



City of Durham
CITY COUNCIL WORK SESSION MINUTES
November 18, 2025

A. OPEN COUNCIL WORK SEESION

Mayor Joshua Drake opened the work session at 6:30 PM at Durham City Hall.

B. ROLL CALL OF COUNCIL MEMBERS.

Councilors present: Mayor Joshua Drake, Council President Leslie Gifford, Councilors Gary Paul, David Streicher, and Sean Lee

Councilors absent: None

Staff present: City Administrator Jordan Parente, Administrative Assistant Wyatt Bean, City Attorney Emily Guimont

Visitors: Sue Fuller (via Zoom)

C. CALENDAR OF MEETINGS.

The Council reviewed upcoming meeting dates. City Administrator Parente corrected the date of the regular meeting of City Council for December would be held on Tuesday December 16, 2025, and not on December 15, as listed on the agenda.

D. TREE ORDINANCE FOR DEVELOPED PROPERTIES “MUNICIPAL CODE”.

The Council conducted an in-depth review of the latest draft of the Tree Ordinance for Developed Properties, with an updated checklist and annotated draft supplied by City Attorney Emily Guimont. The Council proceeded section by section, addressing outstanding policy questions, legal considerations, and structural revisions.

Review of the Updated Draft and Checklist

City Attorney Guimont explained that the annotated draft she distributed incorporated edits reflecting Council consensus from the September 30, 2025, Work Session meeting. The accompanying checklist items identified require final Council direction. Checked items indicated issues previously resolved; unchecked items represented sections where additional decisions or clarifications were needed.

Council Streicher noted structural changes within the draft and requested that future packets contain a clean, consolidated draft to avoid confusion, as multiple iterations had made tracking changes difficult.

Development Considerations

City Attorney Guimont introduced new language into Section 1602(B)(ii) to incorporate the removal of trees associated with development actions that are not regulated under the City's development code. City Attorney Guimont explained a memo was sent to Council regarding this, which is covered under attorney-client privilege. Council agreed not to waive their privileges and asked for an executive session concurrent with the next Council meeting to more fully discuss the memo with legal counsel.

Appeal Authority for Tree Permit Decisions

The Council held extensive discussion on which body should serve as the appeals authority for tree removal applications under the new ordinance.

Option 1: City Council as Appeals Body. Council noted that historically, tree appeals have been rare, and the Council already hears certain discretionary matters. Councilor Lee observed that many lengthy

meetings from the past year stemmed from ordinance development, not appeals, and anticipated fewer time-consuming items after adoption.

Option 2: Delegating Authority to a Separate Body. Council also discussed the possibility of establishing a new appeals board, separate from, but potentially overlapping with members of the Planning Commission. This body would meet only when needed and would prevent lengthy tree removal appeals from overwhelming Council agendas.

The potential administrative burden of increased appeals was acknowledged. City Council ultimately agreed to remain as the appeals body, noting this could change in future by amending the ordinance.

Mitigation Deadlines, Penalty Structure, and In-Lieu Fees

Council reviewed the mitigation requirements and related enforcement provisions. Under current code, applicants have 180 days to plant mitigation trees, with an optional 60-day extension if replanting season timing makes compliance difficult.

Council discussed whether to:

- maintain the extension option,
- eliminate extensions and rely strictly on the 180-day deadline, or
- incorporate a hybrid system ensuring clarity and fairness.

The Council also compared the roles of the in-lieu fee with penalties for failure to mitigate when planting is feasible, but the applicant simply does not comply. Members emphasized that penalties should exceed the in-lieu fee so applicants do not view non-compliance as a cheaper alternative.

After discussing various penalty schedules, the Council examined the following conceptual structure:

- An initial penalty issued after the City Administrator provides formal notice that mitigation was not completed within the required timeframe.
- A recurring monthly penalty (also discussed as weekly or daily equivalents) for continued non-compliance, set high enough to encourage prompt mitigation.
- Waiver of the most recent penalty if mitigation is completed within the allotted time frame after that most recent penalty was applied.

Councilor Streicher emphasized that continuing penalties should only accrue after the City Administrator issues formal notice, rather than retroactively. The City Attorney confirmed that the general municipal violation provisions served only as a fallback framework and did not dictate specific timelines.

Council decided that violations for illegal tree cutting would face penalties up to \$4,000 and would be handled administratively according to relevant adopted procedures. In addition, Council also established that the removal of a tree without a permit would require mitigation in the form of two replacement trees.

Discussions also touched on the need to examine the tree lists used by other cities and whether Durham should maintain an approved species list for mitigation plantings. Council decided that a mitigation list would also be administratively handled, potentially borrowing from examples produced by neighboring cities, like Lake Oswego.

Tree Failure Proximity Permit Discussion

Councilor Streicher proposed a Tree Failure Proximity Permit type, intended to address situations where residents seek removal of a tree not because it meets established hazard criteria but for trees within 300' of where a tree has failed. He explained that some past approvals would not have met high or extreme risk ratings under the current assessment criteria, yet the residents' concerns were rooted in tree failures nearby.

The Council discussed whether such a permit type could be incorporated into the ordinance or if other cities have a similar type of permit. Mayor Drake and Councilor Lee expressed significant concerns about the difficulty of defining and applying this type of permit in an objective and consistently enforceable manner. Both emphasized that without clear, measurable criteria, decisions could risk becoming subjective or inconsistent. Council agreed that if such a permit type were to be considered, it would require strict guardrails, such as documented patterns of localized failure or other quantifiable indicators. Administrator Parente suggested such occurrences could be investigated by the City's Arborist.

Miscellaneous Edits and Technical Adjustments

Council made several edits to the ordinance language:

- Replacing the term "dying" with "declining" when describing tree health conditions in Section 162.05.
- Changing "authorized to codify" to "directed to codify" in the ordinance's preamble, clarifying Council's intent.
- Discussing the interaction between the ordinance and the City's newly enacted Municipal Code Violations Ordinance, confirming that references to the "Durham Municipal Code" were enforceable even before formal codification.

Discussions concluded with Council acknowledging that the ordinance still required further refinement but expressing confidence that progress was significant and that major policy areas were approaching resolution.

E. DRAFT RESOLUTION ON HEARINGS OFFICER.

Due to the time expended on the tree ordinance discussion and the late hour, the Mayor suggested deferring this item. While some preliminary discussion occurred regarding whether certain appeal functions could or should be delegated, the Council did not engage in substantive review of the draft resolution itself. The matter was tabled for the next regular Council meeting.

F. DRAFT RESOLUTION ON METRO LOCAL SHARE GRANT APPLICATION.

This item was also tabled due to meeting time constraints. The Mayor noted his intent to return to the discussion at the next meeting, as both resolutions were expected to require minimal time once the Council was prepared to review them.

G. ADJOURN.

Mayor Drake adjourned the meeting at 9:54 PM.

Approved:

Joshua Drake, MAYOR

Attest:

Jordan Parente, CITY ADMINISTRATOR/RECORDER