of the property," and the very first day
12 I photographed the contractors wife and her band,
13 merry little band of five trucks, crossing through
14 the grove and getting stuck in the mud, and the
15 Commissioner had to be called to see this for
16 herself. That is the kind of cooperation we get.
17 We get people who are hiring people, who are
18 supposedly doing good deeds, and they immediately
19 destroy things. So, there, they were not in any
20 way cautioned other than to say, "Oh, no, naughty,
21 naughty, you shouldn't do that." They were not
22 fined, they were not considered at all responsible
23 for their acts. So, the, the Parks Department has
24 to step up and take accountability. They claim
25 once they hand over a contract to a contractor,

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2 it's up to the contractor. It's not. They don't
3 care, they are not arborists. Thank you for your
4 time.

5 CHAIRPERSON FOSTER: Thank you.

6 Next, Mr. Gerber.

7 FRED GERBER: Madam Chairperson,
8 member of the City Council, and friends of trees,
9 my name is Fred Gerber, I am the Education
10 Director Emeritus at Queens Botanical Garden, a
11 teacher there for 39 years, member of the Kissena
12 Corridor Park Conservancy, Holly Civic
13 Association, and it's also my privilege to be with
14 Dr. Glaser, a member of the New York Root Zone, a
15 group of professionals in the area of trees,
16 advocating for our urban forest. I express my
17 support of this document, I thank Councilman Liu
18 and the writers and sponsors and urge that it also
19 mark the beginning of a renewed effort to enforce
20 legislation protecting all large trees. The
21 destruction of trees, large trees, on private land
22 is part of a larger problem of enlarging homes and
23 paving over properties, that is citywide, but
24 particularly evident in Queens communities.
25 Existing zoning regulating percent of open space

1 on lots and building codes must be enforced, along
2 with the passage of this document. Many trees and
3 front yards are part of Parks right of ways, and
4 enforcement of this protection is also needed. In
5 the document you have before you, under 18-135,
6 number two, I suggest the following amendment,
7 when it defines remove a mature tree, as meaning
8 uprooting or cutting, that it also be added that
9 this include prohibition from using any chemical
10 or physical means to kill a tree. In section two,
11 part E, the punishment, as has been pointed out by
12 many today, should be at least equal to that for
13 removing trees on parks land, as many developers
14 would gladly pay the small fine indicated here and
15 cut a tree down. As was pointed out by Dr.
16 Glaser, strictly punitive measures alone are often
17 not enough, and hopefully there could be future
18 development of incentives, such as tax credit
19 based on the amount of canopy relative to property
20 size, similar to the incentives being offered to
21 people for greening their homes by including
22 things such as solar panels. We hope that this is
23 passed as a first step toward ongoing input from
24 professional horticulturists, and consulting
25

1 arborists, as more must be done to preserve our
2 urban forest for the environmental, economic and
3 aesthetic future of our neighborhoods. And I'd
4 just like to mention that I'm impressed here with
5 people like Mr. Wade, Dr. Glaser, and some of the
6 people it's been my privilege to know in groups
7 like Hortis [phonetic] and the New York Root zone.
8 New York is blessed with an array of professionals
9 in this area. And hopefully this will be passed
10 as the start of an ongoing input and dialogue to
11 develop a master plan, an overall plan, for
12 protection of our urban forest; preservation of
13 the urban forest starts with care and preservation
14 of mature trees on all land, which should go hand-
15 in-hand with new plantings. As pointed out by Mr.
16 Wade, one mature tree is equal to over 50 newly
17 planted trees. We will never see their like
18 again. Thank you for the privilege of being here.

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20 CHAIRPERSON FOSTER: Thank you very
21 much. Can you squeeze in? Great.

22 JAMES TRIKAS: Yeah, I'm fine.

23 CHAIRPERSON FOSTER: Thank you.

24 JAMES TRIKAS: Okay. My name's
25 James Trikas, Board Member of the Holly Civic

1 Association of Flushing. I'm here to testify in
2 support of the proposed legislation on behalf of
3 our association, which is one of the most
4 ethnically diverse civic organizations in the
5 country. The neighborhood within the Holly Civic
6 organization jurisdiction, has suffered from
7 increased congestion, school over crowding, and
8 decline in he quality of life due to
9 overdevelopment, without regard to infrastructure.
10 Just recently, the City Council has approved
11 upzoning for part of our neighborhood, despite the
12 opposition of the residents and the majority of
13 Community Board Seven members. Yet we stand
14 united with our neighboring civic associations in
15 urging speedy passage of the proposed tree
16 protection legislation. Some of our members serve
17 on the community board that has originated the
18 language for this law for over two years ago, and
19 after many months of diligent work, any delay in
20 passing the law will only result in additional
21 trees being cut down and paved over. Please vote
22 for this legislation without delay, James Trikas,
23 Holly Civic Association, Zoning Chair. I also
24 have, like Beverly, many hats. I am obviously a
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2 member of Holly Civic Association, I'm a member of
3 the East Flushing Civic Association Board Member,
4 member of the Kissena Corridor Park Conservancy,
5 member of Queensboro Hill Civic Association, and
6 probably a few others. And I urge you to protect
7 our large, healthy trees, and not allow them to be
8 cut down at the whim of the owner; pressuring the
9 City to plant a tremendous amount of small trees
10 and wait 50 plus years to grow; depriving our
11 citizens of the benefit of our large trees
12 producing a lot more oxygen to our environment,
13 more shade to our City's canopy, and beautifies
14 our communities that benefit all of us now. If
15 these healthy trees on private property don't
16 interfere with a building foundation, and don't
17 threaten imminent danger to the structure of a
18 building on private property, they should be
19 protected. I added a little bit more when I heard
20 the Parks' response. I am surprised by the Parks
21 Department's stance to claim jurisdiction and
22 financial burden. When the Parks Department
23 reached out to the community to help plant their
24 trees, that they needed planted in the parks,
25 those active members in our community reached out

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2 to many other active members to help plant these
3 trees. Perhaps these large trees should be given
4 automatic landmark status, as a right. I would
5 support that. And I further want to show you that
6 many of us have been actively involved in this
7 tree planting. And we had 12,000 trees planted in
8 our park. Me, personally, I was there for 11,000
9 of the tree plantings, actively involved. So was
10 a lot of our members, Fred was there. Eugene was
11 there. Yes, Roland Wade was there. A lot of
12 active members were there, actively involved, and
13 getting other volunteers to help. And I'm quite
14 surprised at their response. Now, you got to
15 understand, this was a size, pretty much, of the
16 trees being planted. They were about three feet
17 tall. And they were no wider than this. It was
18 really ridiculous, to cut, to be allowed to cut
19 down massive trees, or trees bigger than twelve
20 inches, which there are many of. I got one in the
21 back of my house, not on my property but on my
22 neighbor's, probably 20 inches wide. I think it's
23 quite ridiculous to cut down the massive trees
24 that we do have, and replace 'em with tiny little
25 things like this. I mean, I don't understand that

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2 at all. I think something has to be done, and
3 quite surprised about the Parks' stance, because
4 if they want to play that attitude, I would think
5 that maybe the next time when they need help, we
6 should say, "Well, why should we bother? You're
7 allowing them to cut down the huge trees, and yet
8 you're asking us to help plant these tiny little
9 things?" I think that's ridiculous. So, maybe
10 the Parks Department will have more work and pay
11 more, because a lot of us are not going to be
12 willing to stick our necks out and do the work,
13 for planting little things like this. I think
14 John Liu is being quite nice calling them sticks;
15 to me they're more like twigs. So, I urge you
16 again to pass this legislation as soon as
17 possible. Thank you.

18 CHAIRPERSON FOSTER: Thank you very
19 much. Thank you. Our last panel is Claudette
20 Trimmingham, Eugene Sadowsky, and Stephen,
21 Stephen? Stephen's not here. And for the record,
22 all the testimony is being recorded and will be
23 transcribed, so everyone will get it. Thank you.
24 Move so you're closer to the mic, and you can, Ms.
25 Trimmingham and then Ms., Mr. Sadowsky.

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2 CLAUDETTE TRIMMINGHAM: Yes, good
3 morning Madam Chairman, and honorable members of
4 the City Council. I'm Claudette Trimmingham, a
5 member of the Kissena Corridor Park Conservancy,
6 and lifelong New Yorker, wholeheartedly support
7 the tree preservation legislation proposed by
8 Roland Wade, recommended by Community Board Seven,
9 and introduced by Councilman John Liu. Many of
10 these trees have been here for decades, and are,
11 and are on private and commercial property. They
12 are a benefit to all New Yorkers, not only for
13 their beauty and health benefits, but because they
14 are irreplaceable. I hope you will take these
15 factors into consideration when it is time to
16 vote. Thank you.

17 CHAIRPERSON FOSTER: Thank you.

18 EUGENE SADOWSKY: Good morning,
19 Madam Chairperson.

20 CHAIRPERSON FOSTER: Good morning.

21 EUGENE SADOWSKY: Members of the
22 City Council, ladies and gentlemen of the
23 audience. I thank you for this time. I am a
24 member of the Holly Civic Association, member of
25 the Democratic Club of Flushing, member of the

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2 Kissena Park Corridor. I'm living here in
3 Flushing since 1957. I was just a young man, now
4 I'm middle aged. My name is Eugene A. Sadowsky.
5 IT was the summer of 2007, June or July, a
6 Saturday afternoon, about 12:30 p.m. I was going
7 downstairs to the foot of my building, the
8 gardener, who was employed by my co-op, was
9 cutting down the tree in front of my building. I
10 asked him what happened. He said a big wind had
11 blown part of the tree down. I said, "I was here
12 a half an hour ago, and there was no big wind."
13 He then said to me "The tree was ugly, so I cut
14 the tree down." These are the words. I asked
15 him, "Who gave you the authority to cut it down?"
16 He said he took it upon himself. I said, "The
17 tree does not belong to the co-op. I believe it
18 belonged to either the City, the State or the
19 Parks Department." I had a big argument with him,
20 but let it go as just argument. Subsequently, my
21 good friend, and neighbor of over 50 years, former
22 Councilwoman Mrs. Julia Harrison, came down, and
23 saw what he had done, and said "Get out of here."
24 A few weeks later, he tired to burn down the
25 remaining stump. I was told by the super across

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2 the street that the flame was approximately two-
3 and-a-half feet high. If the flames would've
4 gotten out of control, into the bushes, the trees,
5 whatever, could've burned the building down. The
6 co-op had called him down to a special board
7 meeting. They told him he shouldn't have done
8 that. The only, the only bushes he, he allowed to
9 cut, the trees that were touchable. Therefore, I,
10 I propose to protect our trees today, tomorrow,
11 and the future. I thank the Board for letting me
12 have this opportunity. Remember the name Joyce
13 Kilmer. I don't remember the exact poem, but
14 something about a tree's, a poem as lovely as a
15 tree. Remember that in school days. I'm sure we
16 all have heard that once or twice.

17 CHAIRPERSON FOSTER: "I think I
18 shall never know ... "

19 EUGENE SADOWSKY: Okay? Again, I
20 thank you.

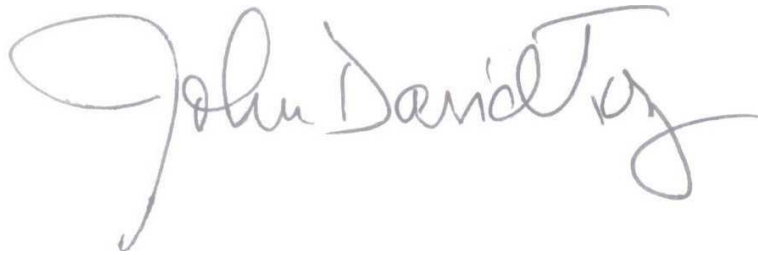
21 CHAIRPERSON FOSTER: Thank you very
22 much, and I thank all of you for coming out. When
23 Council Member Liu left, we discussed about how,
24 how to work with you, Mrs. Shane, Ms. Shane--I
25 don't know if you're Ms. or Mrs., I'm sorry

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[laughs]--on tweaking the bill to put some of the
teeth behind Atlanta. But thank you all for
coming out this, I think we're still in, this
afternoon. There being no more testimony, this
meeting's adjourned. [gavel]

C E R T I F I C A T E

I, JOHN DAVID TONG certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

A handwritten signature in cursive script that reads "John David Tong". The signature is written in a dark ink and is positioned above the printed signature line.

Signature_____

Date June 10, 2009