

**City of Durham**  
**CITY COUNCIL MINUTES**  
**May 28, 2019**

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- A. OPEN REGULAR COUNCIL MEETING.** Mayor Schirado opened the Durham City Council meeting at 7:30 PM at Durham City Hall.
- B. ROLL CALL.** *Council Present:* Gery Schirado, Leslie Gifford, Keith Jehnke, and Chuck Van Meter  
*Council Absent:* Chris Hadfield  
*Staff Present:* City Administrator Linda Tate and Lynn Schroder  
*Agency Representatives Present:* Chief Mike Duyck and Incoming Chief Deric Weiss, Tualatin Valley Fire & Rescue; Komi Kalevor and Melisa Dailey, Washington County Housing Authority
- C. APRIL 23, 2019 COUNCIL MINUTES.** Councilor Gifford moved to approve the minutes of the April 23, 2019 City Council meeting. Councilor Van Meter seconded the motion. The minutes were approved unanimously (4-0). **MO 052819-1**
- D.** Mayor Schirado read the **CALENDAR OF MEETINGS.**  
**Tuesday, June 4, 2019,** Regular Meeting of the Planning Commission at 7:30 pm at Durham City Hall  
**Tuesday, June 25, 2019.** Regular Meeting of the City Council at 7:30 pm, at Durham City Hall.
- E. PUBLIC FORUM.** None.
- F. RETIREMENT FAREWELL FROM FIRE CHIEF MIKE DUYCK AND INTRODUCTION OF NEW FIRE CHIEF DERIC WEISS.** Mayor Schirado welcomed Fire Chief Mike Duyck and incoming Fire Chief Deric Weiss. Chief Duyck announced his upcoming retirement and introduced Deric Weiss as the incoming fire chief.
- G. PRESENTATION BY WASHINGTON COUNTY OF DRAFT LOCAL IMPLEMENTATION STRATEGY (LIS) FOR METRO AFFORDABLE HOUSING BOND PROGRAM.** Housing Program Coordinator Melisa Dailey stated that Washington County would receive \$188 million from the Metro Regional Housing Bond for housing projects in Washington County. The County's target is to build or acquire 1,316 units of regulated, affordable housing between 2019 and 2026. This program covers 10% of the affordable housing need in Washington County. Of the 1,316 units, 334 will serve households at or below 30% median family income, 407 units will be for families, and up to 81 units will be created for "workforce households" earning 61 to 80% of median family income. Washington County's Local Implementation Strategy focuses on racial equity, stakeholder input, and community engagement.
- Director Komi Kalevor outlined the goals of the implementation plan. The Housing Development Plan includes a balance of private developer-owned housing units and non-profit developer-owned housing units. There will also be a balance between new construction and acquisition/rehabilitation of existing units. They will also seek to balance the geographic distribution of the funds. Jurisdictions within Washington County can request to leverage their affordable housing funds with the Metro Housing Bond funds.
- PLANNING COMMISSION UPDATE.** Minutes from the May 7, 2019 meeting. Councilors discussed their concerns about how the Tree Protection Ordinance was being interpreted.

They were concerned with the lenient application of the tree removal criteria and conditions of approval. There was a consensus that Tree Preservation Ordinance intended to preserve existing trees to the extent possible with the goal of maintaining the forested character of the City. They were concerned that the ordinance was being misinterpreted, resulting in implementation errors. Specifically, the Council strongly emphasized that it is the PC's responsibility to evaluate the merits of a tree removal.

Mayor Schirado stated that the purpose of the ordinance was to preserve and protect trees. He was concerned about statements in the PC minutes that it did not matter if the property owner followed through with a proposed improvement after cutting a tree. Mayor Schirado stated that if a proposed improvement is used as a rationale for removing a tree, then the approval to cut it down should require the improvement as a condition of the permit approval. Councilors agreed.

Councilor Gifford stated that she participated in writing the Tree Ordinance. She stated that the intent was to protect as many existing trees as possible. Gifford was concerned that the mitigation imposed by the PC is not adequate. She thought that mitigating the removal of tall, healthy Douglas firs with small, ornamental trees violated the intent of the ordinance. She was concerned about the impact of losing so many Douglas firs on the forested character of Durham. Jehnke stated that other jurisdictions require that the mitigation tree match the canopy cover of the tree removed, as measured by the trees at maturity. Gifford supported a formula to determine appropriate mitigation.

Jehnke stated that, in the past, at times the Planning Commission had denied property owners requests to remove a tree to make way for an improvement. He said that it is reasonable for the PC to require the applicant to make reasonable changes to a proposal to save a tree.

Additionally, he stated that the applicant should provide plans and a detailed explanation as to why alternatives are not reasonable. He questioned whether installing 3,500 square feet of AstroTurf was a reasonable purpose to remove all four trees. He pointed out that some other jurisdictions typically require that improvements be modified or engineered to protect and preserve a tree. He noted that the PC should require alternatives analyses and that reasonable design alternatives that preserve trees should be used where possible.

He stated that Douglas firs and Big Leaf Maples currently growing in Durham are adapted to this location, and they were all grown from unique seeds. Being all grown from seed, they also each have their own, unique, genetics, providing better protection against common disease and other pests, as some may be vulnerable and others resistant. Ornamental nursery stock trees are generally grown using a "grafting" process, in which the "upper part" (a small branch from the desired ornamental tree), is grafted to the root stock from a different type of tree (that has healthy, vigorous roots). The grafted tree "appears" like the upper part. This method results in trees that ALL have the exact same genetics, meaning that if one tree is susceptible to a disease or pest, all of those same species of tree will be susceptible-because there is no genetic variation. He suggested that the PC should generate a list of questions and concerns, and meet with the City Arborist to discuss and get their questions answered and concerns clarified.

Councilor Van Meter noted that it is pretty easy to take down a tree. He suggested that the City Council provide guidance to the Planning Commission.

Tate stated that Durham founders wanted to preserve the forested character of Durham. She noted that current Durham residents might not feel the same. She suggested that if the goal is to maintain the number of trees in the City, the process could be simplified to an administrative review with a mitigation requirement.

Mayor Schirado wanted to address the concept that property owners would be given approval to cut any tree as long as it is mitigated. He reiterated that mitigation was not the purpose of the ordinance. He stated that the Tree Ordinance and the DDC clearly states that preservation means keeping the trees that are there. He noted that the Heron Grove, Afton Commons, and Kingsgate subdivision approvals were conditioned to preserve existing trees.

Mayor Schirado directed staff to forward a memo to the PC outlining the Council's concerns and clarifying the intent of the ordinance. He suggested that a work session with the Council and Commission to discuss the concerns would be beneficial. He also indicated that a PC work session with the City arborist could clarify some of the issues.

- H. RESOLUTION 617-19. A RESOLUTION OF THE DURHAM CITY COUNCIL SETTING THE FEE FOR LAND USE APPEALS.** Tate presented a resolution to update the fee for land use appeals. She stated that the land use fees had not been updated since 1994. She noted that the current appeal fee does not comply with State law. Tate will present an update to other fees later this year.

Councilor Van Meter moved to approve Resolution 617-19, a resolution of the Durham City Council setting the fee for land use appeals. Councilor Gifford seconded the motion. The Resolution was approved unanimously (4-0). **MO 052819-2**

- I. ADMINISTRATOR'S REPORT.** None.

- J. FINANCIAL REPORTS.** Councilor Gifford moved to approve the financial reports for April 2019, payroll checks 562-563, vendor checks 16452 to 16469, and electronic fund transfers totaling \$5,371.47. Councilor Jehnke seconded and the motion passed (4-0). **MO 052819-3**

- K. COUNCIL COMMENTS.** None.

- L. EXECUTIVE SESSION TO CONSIDER SALARY OF CITY ADMINISTRATOR.** Mayor Schirado closed the regular meeting of the City Council at 9:40 pm. City Administrator Tate and Administrative Assistant Lynn Schroder left the meeting. Mayor Schirado opened an executive session to consider the salary of the city administrator.

- M. REGULAR MEETING REOPENED.**

- N. SALARY OF CITY ADMINISTRATOR.** Councilor Gifford moved to approve an adjustment to the City Administrator's annual compensation for FY 19-20 to \$72,500. Councilor Van Meter seconded and the motion passed (4-0) **MO 052819-3**

**O. MEETING ADJOURNED.** Gifford moved to adjourn the meeting. Mayor Schirado adjourned the meeting at 9:50 pm.

**Approved:**

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**GERY SCHIRADO, MAYOR**

**Attest:**

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**LINDA TATE, CITY ADMINISTRATOR/RECORDER**