

TUMWATER HISTORIC PRESERVATION COMMISSION
MINUTES OF HYBRID MEETING
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CONVENE: 6:30 p.m.

PRESENT: Chair David Shipley and Commissioners Dave Nicandri, Alex Rossiter, Renee Radcliff Sinclair, and Don Trosper.

Excused: Commissioner Marnie Slakey.

Staff: Parks and Recreation Director Chuck Denney, Communications Manager Ann Cook, Recreation Manager Todd Anderson, and Volunteer Coordinator Brianna Feller.

Others: Councilmember Leatta Dahlhoff and Kevin McFarland, Sound Urban Forestry.

CHANGES TO AGENDA: There were no changes to the agenda.

**APPROVAL OF
MINUTES OF
HISTORIC
PRESERVATION
COMMISSION
MEETINGS: JULY
20, 2023,
SEPTEMBER 21,
2023, & NOVEMBER
16, 2023:**

MOTION: Commissioner Sinclair moved, seconded by Commissioner Rossiter, to approve the minutes of July 20, 2023, September 21, 2023, and November 16, 2023 as published. A voice vote approved the motion unanimously.

PUBLIC COMMENT: Charlotte Parsons said she is representing Friends of Trees. She asked the Commission to continue supporting the Davis/Meeker oak tree. Friends of Trees support the preservation of trees and particularly mature trees. Scientific studies have documented that mature trees draw down and sequester much more carbon dioxide than young trees. Mature tree root systems store more water during droughts and are a stronger bulwark against flooding. The bigger the tree the more services it offers to humans and wildlife. Many comments are advocating for the preservation of the Davis/Meeker oak tree, retrenchment pruning versus a system of cables, and bracing may both be needed to preserve the tree. Both systems promise a tree structure that will be sufficiently healthy to be safe. However, the science for keeping the tree alive will not save the tree. What is important is not science, it is community support. Ancient trees are classified as historic because of their connection to human's past. In

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this case, to prehistory since the day the Davis/Meeker tree sprouted 200 years before white settlers arrived. It is unknown as to how Native peoples cared for the tree or even how it survived the wagon wheels of the Oregon Trail. What is known is its recent history when Jack Davis and others fought to have the highway rerouted around the tree. The community's recent care for the tree reminds her of another tree, a drooping fig tree in Nepal reported to be more than 2,000 years old. She visited the tree seven years ago because it is close to the village where her daughter-in-law was raised. How the tree has survived so long is a mystery because it is located in the middle of agricultural fields. Approximately 10 years ago teenagers climbed the tree and cars driving too close damaged the tree. Local villagers protected the tree with a fence and a live-in watchman. With the same kind of community will and donations, the Davis/Meeker tree could be saved for hundreds of years. She is hopeful the Commission has faith that the community will join to protect the tree. She urged Commissioners not to delist the tree but actively support the community by sponsoring a voluntary donation fund for preservation efforts as one suggestion of many. Keep the door open for future community action.

Janine Gates asked members not to delist the Davis/Meeker tree as the first step in a process of removing the tree. She reviewed the agenda packet of materials and pointed out several conflicts within the information. Tyler Bunton with Tree Solutions was contracted by the City to complete a qualified review of the tree. Mr. Bunton and his colleague, George White, determined the tree should be managed as a veteran tree with retrenchment pruning to reduce the tree height and tree spread by 15 feet. Reducing the tree height and spread would result in lowered wind loads acting on the trunk and branch unions resulting in a lower likelihood of failure. He also indicated that the sonic tomography performed on the tree reflected the tree had slightly more sound wood than required to support the tree and that with the exception of the recent large branch failure, the oak tree appears to be in very good health in terms of crown density, leaf color, leaf size, and inner node growth indicative of a vigorous tree. With the expert opinion following the most comprehensive research on the tree, it is confusing as to why the arborist is suggesting the removal of the tree. She asked the Commission not to delist the 400-year old tree that has been in existence 150 years longer than the nation. The tree has every right to exist for its own purpose, for its own existence, but also the community owes the tree the ability to live its life in a natural way at the very highest level that can be afforded. Retrenchment pruning, possible reinforcement, or even trimming the tree would be acceptable to the public. However, removing the tree would not be the right decision, as many individuals from the Native Plant Society, Thurston Climate Action Team, Pacific Northwest Forest Climate Alliance, and other groups not in attendance would speak out to say the tree deserves to live.

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Beowulf Brower said he is an arborist employed by Washington State Parks and his opinions do not reflect any official position of the Washington State Parks and Recreation Commission. He manages the health and assessment of some of the largest and oldest trees under state ownership. He is familiar with issues affecting some of the state's best trees. In his review of the report by Kevin McFarland, several issues and contradictions were evident. The condition of the tree as assessed by McFarland was listed as poor; however, within the report, Mr. McFarland indicates the tree, with the exception of recent large branch failures, appears to be in very good health. Pursuant to a conversation with Mr. McFarland, the illustration labeled Extent of Decay was derived from sounding the tree with a mallet. In 2024, it is possible to do better. A microexistence drill is a common tool in the consulting arborist toolkit today. The device provides demonstrative evidence of the extent and characteristics attributable to decay. Tree Solutions, which was contracted for tomography work uses such a device as well as several climate arborists on staff who could have easily completed the assessment. To decide the fate of an historic tree by striking the tree with a mallet is disrespectful of its status and should be relegated to a previous age. The tree risk assessment form includes major errors in the risk categorization table. As submitted, the assessment's likelihood of failure is listed as possible and likelihood of impacting target is listed as high. By referencing Matrix 1, this would result in a somewhat likely likelihood of failure and impact. Mr. McFarland wrongly listed it as likely, which might appear to be inconsequential but the mistake is listed in both conditions of concern and is applied to Matrix 2, the final risk rating incorrectly elevated from moderate to high. Furthermore, in the document using the ISA basic tree assessment form, it gives specific examples of a medium likelihood of impacting a target as an example of medium likelihood of impacting people (could be passengers in a car) traveling down an arterial street or frequent occupancy next to the assessed tree with a large dead branch over the street. This is not congruent with the assessment of Target #1 of Condition 1. The target of concern should be motorists using the road and not the road itself because roads are made from asphalt and being struck by a branch would be inconsequential to its condition. As such, a medium likelihood of impacting the target (people) with a possible likelihood of failure would yield an unlikely likelihood of failure and impact. This is reflected in the history of the failure of the tree reflecting no reported injuries caused by a limb failure. Similarly, Target 3 of Condition 1 identified as north and south parking could be easily rectified by closing three parking spaces to the south and perhaps three spaces to the north. Given the prevailing wind direction of south by southwest, it is not likely to affect north parking spaces in a windstorm. It is notable that that no branches from the tree overhang or grow in the direction of either parking area. As such, the risk of impact from a large scaffold branch would be at most medium. He personally would rate it as

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low. In either case, a similar result of a likely likelihood of failure and impact of moderate to low rather than high would occur. To have the tree felled to a litany of errors on a form is a disservice to history and the natural world and it was also expressed by public comment at the Tree Board meeting, and is entirely against the wishes of City residents.

Commissioner Nicandri asked whether the Commission has the ability to engage in dialogue with the public or schedule a subsequent work session with the public. Director Denney advised that if such a meeting aligns within the calendar of the project, the Commission has the option of scheduling a meeting; however, if there are questions raised during public comment that the Commission wishes to address, he advised them to submit information to staff for further review during the Commission's discussion.

Lisa Nezwazky supported saving the 400-year old oak tree. All trees are important for solving the climate crisis.

Theresa spoke in support of saving the tree. She appreciated the comments by Mr. Brower. She agreed a work session would be warranted to clear up some issues for the public and that the decision should not be rendered lightly.

L. Leach reported he has been a resident of Tumwater for several years and has worked in the tree and parks industry over the years and was able to work with many old trees similar to the oak tree that eventually were cut down. He has witnessed clearcutting of older forests near Roseburg, Oregon. He learned about the oak tree several weeks ago and wants the tree saved because it is the last old tree in the City that is 400 years old. He asked the Commission to postpone a decision, conduct a survey, and establish a stakeholder group to save the tree.

Ms. Gates added that accessing the meeting online was very difficult even though she had received several emails from Communications Manager Ann Cook and had contacted Director Denney. She was unable to use any of the links that were provided through the normal channels to access the meeting. It was only after locating a page with the Zoom address that she was able to join the meeting. She agreed with Commissioner Nicandri about the possibility of holding a hearing because of the difficulty for the public to access the meeting through normal channels. Since public access to the meeting was very limited, the Commission should consider conducting another meeting for the public to attend and offer comments.

**ELECTION OF 2024
VICE CHAIR &
CHAIR:**

Chair Shipley advised of his pending move from the City of Tumwater in June.

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Director Denney advised that based on the City's code, two members of the Commission must be historic professionals. Chair Shipley and Commissioner Nicandri serve in those positions. One of the members is not required to reside in Tumwater but can live within the region. However, filling the position does require approval by the Mayor with the City Council approving the Mayor's recommendation. Staff is pursuing the administrative process to enable Chair Shipley to continue serving on the Commission.

Chair Shipley called for nominations for the Chair position during 2024.

Commissioner Rossiter nominated David Shipley to the position of Chair during 2024. Commissioner Nicandri seconded the nomination.

No other nominations were offered.

VOTE: **By a unanimous vote of affirmation, David Shipley was elected to serve as 2024 Chair of the Historic Preservation Commission.**

Chair Shipley invited nominations for Vice Chair.

Commissioner Nicandri nominated Alex Rossiter to serve as Vice Chair during 2024. Commissioner Trosper seconded the nomination.

VOTE: **By a unanimous vote of affirmation, Alex Rossiter was elected to serve as Vice Chair of the Historic Preservation Commission during 2024.**

**DAVIS/MEEKER
OAK TREE:**

Chair Shipley acknowledged and thanked community members for attending and offering public comment. The Commission received numerous letters and he is appreciative of the time, interest, and the efforts by the public to comment on an important historic tree.

Director Denney reported staff forwarded approximately 72 emails to the Commission earlier in the day with some in support of the urban forester's position and many others not in support. The issue has sparked many emotions as well as some misinformation. The status of the oak tree is not affiliated with any project along Capitol Boulevard or Old Highway 99. The City's Transportation Plan includes plans to expand Old Highway 99 through the airport property; however the project would not affect or involve the oak tree. Additionally, the status of the oak tree is not tied to the Port of Olympia, plans at the airport, or any potential expansion of the airport.

Chair Shipley advised the public to read *Tumwater On Tap* for additional information on the status of the Davis/Meeker oak tree.

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Director Denney reported the Davis/Meeker oak tree is estimated to be approximately 400 years old. During discussions with members of the Squaxin Island Tribe, staff learned that native tribes used the tree as a directional point. Early pioneers also used the tree as a directional marker as they traveled along the Oregon Trail ending in Tumwater. State Highway 99 was constructed around the tree and improvements to the highway over the years preserved and protected the tree.

The City of Tumwater listed the oak tree on the Tumwater Historic Register in 1996. Thurston County recognized the tree by placing a marker near the tree in 1999. The City has a long history surrounding the tree and the recent incident was not the first time the City has addressed the health of the tree. Staff has visited the tree multiple times to address falling limbs and the health of the tree. Previous studies were completed on the tree. The tree was previously surrounded by grass and shrubs. During work with an arborist approximately 20 years ago, the arborist recommended removing all vegetation and supplementing the soil to improve the health of the tree. Over the course of many years, staff amended the soil, completed soil aeration treatments, applied fertilizer, and completed deep tree soil aeration by driving spikes into the ground to disturb the soil enabling air to reach the tree's root system. The City has continually monitored and completed many treatments to improve the health of the tree.

In June 2023, a large branch failed and fell. The branch was approximately 18 inches in diameter. At that time, staff contacted Kevin McFarland with Sound Urban Forestry, the City's contracted arborist. Mr. McFarland has worked with the City for many years on many projects. Mr. McFarland completed a level 3 in-depth assessment to determine whether the tree was hazardous. Mr. McFarland contracted with climbing arborists to perform an assessment of higher limbs, as well as another company to complete a sonic tomography to view the internal structure of the tree to ascertain the degree of decay within the tree. Outwardly, the tree appears healthy, but internally, the tree reflects decay in many areas.

The report also addressed the option of retrenchment pruning commonly known as severe pruning. Should the City consider the option, the report recommends pruning the top of the tree by approximately 15 feet, which has the potential of extending the life of the tree for an unknown number of years. The Commission's discussion with Mr. McFarland should address what the potential is of saving a tree that is dying, such as extending the tree's life by several years and the likelihood of any safety implications and liability to the City. Pruning the top of the tree by 15 feet would be a drastic cut and would change the crown of the tree. Some of the limbs are 15 to 18 inches in diameter in the area that would be removed. Cutting such large branches would expose those areas to the

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elements such as disease and rot that could enter into open wounds on the tree caused by pruning. The option has both positives and negatives. The report addresses whether cutting the tree by 15 feet would be sufficient. In the end, trimming the tree to such a degree would result in many heavy branches remaining while not necessarily solving the problem of not having limbs falling because of decay. There is also an issue of trimming more of the tree, but Mr. McFarland has indicated that 15 feet is the stress level the tree could likely endure. Although retrenchment pruning is an alternative, it is not the alternative Mr. McFarland recommended.

Director Denney displayed an aerial view of the top of the tree, which depicts the location of the historic hanger at the airport (listed on the Historic Register) and Old Highway 99. The tree covers almost the entirety of both lanes of travel on Old Highway 99. Cabling and support structures under heavy limbs would not be possible above Old Highway 99. The tree is located in a difficult location for mitigation remedies to save the tree. Because of the tree's location and proximity of the historic hanger and Old Highway 99, staff does not recommend pursuing that type of mitigation method.

The City's risk manager discussed the tree with the City's insurance provider, Washington Cities Insurance Authority (WCIA). Officials with WCIA reviewed Mr. McFarland's report and recommended removing the tree. The tree presents a high risk and a high liability situation for the City of Tumwater.

Director Denney commented that as more people in the City and surrounding areas learn about the situation, staff continues to receive comments from all areas of the region. Public input is important to the City' however, this situation has been difficult for a variety of reasons including the lack of a local newspaper covering the issue with information available either online or by cell phone. It is often difficult to receive information as well as disseminate information to the community. The City employs different communication channels such as Facebook, the City's webpage, notices in the City's utility bills, City of Tumwater newsletter, and through City meetings. The City Council recently discussed the tree during its worksession and received a presentation by Mr. McFarland. The purpose of the presentation to the Commission is to receive a recommendation to forward to the Council. A public hearing is not scheduled for the Commission's meeting but rather the Commission can receive public comments.

Following the Commission's recommendation, the City Council at its April 2, 2024 will review the issue, accept public comment, and based on the Commission's recommendation will render a final decision. The decision is whether to retain or remove the tree from the historic register. Should the decision result in the delisting of the tree, obtaining a City tree

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removal permit would be required to remove the tree. If the tree is not delisted, a permit cannot be issued with the City initiating a retrenchment pruning process.

Commissioner Nicandri reviewed the photograph of the tree and identified the location of the branch overhanging Old Highway 99. He noted that Director Denney's prior comment about the tree overhanging Old Highway 99. The statement is accurate if it only spoke to the right-of-way off Old Highway 99. From the photograph's perspective, it appears that at most, one-third of the tree actually overhangs Old Highway 99.

Director Denney identified the location of the Old Highway 99 fog line, which encompasses overhanging of a part of the tree. The branch that fell last year landed in dirt.

Commissioner Nicandri reviewed several hypotheticals of recommending delisting whereas the City Council could refuse to approve the delisting or approve delisting the tree. Director Denney confirmed the City Council has the final authority.

Chair Shipley pointed out that the Historic Preservation Commission serves as an advisory board and that the final decision is by the City Council. The Commission provides the ability and the opportunity for the public to comment. The final decision; however, will be by the Tumwater City Council. He encouraged staff to increase communications to the public by including messages within the utility billings announcing vacancies on the Commission and the opportunity to volunteer, promoting *Tumwater on Tap*, and advertising ways to access the City Council.

Director Denney reported the staff recommendation based on Mr. McFarland's recommendation supported by several subconsultants is a recommendation to the City Council to delist the Davis/Meecker oak tree from the historic register primarily because of the tree's health and the risk the tree poses to the public.

Director Denney added that staff began collecting acorns and planted some with many sprouting for planting in City parks, other City properties, and at the new Trails End Park. Additionally, wood from the tree would be recovered for use as art or a display at City Hall and/or the new Public Works Operations and Maintenance Facility at the former Trails End site.

Chair Shipley encouraged staff to consider adding a sign to commemorate the tree as a small marker is currently located near the tree and difficult to distinguish. Director Denney advised of discussions by staff regarding future signage to commemorate the historic tree.

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Commissioner Nicandri asked whether the Tree Board offered any recommendations regarding the tree. Director Denney shared that the Tree Board serves no role with respect to decisions surrounding the tree. The Tree Board's primary focus is on City trees. The Board received information from staff regarding the situation with the tree. Several local arborists are members of the Board. The Board is supported by staff from the Water Resources and Sustainability Department. The Board did not offer any recommendation because it was not the Board's function to provide a recommendation on delisting.

Director Nicandri commented that the Board would be in a position to offer testimony or comment on the health and value of the tree without regard to delisting the tree. Director Denney advised that he did not attend the meetings, but after consultation with staff, some members supported delisting the tree while other members did not. Minutes from the meetings will document the Board's discussion on the Davis/Meeker oak tree

Director Denney introduced Kevin McFarland, author of the assessment report on the Davis/Meeker oak tree.

Mr. McFarland reported he has worked with the City since 1967. One of the early tasks was evaluating the health of the oak tree. At that time, the examination revealed the tree was buried at the base by two feet of fill. After further digging around the base of the tree, he discovered the beginnings of shoestring rot penetrating the tree. Working in conjunction with a local landscaper, an air spade removed excess soil from the base of the tree to expose the area of root rot. The void was filled with river rock around the base of the tree to ensure the tree had proper air circulation and light to prevent worsening of the rot. During the ensuing years, he was involved in ongoing health treatment and maintenance of the tree. He stressed the difficulty of rendering the recommendation based on his assessment of the tree, as the decision was difficult for him personally.

The tree experienced two limb failures last year. The first failure hit the roadway barrier and fell onto the highway. He was informed of the incident by an employee working at the airport hanger and by City Staff. The second failure landed on the soil behind the barrier away from the highway, which sparked further evaluation of the tree. Previously, he inspected the tree with Cascade Tree Experts using a bucket for the inspection of the tree. Pruning was completed to reduce the end weight on some of the lateral branches and the stem to help reduce the risk of a branch failure. He has worked on the tree with many others to maintain the health of the oak tree over many years.

Commissioner Nicandri referred to staff's reference that the tree is dying.

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He asked Mr. McFarland his opinion as to whether the tree is dying and when the tree began dying. Mr. McFarland answered by indicating that he does not believe the tree is dying; however, the tree's condition is poor while the tree overall appears to be in good health. The poor condition speaks to the extent of decay within the tree. Although the tree is not dying, it is suffering from a number of issues with its structure and wood decay throughout most of the tree. The tree is able to translocate fluids, conduct photosynthesis, and appears to be in good health, but structurally the tree is in poor condition.

Commissioner Nicandri said although the perimeter of the tree trunk appears to be healthy, the core of the tree is experiencing most of the problems. He asked about the importance of the trunk versus the core of the tree. Mr. McFarland advised that given the tree is a Garry oak, it is possible that the tree with the extent of decay reflected in the results of the tomography to continue to move fluids from its root system to the canopy as well as support itself through the main stem. It is possible to have unhealthy cell tissue inside the interior of the trunk; however, the decay continues up through the co-dominant stem and to the scaffolds toward the left, which is the problem in terms of this specific tree because it poses a high risk due to the extent of decay throughout the area. The second co-dominant stem to the west near the hanger is connected to the trunk and is not well supported. He is concerned about the tree when considering all those factors identified during the tomography and inspections by Tree Solutions.

Commissioner Nicandri commented that it appears that some parts of the tree pose more of a risk than other parts of the tree. Mr. McFarland affirmed the statement. Commissioner Nicandri asked whether the concern speaks to the tree canopy to the east. Mr. McFarland concurred as it speaks to the extent of the infection in that area of the tree and the fact that the second co-dominant stem to the west is attached to a column experiencing decay in the main stem.

Commissioner Nicandri asked Mr. McFarland to respond to the comments surrounding the mallet and the tomography. Mr. McFarland said the mallet is a reliable tool. The climbing arborist used a probe as well as a mallet. The arborist was able to inspect the area with his guidance with reports on what was discovered during the examination. He elected not to use a resistograph because sufficient information was provided by the arborist with Tree Solution during the examination.

Commissioner Nicandri commented that the most common theme resonating in the public comments is the appearance of an internal inconsistency between Tree Solutions and Mr. McFarland as Tree Solutions recommended retrenchment pruning while the report indicates that although the tree is not dying and is generally healthy, there are issues

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associated with its overall condition. Two consulting arborists have both indicated the tree is in reasonable shape, yet the recommendation regarding the tree's disposition is for removal, which many members in the community are having difficulty reconciling. Mr. McFarland and Tree Solutions' analysis is internally inconsistent with a fair reading of the documentation.

Mr. McFarland responded that he serves as the lead arborist and sought additional information from Tree Solutions using tomography. He considered information and input from Tree Solutions and based on the totality of information he rendered a recommendation that because the tree poses a high risk, the tree should be removed. He understands the conflict surrounding the recommendation.

Commissioner Nicandri asked about examples of similar trees in the community. Mr. McFarland said that based on size and age, he is not aware of any other trees other than two oak trees located within the City of Lacey of smaller size.

Mr. McFarland responded to questions about options for retrenchment pruning and explained that any pruning of the tree should entail pruning of the entire crown rather than a partial retrenchment pruning of the crown that focuses on the most problematic aspect of the tree's condition. In term of this particular tree, it would not be beneficial to the tree to focus on one area or a percentage pruning. The reason is that the co-dominant stem with its scaffold branches leaning toward the highway are the areas of the tree with a significant amount of decay. Retrenchment pruning in that area would remove some of the decayed areas, which would also be applied on the west side of the tree to reduce the end weight of the large co-dominant stem because the area is significantly decayed. Any retrenchment pruning, which he does not recommend, would need to be equal throughout the entire canopy.

Commissioner Nicandri spoke to both comments and written communication from Mr. Brower. The comments speak to the advisability of scheduling a work session of the Commission to review the matrices and the assessment form.

Chair Shipley noted that of the communications from the public most of the comments criticized the report and pointed out the conflict between the City's arborist and the report provided by Tree Solutions.

Commissioner Nicandri added that other communication received prior to the meeting pointed out how completion of different assessment questions can affect a determination.

Mr. McFarland explained that the risk assessment form includes risk

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categories describing the tree part most likely to fail, fall distance, part size, and target number, etc. Within the assessment form, Matrix 1 and Matrix 2 are connected to categorizations used for the final risk determination. He offered to meet with the Commission to review the form.

Commissioner Nicandri asked about the appropriateness of inviting Mr. Brower to participate in a work session. Mr. McFarland advised against inviting Mr. Brower.

Director Denney pointed out that there are many different views on the issue and the process should not entail shopping for a doctor until the right diagnosis is obtained. Mr. McFarland has served as the City's arborist for many years and has completed many successful projects. He is the City's authority on the subject. He suggested an option of Mr. McFarland reviewing the comments and following up with the Commission.

Commissioner Rossiter said he would also prefer a review of the assessment form and the matrices. He added that he views the Commission's main concern and goal as preserving sacred elements to the extent possible, especially features that are listed. In his opinion, the Commission should recommend doing whatever is possible to save the tree as long as possible because it is the purview of the City Council to judge and weigh the value and risks of retaining the tree. The Commission's purview focuses on the historic value as all the comments received by the Commission support prioritizing the historic value of the tree over and above concerns of safety and costs.

Chair Shipley noted that many individuals want to retain the tree for a variety of reasons. However, he is unsure how many of those individuals are aware of the disease inside the tree trunk, which is problematic. It is important for everyone to be aware of the extent of the rot from the base of the tree to the branch over the highway.

Commissioner Trosper said he read the 72 emails the Commission received from the public. The passion for Tumwater's history and heritage was impressive. It was important to learn about the public's concerns and input about the City's history, which is why the community is unique and special. Most of the feedback was overwhelmingly opposed to delisting or removing the tree. He tends to agree and would not support delisting the tree at this time. He prefers pursuing retrenchment pruning with the understanding that eventually all trees fall and die. Tumwater's historic and unique heritage is important. As the Commission is focused on historic preservation, the tree is an artifact that the Commission should preserve to the extent possible before it eventually dies. The tree is part of the City's culture and heritage. Native Americans used the area near

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the tree as a trading route. The Hudson Bay Company adapted its trail and used the same trail as a trading route. When the northern extension of the Oregon Trail connected to the Cowlitz Trail, the tree existed as pioneers traveled through the area. He recently read information on the Harper family who arrived in Puget Sound in 1853. The information reflected that their first camp on Puget Sound was close to big oak trees along the Pacific Highway near the Olympia airport. The family stayed at that location as Reverend Harper explored the area and eventually claimed land on the west side of Bush Prairie and built a log house where the family lived for six years. The tree served as a landmark for all settlers traveling on the Cowlitz Trail. All trees fall and fail, the Davis/Meeker oak tree represents the heritage of an historic community that should be preserved and highlighted. He recommended the Council should place a higher priority on historic preservation for the sake of tourism and growth. The future of the past shows a bright future. Native trading route and wagon roads were blazed by the 1845 founder, the famous Bush party that traveled across the trail as well. The Olympia-Tenino railroad also used the route and later, Old Highway 99 traffic passed the landmark tree in Tumwater. The Olympia Airport was developed around the tree and Old Highway 99 was widened with the project diverted around the tree in recognition of its value. There are few remaining landmarks for such an historic city and the tree serves as one of those landmarks. The City could promote tourism, honor its heritage, and teach future generations that the historic cultural value outweighs the legal financial liability. The City needs to take risks to preserve the tree as long as possible.

Chair Shipley conveyed his uncertainty as to an opinion at this time as his intent was to engage in a conversation with an open mind. However, there is no question that the tree is historic, that it is big, and that Native Americans burned the prairies to keep the canvas growing, which he appreciates. However, if the tree was located on his property and he was liable for the tree he is uncertain as to whether he would retain the tree if there was a risk of the tree falling on his neighbor's house. That is the dilemma. According to published information, the life span of a Garry oak can range from 200 to 400 years with some living beyond 500 years. According to the City's expert on trees, the tree is unhealthy and not safe. It might be possible to contract with another arborist to examine the tree or perhaps the City could pursue pruning the tree with the hope that the tree's health would improve over the next several years.

Commissioner Trosper agreed with Commissioner Rossiter's comments and supported bracing and trimming the tree to improve safety for traffic. The long-term goal is to plant acorns from the tree similar to the Bush butternut tree. However, at this time, he advocated for preserving the tree.

Commissioner Sinclair commented that the role of the Commission is to support efforts to preserve the City's history. Despite that goal, all living

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things eventually die. If retrenchment pruning could preserve the tree that she drives by at least twice a day, there would still be uncertainty as to how long the treatment would be effective. Even though there is a liability, if there are ways to preserve the tree for a number of years, it would be possible to hold on to a piece of the City's past, which is important. The tree will not live forever and she supports actions to plant acorns from the tree.

Commissioner Nicandri commented that the least consequential comment was the reference to the tree as unhealthy while also documented in writing and via public testimony indicating the tree is healthy. The tree is not unhealthy, but it is dying to the extent that any living organism is dying. If there is an aspect of the City's communication strategy around the issue, it is that the tree is dead and unhealthy. Those terms penetrate the public parleys whereas the nuance proposition that Mr. McFarland and Mr. Tyler Bunton have offered never penetrate in the way the City or some aspects of the City to include the Chair of the Commission have characterized the issue. The tree is not unhealthy, but has problematic features to its existence.

Chair Shipley noted that his reference to "unhealthy" was based on comments by Mr. McFarland.

Commissioner Nicandri pointed out that Mr. McFarland indicated the tree was healthy.

Chair Shipley said his comments should have spoken to the disease within the tree's system.

Commissioner Nicandri said a high-level view of the issue based on his level of frustration by the circumstance the Commission is required to address is distressing for a Commission represented by one of the best chairs and a panel of interested citizens, a former state legislator, and former head of the State Historical Society. Yet, the only time the Commission is involved is when some transient burns an historic house requiring the Commission to spend half a year discussing the selection of wallpaper or a 400-year old tree that lost a branch. There is never any proactive development except for his personal efforts over the years for the City to place historic signs along Old Highway 99. Thank goodness, someone in 1985 listed the tree or the Commission would not be engaged in this conversation. It is important for the Commission to send a strong message as the tree represents one of the most historic places in the state of Washington. The only reason the Commission is engaged in the conversation is concerns surrounding risk and liability and nothing about the cultural or environmental values. The entire matrix of appraisal was focused on risk and liability and yet to Commissioner Rossiter's point, the City is asking historians to weigh in on a decision that one could argue the

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Commission is not prepared or capable to consider as the core expertise is lacking by members who are capable of evaluating history and culture. The larger context of the issue is truly upsetting and his message to the City Council is that it is time for the Council to invest in the Commission and its role in support of the City. He has spent the last six months lobbying the Parks Director to secure some historic Old Highway 99 signs to place on the highway, which is in the pathway of the historic tree. Relevant to the specific subject of the sustenance, sustainability, and perpetuation of Garry oak trees within the environment, he asked about the status of the park proposed on the old site of the Trails End Arena.

Director Denney advised that the master plan for the park has been completed with construction scheduled in 2025/2026.

Commissioner Nicandri asked whether the plan includes a botanical element.

Director Denney confirmed the plan includes a number of oak trees as part of the planting plan. The site also includes an existing oak tree. Staff has not estimated the age of the oak tree, but the tree is old. Another oak tree is located on the east side of Old Highway 99 approximately 50 yards from the Davis/Meeker oak tree. However, the tree is smaller.

Commissioner Nicandri spoke to the value of the Davis/Meeker oak tree and the foresight of the individual who nominated the tree. He cited Tumwater Municipal Code 2.62.040 D, (9) on historic preservation, which states, "Review and comment to the city council on land use, housing and redevelopment, municipal improvement and other types of planning and programs undertaken by any agency of the city, other neighboring communities, the county, the state or federal governments, as they relate to historic resources of Tumwater." He cited the section as within the Commission's purview to comment (presumably unsolicited). It would be possible for members to attend the City Council meeting on April 2, 2024 or ask staff to forward a copy of the meeting recording to the Council. He said he would render a motion that the City take affirmative steps without any regard to the disposition of the tree and that the City commit to a perpetuation of the Garry oak species in the adjoining neighborhood including the triangular plot of right-of-way across from the Davis/Meeker oak tree in the area of the Bonniewood Drive relocation. The area would be an ideal location for the City to designate within its public right-of-way a public park planted with a grove Garry oak trees in anticipation of when the subject tree meets its evitable end.

MOTION:

Commissioner Nicandri moved, seconded by Commissioner Rossiter, to recommend to the City Council, pursuant to TMC 2.62.040 D. (9), convert the triangular parcel of public right-of-way to a public park

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devoted to a perpetuation of the Garry oak tree species.

Commissioner Trosper spoke to the Council's concerns about finances and liability while pointing out how the Council has expended millions of dollars on the brewhouse tower and rightfully so. He questioned the cost to preserve the tree for several more years. It likely would not cost as much as the brewhouse tower. The City needs to expand its vision because Tumwater is a historic town, not just a brewing town because it was the first permanent American community north of the Columbia River. Racism in Oregon helped start Washington State. The culture of the City is rich as reflected in the 72 emails from the community.

MOTION:

A voice vote approved the motion unanimously.

Director Denney asked Mr. McFarland whether retrenchment pruning of the tree would alleviate the City's risk of the tree falling, reduce the City's liability, or solve the problem of having the tree fall on a person, car, or a building.

Mr. McFarland responded that the report addresses the question; however, in his professional opinion, if retrenchment pruning is applied, he feels the tree would be a high risk.

Director Denney clarified the City's position with respect to liability. If an accident caused by the tree occurs, the City would be negligent as the City is aware the problem existed and that the remedy would not absolve the City of liability should something occur. It also speaks to the advice from the City's insurance authority to remove the tree.

Commissioner Nicandri said he believes the Commission has received conflicting testimony of a procedural matter relative to the evaluative matrix and that it would be of a higher level of prudence not to make a decision until the Commission has the opportunity to work through the evaluation matrix.

Chair Shipley said the request reflects the need for more information on ways to preserve the tree and avoid liability.

Commissioner Nicandri offered that the question is the probability or the lack of probability of the tree falling. In good faith, someone has questioned the logic model of certain determinations with respect to the evaluation matrix. At the very least, the Commission should have a better understanding of either a probable or unlikely tree failure. Additionally, the analysis of the matrix should have occurred during a Council work session. He asked whether the Council reviewed the matrix.

Director Denney said the Council reviewed the assessment with Mr.

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McFarland last week.

Commissioner Nicandri asked whether the Council engaged in an antithetical argument that the Commission received as testimony and in writing. Director Denney advised that the Council did not engage in a similar discussion but deferred to the City's expert.

Commissioner Nicandri responded that no one is arguing that particular point but because the City has hired a consultant it does not limit the City to receiving public testimony that argues a contrary opinion. Since the City Council renders the final decision, he suggested the Council should receive the testimony of the antithetical view and engage in a discussion. The Council always has the option of referring the matter back to the Commission.

The Commission discussed next steps.

Commissioner Rossiter suggested identifying some funding sources to approach for establishing a fund or to help fund the preservation of the oak tree, such as the Port of Olympia or the tribe.

Director Denney advised that funding is not an issue regardless of either scenario as the City has an established tree preservation fund that is funded by new development occurring in the City.

Commissioner Nicandri commented that prior to offering a motion Mr. McFarland has indicated that he was not fully conversant in the antithetical analysis received by the Commission through public testimony.

MOTION:

Commissioner Nicandri moved to schedule a work session of the Commission with Mr. McFarland pending his evaluation of the antithetical argument and walk the Commission through the matrices with respect to the fate of the Davis/Meeker oak tree.

The motion died to the lack of a second.

Director Denney explained some of the background pertaining to the age of the municipal code overseeing the Commission and the need for updating the code to reflect today's practices and programs. He shared some of the history surrounding the department's assumption of the City's historical program. He recommended the Commission and the Council meet jointly to discuss expectations by both the Council and the Commission and to discuss the importance of Tumwater's history moving forward. He offered to coordinate the Commission's meeting with Mr. McFarland.

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Commissioner Rossiter inquired about other opportunities for the public to interact, correspond, or testify during the work session. Director Denney advised that all meetings are public and are open to the public. During work sessions, public comment is typically not included on the agenda.

Commissioner Nicandri inquired as to the process of forwarding the Commission's motion for establishment of the park. Director Denney said he would follow up with the Council on the proposal.

ADJOURNMENT: **Commissioner Trosper moved, seconded by Commissioner Rossiter, to adjourn the meeting at 8:35 p.m. The motion carried unanimously.**

Prepared by Valerie L. Gow, Recording Secretary/President
Puget Sound Meeting Services, psmsoly@earthlink.net