

# TUMWATER CITY COUNCIL WORK SESSION

## MINUTES OF VIRTUAL MEETING

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**CONVENE:** 6:00 p.m.

**PRESENT:** Mayor Debbie Sullivan and Councilmembers Peter Agabi, Michael Althaus, Joan Cathey, Leatta Dahlhoff, Angela Jefferson Eileen Swarthout, and Kelly Von Holtz.

Staff: City Administrator Lisa Parks, City Attorney Karen Kirkpatrick, Community Development Director Michael Matlock, Finance Director Troy Niemeyer, Police Chief Jon Weiks, Fire Chief Brian Hurley, Transportation and Engineering Director Brandon Hicks, Water Resources and Sustainability Director Dan Smith, and Parks and Recreation Director Chuck Denney.

### **NEW MEDIC UNIT PROPOSAL BRIEFING:**

Fire Chief Hurley reported Thurston County Medic One has partnered with the City to provide Advanced Life Support (ALS) services in Tumwater and Thurston County since 1974. Seven paramedic units provide ALS level patient care throughout Thurston County. Medic One proposes adding an eighth medic unit based on increasing response time. Data analysis identified one the preferred locations for the new unit as Station T2 in Tumwater. The Medic One Operations Committee recommended to the Emergency Medical Services Council to enter into negotiations with the City of Tumwater on an agreement to host the proposed new medic unit.

Next steps include working with Medic One on language for a contract amendment. Based on a tentative agreement, the Tumwater Public Health and Safety Committee will receive a briefing on the proposal in July followed by consideration by the Council in July or August 2024. Medic One has indicated a timeline of August/September when the Board of County Commissioners would consider the amendment. If approved, the recruitment and hiring process would be initiated near the end of the year. The proposed unit would be placed in service by January 1, 2026.

Councilmember Althaus inquired about the process of incorporating two FTE positions within the budget. Fire Chief Hurley explained that the funding request would be included in the 2025/2026 biennial budget. Timing is dependent upon negotiations with Medic One in terms of hiring in 2024 for the new unit.

Councilmember Althaus inquired about the ability for Station T2 to accommodate additional staff. Fire Chief Hurley advised that conversations are in progress with facilities staff to discuss options. Medic One has indicated a willingness to share in costs of tenant improvements. The footprint of Station T2 would eventually need expansion to accommodate staff. Additionally, the City possesses blueprint drawings from the mid 90s for addition to the south end of the

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station.

Councilmember Dahlhoff inquired about the process and the City's role with Medic One to consider a new location for a station in terms of future forecasting of need. Fire Chief Hurley said the analysis did not consider new stations but evaluated existing fire stations because of the timeline. Moving forward, analysis could be completed. Discussions are underway about software capabilities through consulting firms to model future stations and outcomes if a new station was added to a specific location. The current analysis pertained only to existing locations.

#### **MUNIFIN 201 – EXPENDITURES:**

Director Niemeyer reported the briefing is the second in a series of four educational sessions.

The City's budget includes 28 different funds for both expenditures and revenue. A new fund will be added based on the Council's approval of the Public Safety Sales Tax Fund. The Tumwater Metropolitan Park District (TMPD) and the Transportation Benefit District (TBD) are two additional funds that are separate legal entities.

General categories of the different funds include General Government Funds designated to support general government functions (police, fire, community development, streets, and parks, etc.). Special Revenue Funds are tax accounts designated for specific purposes, such as the Affordable Housing Sales Tax. Other funds include Debt Service Fund, Capital Facilities Plan (CFP) Fund, ER&R Fund, and Proprietary Funds (Utilities and Golf Course).

Councilmember Cathey referred to the Domestic Violence Fund noting questions by the Council frequently on how the funds are utilized, the balance, and ways funds are accrued. Director Niemeyer described some ways the funds are utilized. The account balance is minimal. Councilmember Cathey inquired as to the Council's role in designating any funds during the budget process every two years. City Attorney Kirkpatrick advised that the revenue for the account is from an assessment by the court during sentencing for domestic violence cases, which explains the minimum balance. The funds are restricted to specific uses, such as treatment and training for domestic violence. The City assisted in sponsoring a domestic violence prevention training class several years ago. Other conversations centered on utilizing the funds for a kiosk to assist individuals who are seeking no contact orders by providing additional information. Use of the funds is restricted with the City not receiving much income for the fund requiring the City to accumulate a balance prior to expenditure of the funds. The Council has the option of adding more funds for domestic violence prevention. However, funds could also be included in the General Fund as the Domestic Violence Fund is specific to statutory fees the City receives.

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Councilmember Cathey recommended adding a discussion on funding for domestic violence.

Director Niemeyer commented that the budget conversation often does not address smaller funds as some of the accounts serve one purpose, such as the Debt Service Fund while other funds include a low balance and activity levels. Utility Funds are funded from the specific utility through user fees and rates. Other funds are guided by strict rules as to the source of funds and expenditure, such as Lodging Tax. Some funds are also internally restricted, such as the Reserve Fund.

The General Fund compared to other funds is complex because of the number of funding sources and activities. The General Fund supports all primary government services.

Councilmember Dahlhoff said a constituent recently asked why the City's General Fund includes police and fire rather than establishing separate funds for those services. Director Niemeyer explained that all municipality budgets include police and fire services within the General Fund. A majority of the General Fund is funded by property and sales tax with no specific requirements for any one function. All functions share the revenue. Additionally, because of the number of functions funded by the General Fund, there are many competing priorities, which can lead to challenges in designating expenditures as needs for all functions require funding. The General Fund also funds all support services (IT, HR, Payroll, and Legal, etc.).

Governmental accounting is basically fund accounting used by all types of governments (local, state, and federal) focusing on maintaining tight control of resources and compartmentalizing the funds to help provide clarity to the public and how the City directs resources to various programs. Different funds for different activities promote transparency, provide information on performance, and demonstrate the City is utilizing taxpayer dollars wisely.

A fund is considered separate accounting entity with its own set of self-balancing accounts targeted for certain activities and objectives. A fund is not a separate legal entity. Funds assist the City in monitoring both inflow and outflow transactions.

Governmental accounting emphasizes budgetary control by the Council. Budgets are legally adopted financial plans. Passage of the budget scheduled later in the fall will convert the budget to a legal document that guides City spending and actions by the City. Budget amendments account for changes, such as receiving an unanticipated grant, an unexpected expenditure, or when funds are required for a specific item or function. Companies and nonprofits are not legally required to establish

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budgets. Government entities are required by law to have a budget.

Director Niemeyer described the process of transfers in and out of different funds. He cited some examples of the process using the TMPD and the TBD as examples. The TMPD is available for the City to transfer funds for expenses related to parks and other expenses eligible to receive the funds. The same principle applies to the TBD. The City completes transportation projects and transfers funds from the Fund to pay for the project(s).

Interfund charges are guided by state law. One fund cannot benefit at the expense of another fund. Transfer of money between funds must be fair, equitable, and an allowable transaction with each fund benefitting equally. An example is with the General Fund during an economic downturn experiencing a shortfall in funds. The City could transact an interfund loan from a utility fund, similar to a bank loan with interest. However, the City cannot arbitrarily transfer funds from the Utility Fund to the General Fund, as ratepayers of the utility must be protected. Another example is allocation of allowable costs from a utility fund, such as funding the process of staff processing utility billings by allocating a prorated share of employee salaries and benefits for the work completed on behalf of the utility.

The Washington State Constitution includes a provision prohibiting the gift of public funds. Government is not allowed to gift public funds or loan credit except for the necessary support of the poor and infirm. The purpose of the provision is to prevent public funds from benefitting private companies or private interests.

Councilmember Dahlhoff asked whether an example of legally using funds was when the City purchased a home for Homes First! or land for Habitat for Humanity homes. Director Niemeyer advised that the purchase of the house was with ARPA funds, which was allowed under the program. City Attorney Kirkpatrick added that the two examples are specifically allowed by statute.

Councilmember Cathey asked about the qualifications of poor or infirm that would enable the City to fund the utility assistance program. City Attorney Kirkpatrick advised that the programs are allowed by the statute as they specifically assist the poor and infirm. Typically, the same principles apply for programs that benefit households with low or median income. The City uses the Department of Housing and Urban Development (HUD) standards as well as other standards accepted for low and very low household incomes for City contracts for different human service contracts.

City Administrator Parks added that ARPA funds the City received were

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specific to help people during the COVID pandemic. One of the programs was the contribution of the house to Homes First! Funds from the City's Human Services Program are a good example of the requirement to ensure the City identifies that the intent of the funds is to serve the poor and the infirm.

Councilmember Althausser cited the MRSC website as a good source for explaining the appropriate use of public funds that meet the intent of the statute.

Director Niemeyer said laws and regulations pertinent to financial actions are based on fairness of the programs to the ratepayers and taxpayers, as well as protecting restricted sources of funds during budget shortfalls.

Director Niemeyer displayed a series of graphics showing the increase in inflation from 2021 to 2024. Although inflation is beginning to decrease, the graphic reflects the cumulative effect on the City's budget over time, especially on capital projects, which have increased in cost three to four times more than originally forecasted.

A graphic on General Fund expenses by category was shared depicting police and fire consuming approximately half of the General Fund followed by parks, streets, and support functions. Most of the General Fund expenses are salaries and benefits for City employees. Other expenses are other charges for services, professional services, interfund transfers, and capital outlays for projects that are partially funded by Utility Funds.

Director Niemeyer invited questions.

Councilmember Cathey conveyed appreciation for the presentation and the explanation of the different funds.

Director Niemeyer said the next work session includes a review of debt financing followed by budgeting. In September, the Council is scheduled to participate in budget workshops.

**ORDINANCE NO.  
O2023-014,  
PROPOSED  
AMENDMENTS TO  
TUMWATER  
MUNICIPAL CODE  
CHAPTER 12.32  
PUBLIC PARKS:**

City Administrator Parks acknowledged the difficulty of the proposal as the City is not alone in addressing unhoused individuals. The City has compassion and empathy for people who are suffering because of personal actions or circumstances beyond their control. The City also understands the concerns of people who are concerned about the safety of their loved ones and protecting them from harm. City staff is appreciative of all those who have provided their thoughts and concerns throughout the process.

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The update covers the status of the proposal. Changes were proposed to Tumwater Municipal Code 12.32. The General Government Committee reviewed the proposed changes on November 8, 2023. The Council was scheduled to review the recommendation from the General Government Committee on November 21, 2023. However, the proposal was removed from the agenda in recognition of significant concerns by the community. The City pursued a public process to communicate the proposal within the community. The City engaged in a Community Conversation at Tumwater High School Commons on February 12, 2024. The original intent of the proposed changes was to expand the park rules governing how people behave in parks and to apply those rules to all City-owned properties to create consistent expectations, assist staff in consistent enforcement, and reduce confusion in the management of behavior for activities on City property.

The proposed changes speak to existing rules that regulate or prohibit certain activities, such as fire, garbage, littering, overnight parking, camping, use of tents, use of alcohol, noise, and loitering during the night. The proposal would extend the 26 rules to all City-owned property. Additionally, violations of the code were changed from a criminal offense to a civil infraction. Another proposed change assists in confirming the City's compliance with applicable federal case law often referred to as the "Boise Decision." The rules are not changed and do not promote establishment of homeless encampments or allow people to camp, litter, smoke, or engage in offense overnight behavior that is currently applicable to City parks. The proposal would apply the rules not only to City parks but also to all City-owned property. None of the changes allow or authorize any type of criminal behavior regardless of the location.

To comply with the Boise Decision, a new provision (12.32.065) was added to the code under the section prohibiting loitering during the nighttime suspending the enforcement of the section in situations where people are experiencing homelessness. Suspension of enforcement is only applicable to one particular rule and is not applicable to the prohibition on camping or fires. The new language does not suspend any of the existing 25 rules. It is important to note that each circumstance creates a different situation requiring discretion and decision-making by law enforcement.

Community concerns regarding the proposal were many. Community concerns pertained to homelessness response and affordable housing, maintenance and operations and the safety of City parks, trails, and properties, impacts on police and fire departments when responding to people experiencing homelessness, and concerns about the City's process for updating the ordinance and whether sufficient public notification had been provided to the community about the proposal.

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In November the City received more than 60 emails, which the City continues to receive. Approximately 120 people attended the Community Conversation with more than 50 feedback forms submitted. Concerns surrounded general themes of concerns of people and children being exposed to safety risks in parks, schools, and neighborhoods, a concern that the City was promoting overnight camping on City property and parks, increased costs for litter and police enforcement, and fears of increased crimes and criminal activity.

Staff is seeking general direction from the Council on potential alternative language. The first alternative is adoption of the proposed amendments as currently presented, which was recommended by the General Government Committee last November. A second and third alternative has been developed in response to public comments and recommendations from the community. The second alternative includes two sub-alternatives for adoption of the proposed amendments with modification of the language that would essentially allow the 26 rules to be applied to all City properties. The Council could delete the proposed amendment that speaks to compliance with federal case law (Boise Decision). The Council could also modify the language based on a staff language proposal to address community concerns. The last option is not adopting any proposed amendments.

City Administrator Parks said the federal case law that created the need and the requirement for the City to address those who are experiencing homelessness was appealed to the U.S. Supreme Court. The Court received oral arguments and is scheduled to render a decision by June 30, 2024. At that time, depending upon the legal framework, the City could be subject to additional or new requirements.

Councilmember Cathey asked about the circumstances that prompted the initial proposal. City Administrator Parks reported the General Government Committee reviewed the original proposal that generated some discussion. In 2018, the Ninth Circuit Court found that the City of Grants Pass, Oregon that had adopted a law that prohibited people from using blankets or cardboard to protect themselves from the elements was unconstitutional because it constituted a violation of those individuals' Eighth Amendment right, which is a ban on cruel and unusual punishment. The ruling created federal case law that most municipalities are currently operating under. Since 2018, the City has been operating under the federal case law. The proposal to add language was an affirmative action stating that the City of Tumwater was attempting to comply with federal case law. Tumwater's code addresses both camping and nighttime loitering. Jurisdictions are not required to allow camping; however, if individuals are sleeping within a City park or other public property, the law prohibiting the use of blankets or other material to

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protect themselves from the elements when there are no other alternatives is considered cruel and unusual punishment and is a violation of their Eighth Amendment right. She noted that sleeping in a park is allowable only if there is no other alternative place for the individual. Officers can contact the individual and offer placement to a shelter if a bed is available. Individuals have the right to reject a particular shelter because of shelter rules. If there is no other alternative, enforcement of that regulation of prohibition against nighttime loitering is not enforceable in that limited circumstance.

Councilmember Althaus said he understands that the Boise decision essentially ruled that a person cannot be arrested and prosecuted as the decision was limited to instances of criminality imposed by local ordinances in the form of misdemeanors or gross misdemeanors. However, some changes contemplated in the ordinance shift the enforcement penalty from a misdemeanor to a civil penalty because misdemeanors are subject to state statute with penalties. A civil fine would enable the City to include specific parameters, which assists in the City gaining some control. If the civil fine is adopted, he questioned whether the action would satisfy the Boise decision as opposed to a criminal penalty.

City Attorney Kirkpatrick explained that the proposal would satisfy the Boise decision; however, the Grants Pass decision was expanded to include civil penalties as well. The Grants Pass case is before the U.S. Supreme Court with an anticipated decision in June. The language in the draft is crafted around the Boise and Grants Pass decisions, but the attempt was to tailor what might be required by law. Currently, the rules only apply to the City parks. Expansion of the rules Citywide to all City property would apply to the no camping and no loitering actions, which is why an exception provision was included in the draft.

Councilmember Althaus questioned the outcome if the Council adopts changes imposing current enforcement mechanisms absent Boise compliant language for all City facilities. However, if the Council elects not to include the Boise provisions, it could result in the expansion of the City's risk and liability because of the additional facilities and the potential of not complying with laws.

City Administrator Parks advised that the U.S. Supreme Court is rendering a decision on the appeal of the Grants Pass decision by the 9<sup>th</sup> Circuit Court. Staff is waiting for the decision as well as seeking direction from the Council on the direction of the parks ordinance.

Councilmember Jefferson inquired as to the person who determines that there is no other alternative for housing the homeless. City Administrator Parks responded that each incident of contact with an

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individual is when the decision occurs. Only one self-managed shelter facility is located in the City of Tumwater; however, she is not aware whether the facility is considered an emergency shelter. Other shelter beds are available. Each incident and circumstance requires discretion and decision-making by police officers. The ordinance is intended to provide the authority.

Councilmember Swarthout cited several different scenarios and asked about potential outcomes based on the proposal. City Administrator Parks advised that the proposal adds language to address any question regarding the City's compliance of the Grants Pass and Boise decisions by adding new language in section 12.32.065. The proposed changes also shift the penalties away from criminal to civil infractions.

Councilmember Dahlhoff suggested the option of deferring a decision until the Supreme Court issues a decision. She asked Chief Weiks to share experiences by police officers. Police Chief Weiks responded by explaining that every situation is different. All actions by the police are based on prioritization. Potential enforcement is on the lower rings within the department's response model. The proposal is mainly about providing the department with authority and the ability to enforce. The department does not want to impose criminal penalties for a homelessness issue. Officers strive to assist individuals to the extent possible by relocating them to housing or moving them to a safer environment. The intent is not to arrest someone for being houseless.

City Administrator Parks cited a sub-option other than the proposal by modifying TMC 12.32.065 to reflect:

*“Enforcement of TMC 12.32.020(F) nighttime exclusion shall be suspended for persons who are indigent and homeless any time there is no space or beds available in reasonably accessible homeless shelters, to the extent such available space is required by law.*

*At all times, regardless of the availability of shelter space or beds, it is unlawful to camp or store personal property, including camp facilities and camp paraphernalia, at any time in the following locations:*

*A. Where such activity poses:*

- i. a substantial danger to any person,*
- ii. an immediate threat or an unreasonable risk of harm to public health or safety, or*
- iii. a disruption to vital government services.*

*B. In or upon any conservation lands, environmentally sensitive or geologically hazardous areas, or any natural areas abutting rivers, streams, creeks and their tributaries.*

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*C. Within one thousand (1,000) feet of a park, a daycare center or childcare facility (as defined in RCW 35.63.170(3-4)), or a public or private school (as defined in RCW 28A.150.010 and RCW 28A.195.010)).”*

The next step is to receive direction from the Council in terms of moving forward with changes or not moving forward at this time.

Councilmember Von Holtz asked about the circumstance of adopting a modification that is contrary to the decision by the Supreme Court decision and the timeline for City compliance with the decision.

City Attorney Kirkpatrick said the question is difficult to answer with unknowns surrounding the decision by the Supreme Court. City Administrator Parks added that a decision on whether to regulate the use of City property is not likely to be affected by the decision. However, changes to the code that change the penalties of a violation from a criminal or misdemeanor to a civil infraction may or may not be impacted by the Supreme Court decision. At some point, the City has the ability to enforce and impose fines for violations of codes and regulations adopted by the City.

City Attorney Kirkpatrick noted that the changes moving the violation from a criminal/misdemeanor to civil infractions as well as the additional due process provision that applies to the exclusion is an attempt to comply with other changes in law and with the direction of the Council for moving away from criminal charges. Those changes would align with the Boise and Grants Pass cases. The sections of the draft would likely not be impacted by the Supreme Court decision in the Grants Pass case. The only provision that could potentially be impacted is TMC 12.32.065 suspension language. The court’s decision should not affect the extension of the 26 rules applying to all City properties.

Councilmember Cathey asked about the proposal with respect to responding to the concerns addressed by community members. City Attorney Kirkpatrick explained that the proposed modified language included in the staff report is an attempt to address the issues raised by the public throughout the process. The language is also from other state statutes and other Washington cities that have withstood challenges.

Councilmember Cathey commented that the public has perceived the proposal as expanding the possibility of camping in parks. City Administrator Parks explained that the overall perception of the proposed changes was the potential of encouraging camping, encampments, RVs parked in parking lots for extended periods, and other challenging situations that cities have been dealing with for many years in terms of managing housing affordability and for those who cannot afford other

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alternatives. There were also suggestions from the community not to adopt the proposal. When the proposal was first introduced, the Supreme Court had not rendered a decision to consider the appeal of the 9<sup>th</sup> Circuit Court decisions. The community views the issue as a major concern largely because of the 2018 decision that caused such an impact on communities.

Councilmember Agabi commented on the pending issue of the Supreme Court decision and recommended delaying any action until the court's decision is released. City Administrator Parks affirmed the suggestion is another option to consider. Staff could also draft a proposal that does not include section 12.32.065 or other changes for review.

Following extensive comments by Councilmember Althaus on the different degrees of homelessness between the jurisdictions, the lack of shelter space in the City of Tumwater, the City's adherence to the Boise decision, and uncertainties as to how adoption at this time might require another amendment and process, he recommended delaying any action until the Supreme Court renders a decision. The remaining members of the Council supported delaying action until the Supreme Court issues a decision.

#### **DAVIS MEEKER GARRY OAK TREE UPDATE:**

City Administrator Parks provided an overview on the status of the Davis-Meeker Garry oak tree located off Old Highway 99 near the Olympia Regional Airport.

The issue was instigated when a large 18" diameter branch fell from the tree onto Old Highway 99 in spring 2023 within the southbound lane and in the area between the highway and the parking lot of the historic hanger. Following the incident, staff requested the City's contracted arborist, Kevin McFarland, complete a risk assessment of the tree. Mr. McFarland began the assessment in June 2023. He was assisted by an aerial arborist to evaluate the tree at the point where the tree failed. Another arborist completed sonic tomography at the base of the tree. Mr. McFarland provided a report on the risk assessment in October 2023.

Staff researched the unique circumstance surrounding the tree as the tree is listed on the Historic Register and is designated as a Heritage Tree. Staff considered the implications of the report from Mr. McFarland and identified next steps and the process.

Initially, the issue was presented to the Historic Preservation Commission as the tree is listed on the historic register and the Commission has oversight over the register to evaluate instances where a property or building could be delisted. The Commission completed its work and review at its April meeting. Administrative review has been ongoing on alternatives, situational awareness, and options and

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obligations on how to manage the status of the tree and the results of the risk assessment.

The three arborists participating in the risk assessment are all ISA certified arborists as well as tree risk assessment certified. Generally the findings identified the tree as healthy from the exterior but there is significant internal decay and because of the extent of the decay, the foundation of the tree is compromised. The risk assessment found that future failures are likely to occur. Because of the likelihood of future failures and the multiple potential targets located within the area of the tree, it was determined that the tree poses a high risk to public safety. The risk assessment was reviewed by many other arborists who provided feedback. It was also reviewed and validated by the City of Olympia urban forester, who is a certified arborist and risk assessment certified and municipal forestry certified. The urban forester indicated the City arborist and the report used sound methodology and the assessment was beyond what is required for a risk assessment.

The City's highest priority is to protect public safety. There is significant risk and a belief that there is high risk of injury and potentially death and/or serious damage if a future failure occurs.

Staff contacted the Washington Cities Insurance Authority as the City's insurance provider. WCIA reviewed the assessment report and recommended removing the tree because of the significant risk the tree poses to public safety.

An administrative decision was rendered to remove the tree following careful consideration of all information received including public comment. Because of the City's duty to protect public safety and the probability of future failure, the removal of the tree is an administrative decision. The City issued a Request for Proposals from qualified contractors from the MRSC small works roster. Staff anticipates the tree will require one crane and possibly two cranes to remove the tree safely and securely. Removal will require a road closure of Old Highway 99. Staff anticipates removal of the tree at night and/or during a weekend to ensure the highest level of safety and the least disruption and impacts to traffic.

In recognition of the tree's historical significance and importance to the community to continue honoring and commemorating the tree, the City is planning a community engagement process to seek input from the community to assist the City identify ways to commemorate the tree and the history it represents. The community engagement will be sponsored through a joint multiple advisory board process with the Tree Board and the Historic Preservation Commission and the Parks and Recreation Commission over several joint meetings over the next several weeks to

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consider ideas and potential strategies developed by staff and through public comment. The City will a survey to the larger community asking respondents to provide input on three potential strategies involving roadside interpretation where the tree exists either through public art or a commemorative sign with parking or a pullout area. Last October, Parks and Recreation staff collected and planted several acorns. Mr. McFarland also gathered and planted some acorns. The survey will query the community as to locations to plant acorns from the tree. Other input is desired on how to utilize reclaimed wood from the tree. The RFP includes a requirement to work with the City to maximize the ability to use reclaimed work from the tree.

Following the survey, another joint meeting of the board and commissions would be convened to review survey results and recommend strategies to pursue over the next several months/years to honor and commemorate the important piece of Tumwater's history.

City Administrator Parks shared that the decision was difficult as the City has a strong history of honoring and commemorating its history and trees through a robust urban forestry program. Concurrently, the City cannot ignore its responsibility to protect the public. The goal is working with the community to find ways to continue honoring the tree and its historical significance in a different and meaningful way.

Mayor Sullivan said the action was difficult. She contacted the Chehalis, Squaxin Island, Nisqually, and the Cowlitz Tribes to learn about any significance the tree may represent to the tribes. She continues to receive information from the tribes. The tribes will be included in the public process. The decision was not considered lightly. She shared that she also lost a beloved trees in her yard when it fell on the roof during a storm in mid-December 2006. Her neighbor almost lost his life when a tree fell on his home during the night. Her concern is public safety and potential injuries caused by the tree or limbs falling along a major highway. She supports the decision knowing it has been a difficult decision.

Councilmember Althauser questioned the funding source for the RFP process and contract. City Administrator Parks advised that the action is an emergent situation that might require a budget amendment for consideration by the Council.

Director Niemeyer advised that it is likely the City would have the funds to cover the cost and if not, a budget amendment would be proposed.

Councilmember Dahlhoff asked about the presentation to the Tree Board because during the meeting of the Historic Preservation Commission Director Denney mentioned that the presentation was included on the

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Tree Board agenda three times. She asked about the timing of community engagement and contact with the tribes during the process. City Administrator Parks reported the Tree Board's March 11, 2024 included a discussion on the tree report. The Tree Board received a copy of the report when it was released. The Tree Board was not scheduled to take any action other than the issue was associated with the Board's work on trees.

Mayor Sullivan advised that she contacted the tribes in the last several weeks.

City Administrator Parks said the incident occurred last spring and the recommendation to remove the tree was not until fall 2023. When the City received the report in October, staff began exploring next steps and options. The community engagement process was through the Historic Preservation Commission. The proposed survey is intended to provide an opportunity for community input.

Councilmember Cathey commented that much of the activity occurred behind the scenes and long before the Council was aware of the issue. Close to nine months, staff worked on the issue. She believes the decision was already determined and that many of the proposed efforts are to cover up. The Historic Preservation Commission voted unanimously not to remove the historic designation of the Davis-Meeker Garry oak tree. Many members of the Commission have been in the community for generations who love the tree. The process disregarded the Commission's unanimous decision. The Council had no input. It is important to understand the City's form of government as the Mayor can make the decision without benefit of the Council's input and feedback. The action was an executive staff decision to remove the tree. She stressed that as a Councilmember for the City of Tumwater in 2024 she did not vote, approve, appreciate, or concur with the decision. The decision is not right and it damages the relationship with the community. Both arborists indicated the tree is not dead and that it was possible to work on the tree and monitor its health. She added that she is disappointed, angry, and extremely sad about the tree's removal as it is one of the most dishonoring actions by the City.

Commissioner Von Holtz acknowledged that leaders often have to render difficult decisions that likely would not please everyone. She understands the decision was not easy as well as the importance of public safety; however, she does not understand the timeline. The branch fell in June 2023 with the risk assessment was completed in October 2023. Yet, the Council was not informed until March 2024, a lapse of nine months. The Council was never advised nor had an opportunity to learn about the suspected issue with the tree or that a branch had fallen from the tree putting the public at risk. That action causes her some pause and she is

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hopeful the issue is a lesson learned in managing expectations and transparency.

Mayor Sullivan acknowledged the concerns and the difficulty of the decision. Staff plans to move forward. The location has not been removed from the historic register. Moving forward, honoring the site will be adjusted.

**MAYOR/CITY  
ADMINISTRATOR'S  
REPORT:**

There were no reports.

**ADJOURNMENT:**

**With there being no further business, Mayor Sullivan adjourned the meeting at 8:24 p.m.**

Prepared by Valerie L. Gow, Recording Secretary/President  
Puget Sound Meeting Services, [psmsoly@earthlink.net](mailto:psmsoly@earthlink.net)