

TUMWATER CITY COUNCIL MEETING

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CONVENE: 7:00 p.m.

PRESENT: Mayor Debbie Sullivan and Councilmembers Peter Agabi, Michael Althaus, Joan Cathey, Leatta Dahlhoff, Angela Jefferson, Charlie Schneider, and Eileen Swarthout.

Staff: City Administrator John Doan, City Attorney Karen Kirkpatrick, Communications Manager Ann Cook, and Recreation Supervisor Charlie Groth.

SPECIAL ITEMS:

PROCLAMATION: Councilmember Dahlhoff read a proclamation declaring April 22, 2022 as
EARTH DAY, APRIL 22, 2022: Earth Day in the City of Tumwater. The proclamation encouraged all people in the City of Tumwater to participate in the City's Earth Day and Arbor Day celebrations and support efforts to protect trees and woodlands.

Recreation Supervisor Charlie Groth reported this year, both Earth Day and Arbor Day will be celebrated on Saturday, April 23, 2022 during a joint service project with Lacey, Olympia, and Thurston County in coordination with the PARC Foundation and local Lions Clubs. Local high school and middle school students have been invited to participate, as well as the community. The Earth Day event will be held at Tumwater Historical Park and includes removal of invasive ivy, mulching, and preparing native garden beds. The Arbor Day celebration includes a tree planting at Historical Park.

PROCLAMATION: Councilmember Schneider read a proclamation declaring April 29, 2022 as
ARBOR DAY, APRIL 29, 2022: Arbor Day. Arbor Day is observed nationally on April 29, 2022. This year marks the 150th anniversary of Arbor Day. This year, the Arbor Day event is on Saturday, April 23, 2022 from 10 a.m. to noon featuring a drive-through format at Tumwater Historical Park to receive Arbor Day memorabilia, free plants (while supplies last), and the opportunity to ask professional arborists questions about the proper care and planting of trees.

UPDATE ON REGIONAL FIRE AUTHORITY: City Administrator Doan updated the Council on the status of efforts on the Regional Fire Authority (RFA). The Public Health and Safety Committee is scheduled to receive an update on the RFA in April followed by a City Council worksession on April 19, 2022 to receive a presentation by the RFA consultant on the status of the planning committee. Councilmember Dahlhoff chairs the RFA Planning Committee. The intent is to present a proposal no later than fall for a potential ballot measure in spring 2023. The planning committee has held five meetings, adopted a charter for guiding the work, and approved a work plan that includes the delivery of a RFA plan to the City Councils of Olympia and Tumwater by fall 2022. The planning committee is evaluating financial options and is developing a seven-year financial model for an RFA, governance options, labor costs,

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and a public engagement process. A virtual public meeting is tentatively scheduled on the evening of May 19, 2022 representing the first opportunity of two for the public to engage and ask questions and share any concerns.

PUBLIC COMMENT:

Pamela Hansen, P.O. 14521, Tumwater, cited the proposed action later in the meeting to approve the City Council Rules and Procedures. She cited her disagreement with several changes to the provisions claiming that the Council is not moving toward being a participatory government entity and that the Council Rules are moving backwards instead of forward. She stated her opposition to the 12-year tax year exemption approved by the Council in November 2021. She disagreed with the expenditure of \$30,000 for golf balls as referenced in the agenda packet. The *Olympian* has neglected to state that Mayor Sullivan is on the Board of Directors of the Community Action Council of Lewis, Mason, and Thurston County. That entity has had pandemic funds suspended by the county due to evidence of taxpayer money that is reported to be in a suspected fraud pay and chase audit and recovery status.

CONSENT CALENDAR:

- a. Approval of Minutes: City Council Worksession Joint Planning Commission, December 14, 2021
- b. Approval of Minutes: City Council Worksession, December 14, 2021
- c. Approval of Minutes: City Council Worksession, January 25, 2022
- d. Approval of Minutes: City Council Joint Tumwater School District, February 3, 2022
- e. Approval of Minutes: City Council Worksession, February 22, 2022
- f. Approval of Minutes: City Council, March 1, 2022
- g. Approval of Minutes: City Council Worksession, March 8, 2022
- h. Payment of Vouchers
- i. Day - Right of Entry Agreement
- j. Interlocal Agreement for Electrification Cost Assessment
- k. Linwood Avenue Sidewalk Grant Agreement
- l. 2021 Pavement Maintenance Project – Acceptance of Work
- m. Barnes Lake Management District (LMD) Annual Work Plan and Operating Budget
- n. Ordinance No. O2022-011, 2022 Salary Schedule Amendment
- o. Agreement for the Purchase of LOTT House on Henderson – Contract Extension
- p. Interagency Agreement with WSDOT for Material Testing
- q. Janitorial Services Agreement

MOTION:

Councilmember Swarthout moved, seconded by Councilmember Schneider, to approve the consent calendar as published. A voice vote approved the motion unanimously.

Mayor Sullivan reviewed the items approved on the consent calendar.

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COUNCIL

CONSIDERATIONS:

**RESOLUTION NO.
R2022-006;
ADOPTING
AMENDED CITY
COUNCIL RULES
AND PROCEDURES:**

City Administrator Doan reported the proposed resolution amends the Council Rules and Procedures. The Council reviewed Council Rules and Procedures during the Council's retreat and during a worksession in February. The proposed document includes changes recommended by staff and changes requested by the Council during those reviews. In response to the public comment, one of the nuances of the policies and procedures is the differentiation between regular meetings and worksessions. The structure of the proposed changes speak to regular meetings as defined as meetings regularly scheduled on the calendar and can be either formal Council meetings or Council worksessions. An alternate is a special meeting, which is not normally included on the calendar of meetings. Worksessions follow all rules as stipulated by state law. Some flexibility was included to provide the ability to conduct worksessions in a variety of locations/places and not confined only to City buildings. Changes to executive sessions speak to enabling the attendance of consultants to an executive session because some topics, such as litigation, could involve external counsel or an expert. It would be important to enable the attendance of those representatives during an executive session.

Staff recommends approval of Resolution No. R2022-006; adopting the amended City Council Rules and Procedures.

Councilmember Althausen referred to the public comment about not preparing minutes for executive sessions. He asked whether the law that legally precludes the Council from discussing issues during an executive session was the main reason for including the language within the proposal to ensure the City follows state law. City Attorney Kirkpatrick advised that the Open Public Meetings Act and the Public Records Act are not always in alignment and, as such, provides no protection for public access to executive session meeting minutes, which is why the provision was changed to reflect that no minutes would be produced for an executive session.

City Attorney Kirkpatrick responded to questions from Councilmember Cathey about adding to or changing the meeting agenda. She explained that state law requires the posting of a preliminary agenda prior to the meeting as early as possible but no later than the Friday prior to the meeting. However, some changes are possible. The rules outline the manner in which changes could occur under state law. Typically, changes remove an item or reorder items on the agenda. Should a Councilmember wish to add an item to the agenda, a motion, a second, and a vote of support by a majority of the Council is required. The rules also include the no surprise rule, which speaks to discussing a proposed addition to the

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agenda with the Mayor/City Administrator prior to the meeting. She added that the rule enabling a majority vote of the Council to pull or add an item to the agenda during a meeting should be reserved for emergencies or an item that is subject to a time limitation. Inclusion of an agenda item is preferred to be included on the preliminary posting of the agenda; however, the rules afford another method to add an item later, which is intended for emergency or time sensitive matters.

Councilmember Cathey requested clarification on the appropriate use of City computers as the rules stipulate the use of computers only for “official City business.” Commercial, political, personal, or other illegal uses are not allowed. Any posting, blogging, messaging, or social media activity is limited to official City sites and activities and may not be used for personal sites or for social media. She questioned the reason a member of the Council could not include information on an activity they participated in as a City representative.

City Administrator Doan reminded the Council of its prior review of the rules including a discussion about social media and Facebook and the potential for the Council to have access to a City social media account. The line between official City business and personal activities can often be blurred when a member attends an event and posts a picture of the event or activity. The challenge is the line between personal activities and City business. The issue typically arises when a Councilmember attends or engages in an activity they might not otherwise participate in if they were not an elected official. The Council previously discussed an option of assigning the Council a City social media site or Facebook page so the City would have the capability of tracking to meet the challenges of Open Public Records requests. When a Councilmember posts to a personal social media (Facebook) account, the Councilmember, as well as the City, are exposed to the risk of an individual requesting a copy of the record through the submission of a request under the Open Public Records Act.

Several Councilmembers indicated the issue was troubling, confusing, and unclear as many Councilmembers participate in volunteer activities through programs and activities often involving the City. It appears that Councilmembers soliciting community support for projects could be in violation of Council rules. City Administrator Doan explained how those activities could be deemed “blurring the line” between personal and official business representing the City. It is difficult to provide clear guidance on many situations. At some point, it may be up to a judge to determine whether an activity is a City or personal activity.

City Attorney Kirkpatrick noted that the provisions cited by Councilmember Cathey pertain to the appropriate use of computers rather than social media. The rule pertaining to social media (#29) speaks to how equipment issued to a Councilmember is used, e.g., computer, phone, or

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other electronic devices. That equipment should only be used for City business and not for personal use. Another rule addresses social media. The proposal revises the rule to afford some flexibility so that the Council could have a City-sponsored forum enabling attendance to City events and posting photos on City-sponsored media as opposed to posting pictures on a personal account to avoid the issue of integrating the two actions that could require opening personal social media or personal equipment to respond to public records requests. As noted earlier both Acts often do not align and were adopted prior to the advent of social media. Consequently, it often creates difficulty in defining specific rules to provide guidance. To provide guidance, staff recommends conducting City business on City equipment and City social media and personal business transacted on personal equipment and personal social media. Often, there might be times when activities overlap; however, to the extent the City can maintain those actions separately, it would be important to enable the City to archive and protect records and protect Councilmembers from corresponding with each other on social media thereby violating open public meetings rules. It is an issue of balance while affording the Council with some flexibility. If a Councilmember attends a City event and wants to post photos of the event, it should be posted on City-sponsored social media.

Several Councilmembers shared how they personally determine whether their participation is either personal or as a City representative. The rules are designed to distinguish what is posted on personal social media and what is posted on official City social media. Councilmember Althaus added that rule #29 appears blurry primarily because state law is blurry and because actions are so subjective. In many cases, determining whether a photo is subject to a public records request will be determined by a judge as state law offers no clear delineation.

City Attorney Kirkpatrick explained that wearing of a City badge is a good way of determining personal or professional participation; however, as a Councilmember, the wearing of a name badge often occurs both in personal or professional situations. It is not possible to determine whether the wearing of a badge dictates whether that participation is personal or as a representative of the City. The factors to consider is whether the event is City-sponsored and whether the attendance is as a Councilmember on behalf of the City or whether attendance is as an individual in a personal capacity regardless of whether a name badge is worn.

In response to several questions regarding the addition of agenda items and the no surprise rule, City Attorney Kirkpatrick explained that state law allows a certain process to add an item to an agenda. However, Council Rule 28.2 speaks to no surprises. It also depends on the type of agenda and the type of meeting as special meeting agendas cannot be amended. The process in state law does not address all situations.

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Councilmember Cathey suggested that it would be helpful for the Council to understand the City's administrative and executive public posting process for a City activity to provide clarification to the Council in terms of proper notification requirements required by the Council for any events or activities.

The Council shared opinions and suggestions as to whether some of the outstanding concerns could preclude adoption of the proposed Council Rules and Procedures. City Attorney Kirkpatrick pointed out that the document does not establish the City's social media policies although some policies were included for guidance. The document is intended to direct Councilmembers to contact either the Mayor and/or the City Administrator for guidance on a process for any issue.

Discussion ensued on Councilmember Agabi questions pertaining to the policies for appropriate use of City electronic equipment. Mayor Sullivan explained that the policies speak specifically to official use only, such as not emailing family members or other personal forms of communications. City equipment can be utilized to search for information pertaining to City business but not to research personal matters. Councilmember Agabi noted the state's policy prohibits de minimus use of electronic equipment. The Council's policies do not speak to de minimus usage. Councilmember Dahlhoff noted that state employees are held to higher standard than most other types of employees. She does not practice de minimus research and only researches information related to Council business. City Attorney Kirkpatrick added that the City has not established a de minimus policy, which is why it has not been defined. Surfing the internet should be related to the business of the City.

Councilmember Cathey spoke against the change for limiting public comments to three minutes rather than allowing 3-5 minutes as previously allowed, as well as the discretion afforded to the Mayor. Mayor Sullivan explained that the time period is applicable for all speakers with public comments limited to three minutes and public hearing testimony limited to three minutes or extended dependent upon the Mayor's discretion. All time limits would be consistently applied to all speakers. Councilmember Cathy urged caution with respect to the three-minute rule and avoiding interruption of a speaker as it could be perceived negatively. Mayor Sullivan offered additional clarification on the intent and stressed the importance of fairness and equity for all speakers.

Councilmember Dahlhoff commented on the good feedback and the continual need for clarification of the policies as the document serves as a living document. She urged action on the document knowing that issues would continue to be clarified and expanded. She acknowledged the difference in styles and different approaches. The City has a strong mayor form of government and a new Mayor with a different style. She urged the

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Council to afford the Mayor with some flexibility.

MOTION:

Councilmember Dahlhoff moved, seconded by Councilmember Jefferson, to Adopt Resolution No. R2022-006, in substantially similar form as approved by the City Attorney, amending the City Council Rules and Procedures. A voice vote approved the motion. Councilmember Cathey abstained.

COMMITTEE REPORTS:

PUBLIC HEALTH & SAFETY:

Leatta Dahlhoff

At the last meeting on March 8, 2022, staff reminded the Council of the importance of participating in online training on the IS-100 class, an introduction to the Incident Command System and the IS-700 class, an introduction to the National Incident Management System. The training is required by all Councilmembers by the end of April. The training requires several hours. The committee also received an update from Patrick O'Connor, Director, Thurston County Public Defense (TCPD), on public defense services provided to indigent individuals charged with criminal offenses in the City of Tumwater.

The next meeting is on April 12, 2022 at 8 a.m. Topics include Police Reform Legislative Update, Police Data 2021, and a Regional Fire Authority Update.

GENERAL GOVERNMENT:

Michael Althausen

At its last meeting on March 9, 2022, the committee considered ordinances for street tree standards and tree preservation regulations and an interlocal agreement with Thurston County, City of Olympia, and City of Lacey for an electrification cost estimate. The next meeting is scheduled on April, 13, 2022 at 2 p.m. to review annexation of county islands and Urban Forestry Management Plan amendments for landscaping and buffering requirements.

PUBLIC WORKS:

Eileen Swarthout

The next meeting is scheduled on Thursday, April 7, 2022 at 8 a.m. The agenda includes consideration of a Fourth Amendment to Service Provider Agreement for Historic Brewery Tower Renovation, an update on the Water Conservation Program, review of the I-5/Trospen Road/Capitol Boulevard Reconfiguration Project, consideration of Preserve Park Playground Equipment, and a request to schedule a public hearing on the proposed increase of the 2022-2035 Barnes Lake Assessment.

BUDGET AND FINANCE:

Debbie Sullivan

There was no meeting and no report.

MAYOR/CITY ADMINISTRATOR'S

City Administrator Doan reported the City of Tumwater received the Thurston Chamber of Commerce Green Business Award and will be

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REPORT: recognized at the annual luncheon on Wednesday, April 13, 2022.

A joint public hearing with Thurston County was conducted on several island annexations. The first group of annexations (9) and the second group of annexations (3) were not appealed to the Boundary Review Board. The Council will consider the annexations in April and May.

Mayor Sullivan reported on the outcome of the Intercity Transit Authority meeting on March 16, 2022. The Authority received an update on the successful winter bicycle challenge. The challenge has been expanded to include all forms of bicycling to include weekend and recreational uses and not focusing only on commuting. Staff briefed members on the status of the mandate for masking, which is effective until April 18, 2022 for public transportation.

Mayor Sullivan acknowledged the recent and successful meeting with general managers from local retail businesses.

Charlie Schneider:

At the last meeting of Tumwater HOPES, members discussed the upcoming Drug Take Back Program with free distribution of medical lockboxes event scheduled on Saturday, April 30, 2022 from 9 a.m. to noon at the Tumwater Police Station next to City Hall.

At the last Thurston Area Chamber of Commerce monthly forum, representatives from the Squaxin Island Tribe, Nisqually Indian Tribe, and Chehalis Tribe discussed the impacts tribal businesses have on local communities both economically and in employment.

At the last Tumwater Area Chamber of Commerce meeting solicitations were extended for both golfers and sponsors for the Chamber's June 17, 2022 golf tournament at Tumwater Valley Golf Course.

Councilmember Schneider attended the last Public Works Committee meeting as well as participating with other community members to stuff over 20,000 Easter eggs for the Easter Egg Dash on Saturday, April 16, 2022 at Tumwater High School behind the football stadium at 11 a.m.

Peter Agabi:

At the last meeting of the Transportation Policy Board meeting on March 9, 2022, members received a presentation on the 2023 Unified Planning Work Program. Tilley Road was identified as one transportation project that could be eligible for funding. Members reviewed a proposed change to the bylaws to change the current two-year terms to three-year terms for Business and Community Representatives because of recruitment difficulties. Thurston Regional Planning Council (TRPC) is conducting a Household Travel Survey in spring 2022 to update the regional transportation model and analysis tools to reflect local conditions and preferences. Households will be randomly selected to participate in the

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survey.

Councilmember Agabi attended the March 10, 2022 High Capacity Transportation Steering Committee meeting, which was supposed to function as a subcommittee of the Transportation Policy Board (TPB). However, members agreed not to move forward with the meeting to eliminate any potential redundancy with the TPB.

Councilmember Agabi attended the April 4, 2022 meeting of the Joint Animal Services Commission meeting. Members discussed the budget and operating issues. Several days ago members received an email concerning the recent discovery of human remains on the Animal Services property off Martin Way. Detectives have opened an investigation.

Councilmember Dahlhoff requested an email update on the transportation report because of the number of elements associated with funding and types of projects. Councilmember Agabi affirmed he would forward information to staff to forward to the Council.

Michael Althausen:

Councilmember Althausen reported on his attendance to the Regional Fire Authority Planning Committee meeting on Monday, March 28, 2022 and the March 31, 2022 meeting of the Thurston County Opioid Response Task Force meeting.

At the last Regional Housing Council (RHC) meeting, members discussed funding recommendations for some of the 1277 funding for direct service funding. The recommendations are forwarded to Thurston County Commissioners for acceptance or rejection. One of the recommendations was a contract for \$100,000 to the Community Action Council (CAC) to provide hotel vouchers for people experiencing homelessness. The County Commission has had some concerns about operations with the CAC and elected not to accept the proposal. RHC members reprogrammed the \$100,000 and recommended an even split with the Family Support Center to expand its hotel voucher program and with OlyMAP's (Olympia Mutual Aid Partners) for its hotel voucher program. Members received an update from Thurston County staff about the rental assistance applications. A new contractor is allocating funding to people rather than CAC. The contractor has approximately \$5 million to distribute as soon as possible and is communicating with landlords and tenants to promote a seamless process. The City of Olympia and Thurston County are engaged in discussions about the interlocal agreement for the potential merging of city and county HOME Funds. The City of Olympia purchased a property of approximately six acres in partnership with the Thurston County. The project is undergoing a development review to determine the type of improvements for the site. The status of the scattered site project as part of the pilot program between the City of Olympia and Thurston County to provide some direct service to homeless individuals parked on Ensign

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Road, Wheeler Avenue, and along Capitol Lake to clean up refuse and garbage and offer services is scheduled to sunset. Members will receive a full report on the outcome of the pilot. The report will inform ongoing conversations for next steps. The pilot expires at the end of June.

Eileen Swarthout:

At the last meeting of the Climate Mitigation Steering Committee, members discussed completion of Phase 3 and advancing to Phase 4. The interlocal agreement was signed by all partner jurisdictions. Phase 4 includes formation of an advisory group. Staff presented three different options for selection of members of the advisory group. One process included completion of an application by any individual but the recruitment efforts would require more efforts to solicit interest. The second option was designating members from member organizations, such as Intercity Transit, Puget Sound Energy, LOTT Clean Water Agency, and the Thurston Conservation District. The last option was membership by pre-determined organizations or a specific expertise area. The selection process will likely mirror the Phase 1 process involving different groups. The recruitment process is scheduled to begin in May for the advisory group. Members received a presentation on the built environment and the amount of emissions in comparison to targets for reducing emissions from the building sector. Members reviewed countywide built emissions. Following that discussion, the City of Seattle presented information on its building decarbonization. Representatives shared practical experience with building electrification and decarbonization.

On April 1, 2022, TRPC members engaged in an evaluation of the Executive Director, Marc Daily. Members discussed the State Fiscal 2023 Unified Planning Work Program and received a presentation on the Human Services Transportation Plan update. The update will address barriers for people using public transportation. Members discussed the High Capacity Transportation Study. A consultant will be working on high capacity forms of transportation.

Joan Cathey:

Councilmember Cathey reported she attended the General Government Committee meeting and the RHC meeting as reported by Councilmember Althausen.

Angela Jefferson:

Councilmember Jefferson attended the *Experience Olympia and Beyond* meeting. The organization is now fully staffed. The annual meeting's theme this year is *Happy HR*. The annual meeting is scheduled on June 1, 2022 with the location to be determined. The organization plans to offer a shared image library with photos available to all communities. Since the previous agency's external contract was not renewed, all sales ads will be placed by staff. Staff is working on connecting trails within the regional trail network and other trail systems, such as the Brewery Park trail. A new community guide is planned for release with all communities able to include images in the guide. A new Experience Olympia video is due to be

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released. Hotel occupancy levels in the region are improving to 57.5% from 53% in 2021. The annual goal is 68.2%, the rate prior to the pandemic. The new website is scheduled to be unveiled by the end of May, which will improve visitor experiences. The social media audience and consumer email newsletter experienced an increase in subscribers by 25% over 2021.

During the last Emergency Medical Services Council meeting, members discussed the last hiring process of 10 applicants and a change in bylaws for elections from annually to every two years. Members discussed potential changes in the evaluator instructor process, which would afford departments as many classes based on need rather than relying on Medic One to plan and organize classes. Hospitals are testing a no-divert process until June 3, 2022 with the goal to divert patients to different hospitals. Results from the first 10 days of the process have been promising and effective. Members discussed a potential budget amendment because of inflation. Initially, the forecast for the current budget was an inflation factor of 3% to 5%. Because of the increased cost of gas and inflation costs of 10%, a \$750,000 budget shortfall is anticipated equaling 4.4%. The money from the levy fund will cover the shortfall.

On March 30, the City's LEOFF Disability Board met and approved a medical procedure for a cost of \$39,300.

On April 2, 2022, the first community garden meeting was held with 13 gardeners. Members reviewed rules and regulations for the garden. All garden beds were assigned with the exception of one garden bed. The next phase of the project is construction of a fence to protect the gardens from wildlife.

Leatta Dahlhoff:

The Thurston County website includes information on the Thurston County Opioid Response Task Force where all meeting minutes and presentations are available. On March 31, 2022, the Thurston County Opioid Response Task Force sponsored a forum webinar featuring Capital Recovery Center, Justice Outreach Program, City of Olympia staff, and Law Enforcement Assisted Diversion representatives. She recommended visiting the website to view the presentations.

The LOTT Clean Water Alliance Board meets each monthly.

The Regional Fire Authority Planning Committee has increased meetings to twice a month with the next meeting scheduled on Monday, April 11, 2022. She asked the Council to visit the City's webpage on the Regional Fire Authority Planning Committee for information on recent activity by the committee.

Councilmember Dahlhoff acknowledged and recognized Jennifer Belcher,

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who recently passed away. Ms. Belcher served as a legislator for Legislative District 22 and then as the first woman to serve as Public Lands Commissioner. Ms. Belcher stepped back from running for a third term to take care of her family in West Virginia. She returned to Washington several years ago. Councilmember Dahlhoff said she was fortunate to have Ms. Belcher as her mentor for eight years. She urged the Council to acknowledge local trailblazers and not wait to celebrate them until after they pass.

RECESS TO EXECUTIVE SESSION:

Mayor Sullivan recessed the meeting at 8:49 p.m. for approximately 20 minutes to discuss potential litigation pursuant to RCW 42.30.110(1)(i). No action is to follow the executive session.

RECONVENE AND ADJOURNMENT:

Mayor Sullivan reconvened the meeting at 9:10 p.m.

Councilmember Dahlhoff moved, seconded by Councilmember Schneider, to adjourn the meeting at 9:10 p.m. A voice vote approved the motion unanimously.

Prepared by Valerie L. Gow, Recording Secretary/President
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