

**TUMWATER CITY COUNCIL SPECIAL MEETING
MINUTES OF VIRTUAL MEETING
November 30, 2021 Page 1**

CONVENE: 6:00 p.m.

PRESENT: Mayor Pete Kmet and Councilmembers Joan Cathey, Leatta Dahlhoff, Eileen Swarthout, Michael Althausen, Angela Jefferson, Debbie Sullivan, and Charlie Schneider.

Staff: City Administrator John Doan, City Attorney Karen Kirkpatrick, Communications Manager Ann Cook, and City Clerk Melody Valiant.

PUBLIC HEARING:

**DEVELOPMENT
AGREEMENT WITH
PORT OF OLYMPIA
FOR NEW MARKET
INDUSTRIAL CAMPUS
(NMIC):**

Mayor Kmet welcomed everyone to the special meeting to receive public testimony on Resolution No. R2021-021, a Development Agreement between the City of Tumwater and Port of Olympia for the New Market Industrial Campus area.

Mayor Kmet reviewed the public hearing format and asked speakers to limit testimony to three minutes.

City Administrator Doan reviewed the process for development of the agreement. The area subject to the agreement is approximately 200 acres of property owned by the Port of Olympia zoned Airport Related Industrial for a range of industrial, aviation, office, and commercial development generally compatible with airport uses. The zoning was established in 1995 and amended in 2016 addressing warehouse distribution uses. Although the land is owned by the Port of Olympia, some underlying deed restrictions are tied to the federal government requiring land to be developed in support of the airport.

The Port of Olympia completed a New Market Industrial Campus Master Plan several years ago; however, the draft plan was never adopted by the Port Commission.

A development agreement is a broad term for an agreement between a jurisdiction (city or county) and a developer. The developer can be public or private. The agreement defines some specific provisions pertaining to future development typically centered on development regulations, timing of development, infrastructure requirements, and funding. Often, development agreements include provisions for sharing costs, such as sharing infrastructure costs or exchange of value for mutual benefit. A development agreement is not a specific development review and may be in advance or accompany a specific development application. Development agreements typically include some description of future development. The agreement is not a lease agreement with the Port of Olympia. The Port of Olympia has entered into a lease agreement with Panattoni that is separate from the development agreement. The development agreement whether adopted or

TUMWATER CITY COUNCIL SPECIAL MEETING
MINUTES OF VIRTUAL MEETING
November 30, 2021 Page 2

not has no impact on the lease agreement between the Port of Olympia and Panattoni.

City Administrator Doan emphasized that the City has a regular development review process. No project proposals have been submitted as part of the proposed development agreement. One building that had been proposed was subject to preliminary conversations on zoning and the development process.

The development agreement process was initiated in June 2020 during the Port of Olympia's conversations on the concept of a lease option agreement with Panattoni. The City and Port engaged in many conversations and briefings surrounding the lease agreement and a proposed development agreement. The Council's last discussion on the proposed agreement was during a recent Council worksession. On November 23, 2021, following the worksession, Mayor Kmet published an alternative development agreement. On November 24, 2021, the Port of Olympia, via an email, withdrew its request to consider the development agreement and suggested the Council not conduct a public hearing because it would no longer be necessary as the Port had withdrawn the request to consider the development agreement. During discussions with the Mayor, the Council agreed to conduct the hearing because it was duly noticed and the public had not had an opportunity to speak to the development agreement.

City Administrator Doan reviewed an extensive list of City regulations applicable to development proposals. During the discussions, the Port developed a conceptual development plan. He identified the location of the future Secretary of State Library and Archives Building (not a part of the agreement), a parcel for the City's community center of 9.7 acres as part of the development agreement, and potential property that could be an addition to the lease agreement with Panattoni (existing DePaul Log Yard). The Port of Olympia notified the tenant of its plan not to renew the lease thereby providing an opportunity for Panattoni to include the property within its lease option agreement with the Port of Olympia.

City Administrator Doan shared a matrix of issues addressed by the City concerning future development. The same matrix was provided to the Port.

City Administrator Doan summarized the changes to the development agreement based on the Mayor's proposal. Vesting was changed to limit vesting only to Title 18 (Zoning) covering land uses, height, parking requirements, and other development regulations in the zoning code. A section was added clarifying that it was not the City's intent to use the non-vested regulations to somehow block development. The agreement was further clarified to identify the location and timing for the closure of Kimmie Street, trail construction was moved to correspond with 50% of the development of the site, the timeframe for the community center lease was

TUMWATER CITY COUNCIL SPECIAL MEETING
MINUTES OF VIRTUAL MEETING
November 30, 2021 Page 3

clarified, and bark waste removal on the DePaul was added prior to redevelopment of the site. All changes are reflected in the Mayor's alternative provided the Council. Additionally, the boundary of the proposal in the Mayor's proposal includes the log yard.

Two outstanding questions pertain to tree canopy. City Administrator Doan shared a photograph from 1990 reflecting the extent of the prior log yard on the property. The City's GIS group prepared tree canopy data and assessed total lease area and how much tree canopy exists. Of the 220 acres, approximately 122 acres include tree canopy with 100 acres containing no tree canopy. Approximately 97 acres include high quality tree canopy and much of the low quality (25 acres) is located in the former log sort yard. Tree retention areas total approximately 11.5% of the total acreage. Future tree retention totals approximately 13.9% resulting in approximately 25% of the entire acreage with tree canopy consistent with the City's Urban Forestry Management Plan goals for 2040 within the Port industrial area.

City Administrator Doan displayed information on the Salmon Creek Basin, located to the south and west of the Port property. Several buildings could be developed within the basin area and subject to stringent development standards. Much of the Port's property is comprised of forested areas proposed for tree retention and an existing school bus lot.

Councilmember Schneider questioned whether Panattoni could pursue development of the properties despite the Port's withdrawal from the development agreement. City Administrator Doan replied that the public hearing is on the development agreement, which links development vesting, the trail, and the community center to any development of the area. The agreement does not change the underlying zoning or the agreement between the Port and Panattoni. Anyone submitting a development proposal would be subject to the City's current codes and regulations.

Councilmember Schneider questioned the purpose of proceeding with a public hearing if the Port has withdrawn its intent. City Administrator Doan advised that conversations with the Port over the last 18 months consisted primarily of conversations between officials about the project with some written communication and some public testimony. The Port and the City have not conducted a public hearing. The hearing is an opportunity for the community to speak to the issue. Despite the outcome of the agreement, the Port property is zoned and development could occur. The hearing provides an opportunity for the public to speak to future development that could help guide future planning efforts.

Councilmember Schneider asked whether the outcome of the public hearing would affect Panattoni's project. City Administrator Doan explained that it would affect Panattoni if the provisions within the development agreement

**TUMWATER CITY COUNCIL SPECIAL MEETING
MINUTES OF VIRTUAL MEETING
November 30, 2021 Page 4**

were implemented, otherwise in terms of current zoning, there would be no change.

Councilmember Cathey questioned the purpose of the Council voting on the agreement when the Port has withdrawn from the agreement.

City Administrator Doan outlined the options available to the Council:

1. Propose substantive changes and direct staff to prepare a new agreement and schedule a public hearing.
2. Adopt the resolution with the Mayor's alternative.
3. Table to a date certain for action.
4. Table with no date for action.
5. Accept the Port's withdrawal and take no action.

Mayor Kmet explained that although the Executive Director notified the City of the Port's withdrawal, he had a conversation with the President of the Port Commission, Joe Downing, who indicated he does not believe the matter has ended. There could still be an agreement between the City and the Port. He supports receiving testimony from the public or learning more about other issues not anticipated by the City. Public comments also help guide staff during review of development proposals.

Councilmember Cathey continued to question the process but supported receiving testimony from the public although the Council's action does not represent good policy since the Port has withdrawn its intent to participate in the agreement.

Councilmember Schneider commented on the conflicts between Port officials, as it is unlikely the Port would reconsider the development agreement if Panattoni can develop the properties regardless of whether an agreement is adopted.

Mayor Kmet replied that although he could not speak Port officials, it would be important for the Council to consider the outcome at the end of the public hearing.

RECESS: **Due to technical broadcasting difficulties, Mayor Kmet recessed the meeting at 6:28 p.m.**

RECONVENE: **Mayor Kmet reconvened the meeting at 6:42 p.m.**

Mayor Kmet opened the public hearing at 6:43 p.m.

PUBLIC TESTIMONY: **Barack Gale, Chair, Climate Reality Project: Thurston County**, reported he provides virtual climate presentations around the country and in Canada.

TUMWATER CITY COUNCIL SPECIAL MEETING
MINUTES OF VIRTUAL MEETING
November 30, 2021 Page 5

He appreciates the Council's efforts to improve the agreement with Panattoni and is confused about the situation in terms of whether Panattoni can proceed on its own or whether the City could change zoning. He appreciates the efforts to improve the agreement to include tree retention areas, limit the size of development to 200,000 square feet, include buffer zones, and include a community center. Cutting forested land for large warehouse development during a climate emergency does not feel right and not when it is important to demonstrate best practices as the region launches the Thurston Climate Mitigation Plan, which speaks to the lack of the Port's commitment to environmental stewardship. He would like the City to do something similar as California by requiring solar installations for all new development. He quoted the chair of the California Energy Commission who spoke to building a future without fossil fuels and how big changes require everyone to play a role to build a better future. He hopes there is a possibility of Tumwater taking action to make the agreement unattractive, as big changes, courage, and boldness are required to leave a livable planet for children.

E. J. Zita said she serves as the Vice President of the Salmon Creek Basin Neighborhood Association located south of the proposed development area. She thanked the Council for scheduling the public hearing and for all the good work Tumwater has completed to provide opportunities for the public to learn and speak about the agreement. She cited Councilmember Schneider's question about whether it makes sense for the Council to vote on the agreement. She believes it does make sense to vote on the agreement. She thanked Mayor Kmet for clarifying and improving the development agreement especially for the termination of Kimmie Street north of Bush Middle School, developing the public trail quicker, and cleaning up the log bark at the DePaul site. Those were all fuzzy areas in the Port's draft and the current draft before the Council is a great improvement. In terms of leadership at the Port, earlier information revealed that the Executive Director wanted to cancel the process of drafting an agreement with Tumwater and asked the Council to cancel the public hearing. However, one Commissioner disagreed. The full Port Commission has never been informed about the matter nor weighed in. The community is grateful Tumwater is providing more information about the possible Panattoni development than what the Port is providing. It makes sense for the Council to vote on the agreement because the Port Commission, not the Executive Director, makes final decisions about the development agreement. The Executive Director is an employee of the Commission and is charged with implementing the Commission's decisions. When Tumwater agrees to an interlocal agreement appropriately vetted during a public hearing as the Council is undertaking now, it is a critical step to help the Port Commission make an informed decision. The Council likely knows the Port Commission formally signed on to the Thurston Climate Mitigation Plan. The City Council can help the Port walk the walk and not just talk the talk. She

TUMWATER CITY COUNCIL SPECIAL MEETING
MINUTES OF VIRTUAL MEETING
November 30, 2021 Page 6

thanked the Council for conducting the public hearing and for sharing the information.

John Ceazan, resident of Thurston County, said he owns property in Tumwater. The agreement does not comport with the Real Estate Development Plan adopted by the Port for the area. The plan was completed in 2018 with input from community members and stakeholders and provides a blueprint for the development of the area in question. It is a guide for infrastructure, economic opportunities, and open space for the NMIC. Those basic principles are nowhere to be found in the proposed Panattoni lease arrangement. The Port holds this area in trust for the citizens of Thurston County. He questioned whether the community wants another logistics-warehousing complex in this area because it is not what the Real Estate Development Plan envisions. The Port rushed into the lease agreement with Panattoni without considering public comment. He is sure the Council will hear many arguments about the dangers to the environment that potential development of this sensitive ecological site might create and dangers to the health of all who live nearby from pollution, risks of flooding in adjacent neighborhoods, and more traffic and congestion impacting the quality of life. He asked the Council to think about the legacy they want to leave and the vision for the future that would make them proud.

Peggy Zimmerman reported she is a long-term resident of Thurston County and a recent resident of Tumwater. She has followed the development of the Panattoni property the Port theoretically owns. It appears the community is in an awkward position in terms of decisions related to the property. It also appears the Port could move forward with development while the City tries to mitigate any impacts from development. She applauded the efforts by the Council and the Mayor to mitigate impacts development would create. She is unclear as to whether current zoning affords the City with any options to change any development proposal to any extent. She is hopeful the City can mitigate impacts when development moves forward to ensure retention of trees and protection of the Salmon Creek Basin. She thanked the Council for its work.

Amy Evans said she did not plan to comment.

Allyn Roe said he serves as the Business Development and Real Estate Director for the Port of Olympia. He is speaking in support of the development agreement as proposed by the Port simply because the Port understands the Council could consider either option. The Port appreciates the level of effort expended by both organizations in an attempt to reach an agreement that would benefit the community of Tumwater and help the Port achieve its mission of economic development. In an effort to be responsive, Port staff removed the agreement on two occasions from the Port Commission's meeting agenda based on the City's requested change in

TUMWATER CITY COUNCIL SPECIAL MEETING
MINUTES OF VIRTUAL MEETING
November 30, 2021 Page 7

terms. The key terms were ultimately approved at the November 8, 2021 Commission meeting. The Port also listened for any material concerns at the Council's worksession on November 9, 2021. The public hearing packet published for the hearing contains two versions of the development agreement - the version transmitted by the Port to the City, which is based on key terms approved by the Port Commission, and the Mayor's version, which makes significant and material changes. The Port needs to provide certainty by establishing vesting language in a development agreement that allows for buildout of such development. The Port's version is consistent with all RCWs and concisely identifies what is subject to vesting privileges. He believes the Port's request is appropriate for the consideration of providing public amenities including the mile-long multiuse trail and nearly 10 acres for a future community center. The Port stands by its commitment to execute the version transmitted because the Mayor's version has significantly altered the key terms approved by the Commission and therefore cannot be approved by the Port. The Port appreciates the willingness of the City to engage on the complex issue associated with this important economic development opportunity but requests the Council's approval of the Port's proposal as presented. Thank you.

Barbara Carey said she lives in Olympia. She recently retired as a hydrogeologist and worked for the Department of Ecology for over 30 years. She urged the Council to take seriously the potential of the proposed Panattoni development to compromise Tumwater's drinking water supply. The water table beneath the proposed site is high especially during winter. The last concept plan for the site shared with the public shows no space dedicated for stormwater infiltration. Impervious surface will cover most of the site generating much stormwater. Underground injection wells are the most likely plan for the site. Stormwater runoff draining from impervious surface will carry all kinds of contaminants including petroleum products and heavy metals that are toxic to humans. Once stormwater is injected into the ground, it flows down gradient toward the City of Tumwater's Bush Well and any other wells along the flow path. Once an aquifer is contaminated, the damage cannot be undone. At best, it can be mitigated or remediated at great expense and over a long period of time. Because there is such a high risk to drinking water from this proposed development, at the minimum, the developer should be required to complete a full hydrogeologic investigation of the site and evaluate the risks to drinking water of the proposed design. If the design is not complete, then a hydrogeologic study of the site would be needed immediately before anything occurs in order to prepare a design that is protective of the groundwater beneath and down gradient of the site. State and local regulations for stormwater treatment are weak and not necessarily protective of drinking water. It is not safe to assume that everything will be taken care of in the regulatory process as the Port has recommended. The Council should seriously consider the risk to the local drinking water supply now and not after an agreement is final. It could be the Council's only

TUMWATER CITY COUNCIL SPECIAL MEETING
MINUTES OF VIRTUAL MEETING
November 30, 2021 Page 8

opportunity to protect the aquifer.

Brad Ridgeway reported he is a resident of Thurston County and a Tumwater property owner. He is also a Tumwater firefighter and a member of Local 2409. He is speaking as the voice of labor. Labor supports responsible economic development in the community and champions any development that is within current zoning as some members have lived through moratoriums where stalls in community development occurred negatively affecting City revenue through taxation. Firefighter union members have experienced issues surrounding budget cuts and limited budgets. Every department in the City is impacted. Anytime it is possible to find additional revenue that is sustainable and fits within the City's growth model, union members support taking advantage of those opportunities. Union members have tracked the project from the beginning. He has testified to the Port Commission on behalf of the union in favor of the lease agreement. The Commission held a public hearing on the lease agreement along with other opportunities to provide comments. Union members support the lease agreement and recognize there are two versions of the development agreement. The union's interest is for the Port and the City to reach consensus on an agreement. Should no action occur following the public hearing based on an inability to reach an agreement, he would be supportive while recognizing the agreement affords the City with a community center. Should the Council support the agreement but continue to request changes similar to a bill in congress between the House and Senate, it could be an option as long as the conversation continues. If the conversation ceases, development would likely occur but not as efficiently, and the City would lose property for the community center.

Connie Campbell, resident of Tumwater, reported she is part of the leadership team of Climate Reality Project: Thurston County. She opposes the Port-Panattoni proposal. As another public entity serving the residents of Thurston County, the Port should work with Tumwater to help the City achieve goals to make Tumwater a thriving community instead of acting like a landlord negotiating on behalf of a private developer. Under the present proposal, Thurston County and Tumwater residents would be stuck shouldering the direct and indirect costs of the Port's development. Warehouses do not provide a good economic return to the community. According to the 2021 Buildable Lands Report, warehouses are the most inefficient land use for producing jobs or taxes per square foot. Warehouses consume land that could be used better over the long term. The loss of green infrastructure is another hidden public cost. The public is expected to pay for prairie mitigation. While prairie mitigation may not be a direct concern for Tumwater under the terms of the development agreement, both the City and the Port strive to keep prairie and mature trees intact or restored to the extent possible, especially with the changing climate. Stormwater and groundwater impacts are genuine concerns. Earlier plans put stormwater

TUMWATER CITY COUNCIL SPECIAL MEETING
MINUTES OF VIRTUAL MEETING
November 30, 2021 Page 9

ponds, a less favored approach to stormwater mitigation, in direct competition with prairie and forest habitat. Neither big trees nor quality soils could be restored once lost. She also supports requiring hydrogeologic assessments to ensure protection of groundwater. Additionally, it is important to consider the impacts of a large warehouse on the community for both safety and for health reasons. Heavy truck traffic does not belong next to a school, a neighborhood, or outdoor recreation. The Council should consider rezoning the property to avoid the development of a giant warehouse. She appreciates efforts by the Council to make Tumwater a thriving, as well as environmentally responsible community.

Charlotte Persons, resident of Thurston County, said she is a member of the Black Hills Audubon Society and is not representing the organization but supports the position of the Society. The Society has forwarded many comments including a six-page report from Jim Matthew, a hydrogeologist, documenting the need to complete significant work prior to development to prevent polluted stormwater from entering the Bush wells and to prevent flooding. She urged the City to consider the recommendation because of the combined danger in that particular area of high groundwater, history of flooding, and the important Port and Bush Wellhead Protection Areas. As mentioned previously, an earlier plan created by Thurston Regional Planning Council at the Port's request was the Real Estate Development Master Plan for the New Market Industrial Campus. The City provided input on the plan. Part of the plan included contracting hydrologic and soil studies. The Port of Olympia did not accept the plan and the interlocal agreement also ignores the plan. At a Tumwater preliminary planning meeting on October 21, 2021 for the first Panattoni building, information was shared that the site was the location of the 2018 stormwater plan that included a stormwater management facility, as well as the plan to contain stormwater onsite. The 2018 plan only identified two areas suitable for onsite stormwater disposal and neither site is within the Panattoni lease option area. She urged the creation of a new comprehensive stormwater plan for the entire NMIC prior to any development and delay voting on the development agreement until the plan is adopted by all parties.

Carla Wulfsberg, 709 North 7th Avenue NW, Tumwater, reported she is a 25-year resident of Tumwater and a former City employee. She expressed concerns about the flawed development agreement submitted by the Port of Olympia. The agreement reflects no assurance that the residents of South Sound and Tumwater would benefit from the 10-year commitment to the Port either financially, environmentally, not with living wage jobs, and clearly not with the property identified for development of a community center. The development agreement is flawed primarily because the Panattoni mega warehouse development contradicts with the Port's own 2018 Real Estate Development Master Plan for the NMIC and Tumwater Town Center. Although Mr. Doan and others have stated that the Port

TUMWATER CITY COUNCIL SPECIAL MEETING
MINUTES OF VIRTUAL MEETING
November 30, 2021 Page 10

never adopted the master plan, the plan is available on the Port's website with no disclaimer. The master plan was developed over a three-year period with substantial public and stakeholder input. The advisory committee for the plan included a representative from the Tumwater Planning Commission, Tumwater School Board, Tumwater School District, and Tumwater neighborhood associations. The Port has completely ignored the master plan in the development of the Panattoni project. The Council should not ignore the plan because it is opportunity to use the plan for future development as the plan includes thoughtful development strategies of the Port's 550 acres in Tumwater, which is the largest developable tract of public property in Thurston County. The plan deserves the Council's careful scrutiny and consideration for any future development in Tumwater. The Port essentially dismissed the hours of work, public input, and public funds used to produce the master plan that is three years old and highly relevant. As a result of the Port's lack of respect for the public process as recorded in the plan, the public must testify over and over voicing concerns about development. She asked the Council to table action with no date for future action.

Debra Jaqua said she is a 25-year resident of Thurston County and lives close to the three largest cities. She agreed with the comments by Ms. Wulfsberg because her concerns are similar. She understands the City would limit warehouses to 200,000 square feet. She asked whether Panattoni would be able to build multiple warehouses as long as they were less than 200,000 square feet. She does not support injection wells because of the extreme risk to Tumwater's drinking water supply. Insufficient information exists for maintaining pristine and safe water. Science is lacking on whether injection wells are the proper way to handle stormwater. She also is not comfortable with what appears to be an obvious conflict of interest by a new Port Commissioner, who served as the real estate agent working with Panattoni on the lease option with the Port of Olympia prior to becoming a Port Commissioner. That relationship does not serve and protect the public's interest in making the best use of the land. The best use does not always equate to generating more revenue because there are values that cannot replace trees and habitat. The proposed type of development should not be adjacent to schools or recreation.

Joel Carson said he was not planning on commenting but the proposal would result in a stormwater disaster and destroy habitat and trees. Warehouses produce mostly minimum wage jobs and truck traffic is horrible. He lives in Lacey and the city made a huge mistake with all the warehouses the city allowed.

Timothy Leadingham, resident of City of Olympia, commented that the clearance of 97 acres would result in an estimated 40 million tons of CO2 emissions. The Port of Olympia and the cities are endorsing the Thurston Climate Mitigation Plan, which calls for increased carbon sequestration. It

TUMWATER CITY COUNCIL SPECIAL MEETING
MINUTES OF VIRTUAL MEETING
November 30, 2021 Page 11

appears the opposite direction is being pursued. It is only one of many environmental impacts that are being glossed over. He urged the Council to vote on another resolution calling for a full Environmental Impact Statement, which gives the City and all citizens of Thurston County a chance to be fully informed and afford an opportunity to provide input for the decision.

Patrick Hanratty said he is the President of the Salmon Creek Basin Neighborhood Association and a 40-year resident of Thurston County living southeast of Bush Middle School. The association represents over 225 family residences located to the south and southeast of Bush Middle School. Members of the association appreciate the opportunity to voice their opposition to the proposed development. Concerns cover five general areas. The first is traffic and accessibility as Kimmie and Center Streets are the main access arterials for the neighborhood. Members are concerned about future impacts to traffic, especially with the increased number of large trucks and semi trucks that would accompany any industrial-related activity. If Kimmie is closed to the north of 83rd Avenue as proposed, more traffic would be concentrated on Center Street, which is the only northbound access to Tumwater. It would significantly increase traffic volume and congestion. It appears only logical that using the 83rd Avenue and Kimmie Street route to access the truck stops and on and off ramps to I-5 from 93rd would be an attractive option. It would be a significant traffic impact on neighboring residences including congestion and safety issues for student drop-off and pick-off at Bush Middle School both morning and afternoon. Center Street would need significant upgrades as it is already congested and having only two lanes with semi trucks on both sides of the street day and night. It would also affect the active use of the nearby athletic and golf center with children present. The second concern is environmental with stormwater runoff and increased flooding potential. Approximately 15 years ago, the neighborhood association sent a letter to the Tumwater City Council referencing the 197 acres of trees along Kimmie Street and opposition to the removal because of flooding concerns. When Kimmie Street was replaced 10 years ago, it was a wet mess, a debacle that was costly to complete with portions redone because of high groundwater issues during construction. Streets were blocked off and people were required to use boats to access their homes with septic systems failing. Subsequently, the City of Tumwater passed an ordinance restricting big warehouses and limiting their size due to concerns with traffic, dangers to public safety, and flooding issues. Land clearing and removal of mature trees and vegetation coupled with massive increases of impervious surfaces will only exacerbate the problem with the loss of natural groundwater absorption. This area is one of the last vestiges of urban forest in the county providing wildlife habitat, as well as ongoing recreational opportunities for neighboring and visiting public. This project would remove much of the existing mature timber and replace it with fringes of small buffer trees within the development. It is much more cost effective to preserve and protect natural habitat than to mitigate and recreate. One of the

TUMWATER CITY COUNCIL SPECIAL MEETING
MINUTES OF VIRTUAL MEETING
November 30, 2021 Page 12

Port's stated goal is environmental stewardship. Members support sensible small business development that preserves natural buffers and minimizes impacts to existing adjacent residential neighborhoods. Residents are rightly concerned over those future developments and value the beauty, serenity, and sense of community within the neighborhood. Members are not opposed to sensible development but do not see how the proposed development is a good fit given the existing school and growing residential neighborhood. Members ask the City Council to consider all the negative impacts of the proposed development and boldly look at more viable and environmentally sound options that better suit the use of Port properties and align with the City of Tumwater's vision for sustainable growth.

Jim Lazar, resident of Olympia, reported the site is within a wetland protection area. Distribution warehouses inevitably handle hazardous waste in the form of returned merchandise that contains hazardous material. Handling hazardous waste in the wellhead protection zone is prohibited by the City's Wellhead Protection Ordinance. The expected property developer will be a limited liability corporation (LLC), a single asset corporation created for the specific purpose of insulating the parent corporation from liability or anything that may go wrong. It is the method Donald Trump used for many small corporations all owned by a central corporation. He did that to insulate himself from risk of his several bankrupt hotel projects. Within this type of structure there is no one to hold accountable in case of a major diesel spill or other pollution event. The Council might need to amend its development regulations to require sufficient financial assurance for environmental harm that could occur. On the issue of trees, others have spoken of this and Mr. Doan has said the City's policies are to protect major tree groves. Ninety-seven acres of the property are high quality forestry and the vast majority of that area would be lost. Please do not rush to judgment, give staff the response to questions and issues that were raised by the public. The Council should consider potential amendments to development regulations to ensure harm does not occur. During that process, the Council could determine when to schedule a vote and the best way to move ahead to protect the public, the City, and the planet. He urged the Council to table the proposal with no date for action and direct staff to require a full EIS on any development in that area. He commented on the City's use of zoom and suggested the Council should open the chat feature so that people can share comments, view the list of participants, and promote people as panelist when speaking so everyone can share a screen.

Joseph Rogoski said he did not intend to speak but rather to listen; however, based on testimony, he believes hydrology is very important.

Judy Bardin said she is a retired epidemiologist and used to work in the field of air pollution and health and also environmental exposures and cancer. She lives in Olympia but has other property bordering Tumwater.

TUMWATER CITY COUNCIL SPECIAL MEETING
MINUTES OF VIRTUAL MEETING
November 30, 2021 Page 13

She is opposed to the development agreement for many reasons. Her comments will focus on the health impacts from air pollution. Commercial warehouses are known to have heavy truck traffic to support warehouse operations. At present, no estimates have been provided as to the number of trucks traveling on roads around those warehouses. That number should be available as the truck traffic will be near a school, offices, and residential areas. Truck engines release diesel exhaust. Diesel exhaust is a known human carcinogen causing lung and bladder cancer. Fine particulate matter in diesel exhaust is linked to heart and lung diseases including asthma, especially in children. Children, the elderly, pregnant women, and those with compromised immune systems or with heart and lung diseases are especially vulnerable. Diesel exhaust comes from the combustion of diesel fuels by trucks, ships, and heavy equipment. It is a combination of fine particulate matter as well as more than 40 substances listed as environmental pollutants by the Environmental Protection Agency (EPA). The Department of Ecology has rated diesel exhaust as its highest priority in terms of air toxics because of its potential cancer risk. In Washington, 70% of the cancer risk from airborne pollutants is from diesel exhaust. Truck engines also release nitrogen oxide which in hot weather with other pollutants forms harmful smog also known as ground-level ozone. Ozone is harmful to the lungs. It has been suggested that the school near this development is close to I-5 and this highway has a large amount of truck traffic already; however, exposure to air pollution is cumulative. Carcinogens such as diesel exhaust have a dose response relationship. That means the higher the amount of exposure to diesel exhaust the higher the cancer risk. Therefore, additional exposure to this air pollutant should not be dismissed. People do not have a choice in the air they breathe and breathing polluted air shortens life expectancy and increases emergency department visits and hospitalizations. She asked the Council to think carefully before exposing the community to that additional source of air pollution and its health impacts.

Karen Messmer said she lives in Olympia and pays Port taxes. She urged the Council not to take action as new questions have been brought up by the public and the Council should seek answers to those questions before taking any action. A development agreement has been approved by Mayor Kmet but it does not reduce her concern for the overall approach and the results that have evolved through the process. The agreement requires a dedication of property for a trail and property for a publicly funded community center, not a community center. Yes, those are contributions to the public good but they do not outweigh the harm that might be done by contamination of City well water or traffic impacts. This appears to constitute a purchase of a right to have a relaxed or modified regulation by some level of contribution. In addition, that contribution is by the way, pitifully small compared to the value of an agreement for future development. She questioned whether a smaller business development could leverage relaxation of rules or a hold on to the timing of when the rules would apply if the owner donated one very

TUMWATER CITY COUNCIL SPECIAL MEETING
MINUTES OF VIRTUAL MEETING
November 30, 2021 Page 14

small corner of its property and installed a tree and a bench. Of course that might seem absurd, but first and foremost, they would be offered the opportunity. Second, they would not have the staff and the legal advice to prepare an agreement that would confirm those trades. They would simply be required to go by the current rules at the time of the application and construction process. Those rules are in place to protect the public and create a quality community overall and should be fairly applied. Taking this agreement approach to a wider application could result in harmful and unpredictable projects occurring throughout the community with some small increments of public good sprinkled throughout the community to help the community feel better. No sidewalk here? That is okay, you have a trail over there. Traffic congestion problem? That is okay, you have space for a potential publicly funded community center over there. Oh, and the water has a bit of contamination that was not prevented. No concern here, you have a bench and a tree to replace that. Government is here to help us keep ourselves safe and to provide public good. We should be able to get all those things without giving up so much to this proponent of this development.

Kyle Lucas said she is a Tumwater resident and has been a homeowner for 25 years and serves as the Chair of Urban Indians Northwest. She is speaking in opposition to the proposed agreement. Her concern is that the development seems inconsistent with Tumwater's long-term planning for sustainability. The planned tree removal, for example, during a climate crisis with extreme weather events and widespread flooding makes no sense. Her worry is that the plan with no specific project is too ambiguous and vague, which is deeply concerning. She asked what kind of neighbor Panattoni would be in the end. No one has any idea. She is concerned about noise and night sky pollution relative to Tumwater's quality of life for humans and nature. She asked whether there would be nighttime equipment backing up and beeping and how would diesel truck emissions impact air quality. While she appreciates the need for revenue, it makes more sense to secure sustainable development that offers fewer negatives than the proposed project. It is especially concerning to her that the plan is so vague that it lacks information as to how it might evolve over time. Her most significant concern is water use and impacts from such an immense warehouse development. She appreciated Director Smith's presentation on stormwater and the good work that Tumwater is doing to protect drinking water. However, big water users generate revenue and to her that is inconsistent with Tumwater's long-term planning as it was when she served on the Council. She does not regard water as a revenue resource. She believes it is important to consider water as a finite resource and consider the needs in perpetuity for humans and nature. Moreover, it is important to be mindful of water quality and diminution over time. Let us not forget the dry cleaner's long-term negative impacts to Tumwater's water. After all, Director Smith did note that one of Tumwater's largest producing wells is located just south of the site. She is also deeply concerned about flooding in the project area

TUMWATER CITY COUNCIL SPECIAL MEETING
MINUTES OF VIRTUAL MEETING
November 30, 2021 Page 15

together with the threat of West Coast flooding the country is experiencing because of climate change. She urged the Council as stewards to vote no on the proposal and for precious mother Earth and for those yet unborn.

Lee Doyle thanked the Council for the delightful conversation. Her greatest concern is for the future of Tumwater. She does not feel that a community center development, if that is part of the Port promise to the City, would be good compensation for the greater use of the land for the larger community of Tumwater.

Janet Witt said she is particularly concerned about the cumulative impacts on air quality and public health caused by all the industrial development occurring and planning to occur in Tumwater. She is a retired registered nurse and has worked in hospitals including Children's Orthopedic in Seattle and at the King County Juvenile Court where among many other things she administered treatment to people including children and youth with asthma. The experience left her with a keen awareness of the toll asthma takes on those who suffer from it. Unfortunately, the number of people who have asthma has grown to epidemic proportions particularly to those under the age of 18. A major trigger is air pollution. Regarding Panattoni, the interlocal agreement would allow projects at the site to be developed separately and for environmental impacts to be assessed separately. Such a piecemeal approach to environmental review is inadequate and poses a risk to public health. Bush Middle School is located just east of I-5 and is exposed to vehicle emissions and a million square-foot distribution center to the north currently under construction that will contribute more diesel traffic emissions. The school is located west of a growing airport accommodating aircraft that emit ultrafine particles and lead. The Panattoni lease site will bring unknown things such as air pollution emitting structures and vehicles, including diesel trucks. She asked the Council to consider cumulative impacts that development will have on air quality and public health. The City should require any local agreement to include a requirement that cumulative terminal environmental impacts of all Panattoni development be assessed. In the absence of specific plans for the entire Panattoni site, the Council should require an assessment based on worst-case scenario development along with consideration of the impacts of other development occurring in the area. She asked the Council not to allow piecemeal environmental assessments and thanked the Council for their attention and for the opportunity to speak.

Lynn FitzHugh said the Port essentially has tried to stop the public hearing. Her comments pertain to the plan they had announced, but any plan containing those elements would be unacceptable. Tumwater stands to be the most negatively impacted by this crazy Panattoni plan. She asked the Council to use the power of the City to push back to demand completed environmental reviews and a real accounting for impacts on Tumwater water. The Council should be accountable to the Thurston Climate

**TUMWATER CITY COUNCIL SPECIAL MEETING
MINUTES OF VIRTUAL MEETING
November 30, 2021 Page 16**

Mitigation Plan of which the City is a signer. That plan calls for the planting of more trees but to what point if the City allows 222 acres of trees to be cut down in one swoop. The plan also calls for protection of trees. Those trees sequester 443,000 tons of greenhouse gas emissions per year and currently hold 11,136 tons of stored carbon. The mitigation plan calls for reducing transportation emissions and yet this warehouse will bring in lots of heavily polluting diesel trucks on a daily basis right by an elementary school. Assumptions are made in the plan about how gopher mitigation will be achieved that have not been approved by the US Fish and Wildlife Service. She asked why the Council would proceed, if in the end, it could not meet the Endangered Species Act requirements. Commissioner Zita has tried to raise serious questions about how this plan will work only to be rudely ignored and cut off by her fellow Commissioners. The most urgent issues she has raised is that of the high groundwater hazard area, which may be made worse by cutting trees and adding a lot of hard surface parking lots. Danger to the water aquifer as previously mentioned is also possible. The record will show which member will vote in favor of the agreement. If the Council votes to polluting Tumwater's drinking water, voters will remember the Council for that action. Commissioner Zita has also pointed out that the financial analysis was completed by Panattoni, the developer and Thurston Economic Development Council (EDC) and not by independent parties and that the jobs and tax estimates far exceed other estimates and include no benefits from the trees that would be removed. She asked whether the Council wants more accurate information upon which the Council could make a permanent decision. The Port is offering the City a site for a community center that is not the location the Council wants and would not entail a permanent lease. She asked why the Council would accept the offer. She cited a *Washington Post* article (published) on October 11, 2021 about the unpopularity of warehouse jobs and how poorly they pay and the tendency to bring down local wages. She asked whether that situation is what the Council wants for the community. She is appreciative of the Mayor's attempt to fix the plan; however, it is beyond fixing. She asked why the Council would not use local laws to stop the development. She noted that Lisa Ceazan is present but is experiencing connection difficulties. If the chat box function had been available then the public would be able to communicate their connection issues with the meeting administrator.

RECESS:

Mayor Kmet recessed the meeting at 7:47 p.m. for a break.

RECONVENE

Mayor Kmet reconvened the meeting at 7:52 p.m.

**PUBLIC TESTIMONY
(CONTINUED):**

Wane Olsen thanked the Council for conducting the public hearing. He is a resident of the City of Lacey and is opposed to the plan to have a large warehouse built in the New Market Industrial Campus and recommended the Tumwater Council not sign the development agreement as written. The Council has heard his reasons before. Cutting down a large portion of the

TUMWATER CITY COUNCIL SPECIAL MEETING
MINUTES OF VIRTUAL MEETING
November 30, 2021 Page 17

existing 120+-acre forest and replacing it with a warehouse complex in concrete will result in a net increase of thousands of tons of CO2 annually into the atmosphere. That is going in the wrong direction since the Thurston Climate Mitigation Plan that the Council recently signed requires approximately 37,000 acres of newly planted forest area to sequester CO2 out of the atmosphere by 2050 to meet the agreed goal. He recommended a bit of a compromise by requiring a solar PV on the roof of a 200,000 square foot warehouse, which would be a win-win for everyone. After the capital investment, the owner receives free electricity for 30 to 40 years saving hundreds of thousands of dollars in electricity bills annually. The warehouse could be completely electrified making a healthier environment for workers and Puget Sound Energy HO2 emissions from fossils fuel generation would be reduced compensating for the loss of trees. Panattoni is probably well familiar with these arguments since the California Energy Board on August 11, 2021 voted to require builders to include solar power and battery storage on many new commercial structures in California. That energy plan is expected to be included in California's building code revision in December and will go into effect January 1, 2023. It is just a matter of time before Washington State does the same thing. Unless he viewed the wrong version, he recommended that paragraph 7.2 titled Sustainable Development be modified. The section has good buzz words but no teeth. For example, the first sentence reads, "The property owner agrees to consider incorporating sustainable development principles into the design construction of buildings and improvements on property to the extent feasible..." He recommended the provision should read, "The property owner shall incorporate sustainable development principles..." and delete "to the extent feasible." Another sentence in the same paragraph appears to be a "sweetheart deal" that locks in current codes and regulations instead of those which would be in force at the time of the building permit application up to 10 years from today. That provision should be deleted or at least amended. in summary, paragraph 7.6 appears to be the City giving away the "farm" He suggested the Council should not make the same mistake Lacey did with the Hawks Prairie Industrial Park with huge warehouses with white roofs for cooling but no solar panels. Our grandchildren's future should be first before short-term cost-cutting for a for-profit company. Plan change is not a hoax. He appreciates the Council's efforts to conduct a public hearing.

Phyllis Farrell thanked the Council for the opportunity to speak in opposition to the proposed New Market Industrial Campus agreement with the Port of Olympia. She lives in unincorporated Thurston County and is commenting because the proposal would have regional affects and implications. She thanked Mr. Doan for the presentation, which provided good information; however, there are many issues with this proposal, chiefly that it conflicts with the extensive planning done between 2012 and 2018 in the Real Estate Development Master Plan for the New Market Industrial Campus, which is published on the Port of Olympia's website. There are

TUMWATER CITY COUNCIL SPECIAL MEETING
MINUTES OF VIRTUAL MEETING
November 30, 2021 Page 18

also many environmental concerns including cutting of trees factored into the Thurston Climate Mitigation Plan for their sequestration and stormwater management properties. The fiscal liabilities are great for the yet-to-be approved Habitat Conservation Plan protecting pocket gopher habitat, stormwater runoff and pollution, potentially impacting local flooding and threats to local aquifers, truck traffic congestion, safety, and emissions near public schools. Additionally, she has concerns with the vesting period during a time when local jurisdictions are trying to address growth and climate issues in planning and permitting. She urged the Council not to accept the resolution unless the issues have been addressed and protective language is supported by the Council with adequate time to consider public comments and recommendations offered during this public hearing. She urged the Council to use the alternative proposed substantive changes and direct staff to prepare a new alternative and schedule a public hearing. She thanked the Council for their service.

Sue Danver commented that there have many eloquent speakers and cited several by name. She thanked the Council for listening to the comments and asked that the Council should individually share their respective feedback on the issues of importance to them. She recently learned that the City of San Jose saved 7,000 acres from warehouse uses for farming, open space, and protection of water. She is hopeful the Council can elect to take a position that resembles that same action. She can foresee several warehouses on the property if constructed environmentally well. She is not opposed to warehouses, but they must be constructed environmentally. She cited some specifics, such as the importance of cumulative impact studies critical for the protection of water and how it would be wise to study it comprehensively. When piecemealing, tenants will attempt to cut corners and complete studies that do not document the best techniques. Piecemealing infiltration methods might jeopardize development elsewhere. That is one concern surrounding piecemealing and conducting water studies in that method. The consequences of piecemealing will more likely result in an environmental water problem as development progresses thereby truncating economic opportunity to develop the entire property as conceived or desired by the Port. She cited issues surrounding the Bush wells and previous incidents of flooding. A recharge area includes water infiltrated and filtered and discharged to the lower aquifer. When withdrawing water quickly, contamination existing at the surface travels up to the wells, which speaks to the importance of protecting the wells and recharge areas. New stormwater techniques are in their infancy. The application of new technology should be adaptable and easy to maintain that can be changed when new hydrology methods are introduced. With respect to the north-south divide, transference of contaminants occurs in one direction while flooding affects the entire area.

Josh Stewart said he is a resident of Tumwater and an employee of the City

TUMWATER CITY COUNCIL SPECIAL MEETING
MINUTES OF VIRTUAL MEETING
November 30, 2021 Page 19

for the last 14 years. He commented on the importance of children and schools, which is why he supports development of the property. Sustainable revenue is important because a majority of schools in the Tumwater School District are title schools and lack funding. He has two children attending schools in the Tumwater School District and classes are crowded. He receives weekly requests from teachers for school supplies that the district does not provide. Property tax for the development would contribute \$1.5 million to the school district supporting teachers, schools, and children. That issue is not being considered. He has experienced revenue issues as a City employee with budget deficits. The projected sales tax from the development would contribute revenue to the City to fill positions that have been unfilled and it would enable the City to provide services that are desperately needed in the community.

Walt Jorgensen commented that he lives on the Tumwater side of North Street and hopes his testimony can cover all the points that are wrong for Tumwater in the proposal. His first point is people. He brought the issue to the attention of City Administrator Doan after an earlier worksession by indicating that procedurally, he was disappointed in the complete invisibility of the people attending the meeting. There was a sizable audience and the City Administrator commented at one point that about the 38 people were in attendance in addition to the 22 panelists. None of the 38 participants were aware of the total number of participants. Attendees were aware they could not comment but they believed they would be identified on the screen to acknowledge their presence. Perhaps the Council could see them, but just as importantly, they could not see each other. There was no mutual visual confirmation of community participation that was mitigated during that meeting. This is important because in the recent past, everyone has been physically able to attend and interact in meetings. Now, under the restrictions of COVID, zoom and other platforms can virtually simulate that gathering and everyone would appreciate the Council accommodating the public in subsequent meetings by opting for maximum display of a meeting's attendees. He is aware of the technical considerations and trade-offs when live video of persons is displayed as attendees would be expected to conduct themselves according to City rules, self-mute, and other forms of acceptable behavior. He asked the Council to prioritize the public's need to see evidence of a group presence. It might be possible later to display the participant list. He thanked Mr. Lazar for bringing the point up earlier. His second comment pertains to trees. Others have reminded everyone of all the reasons why logging trees on the acreage is a bad idea. He drafted the first tree management policies for Tumwater when he was on the Council in the 1990s. Personally, he objects to the indiscriminate logging of trees considered more valuable in their natural state performing carbon sequestration and climate moderating duties than providing the raw material for more development, especially the kind that is proposed. This may be a bit harsh, but the bottom line is not partnering with the Port of Olympia on

TUMWATER CITY COUNCIL SPECIAL MEETING
MINUTES OF VIRTUAL MEETING
November 30, 2021 Page 20

this scheme or anything else. The only thing that matters to them is making a profit, which objectively, it is uniquely inept at doing. This is a really bad idea that Tumwater should play no part in.

Deborah Pattin reported she is a resident of unincorporated Thurston County and a member of the Port of Olympia Citizens Advisory Committee. The Port's mission statement is to create economic opportunities by connecting Thurston County to the world by air, land, and sea, which is why she is speaking in favor of the Panattoni development in the NMIC. As the geographic names implies, the area is zoned for light industrial and warehousing. She acknowledged the number of previous speakers who have spoken against the development. She asked the Council to consider some facts. Approximately 80% of the emails the Port received last year when the development was first mentioned came from residents living outside of Tumwater to include herself as she lives in the county. It appears based on the recent Port Commission election that the citizens in Tumwater are in favor of the agreement as indicated by Amy Evans, a new Port Commissioner-elect winning her election in Tumwater by 56%. Citizens of Tumwater appear to be overall in favor of the development. As mentioned, Port and Tumwater staff have worked for 18 months formulating a fair interlocal agreement with the City receiving a walking trail and 10 acres for a community center. No truck traffic would be traveling south near the middle school with the addition of hundreds of new jobs including construction. She would support warehouse workers organizing as members of the International Longshore and Warehouse Union Local 47, which would pay the workers a substantial wage with benefits and pensions. The development would generate an increase in property tax collection for the City of Tumwater and Tumwater School District. She is a public school teacher, a mother, and a grandmother and appreciates Mr. Stewart's comments with respect to school tax contributions. She cares about any impact on schools, which is why she appreciates all the plans that have been presented to the Council and the Commission reflecting how traffic would be diverted from Bush Middle School, which would be protected. She urged the Council to support the interlocal agreement that was formulated between the Port and the City of Tumwater.

Lisa Ceazan thanked the City Council as it is doing the best it can to obtain the best deal for Tumwater by working with such a faithless and untrustworthy partner as the Port. The Port is notorious for ignoring public input and for secretively withholding information from the public. *The Olympian* newspaper described that pretty well in its editorial on Sunday. The fact that the Port urged the Council not to conduct the public hearing is another example of how anti-democratic the Port operates. Soon, the Port Commission will welcome a member who has a clear conflict of interest because she negotiated Panattoni's deal with the Port, which was highlighted by *The Olympian* in its endorsement process (for candidates). She agreed

TUMWATER CITY COUNCIL SPECIAL MEETING
MINUTES OF VIRTUAL MEETING
November 30, 2021 Page 21

with all concerns conveyed throughout the hearing about impacts on stormwater, drinking water, traffic, air pollution, and trees. The proposed tree protections are insufficient preserving only 25% tree canopy. That is not sufficient because half of the tree canopy would be new trees. New trees do not provide much carbon sequestration until the trees mature over a course of decades nor do they provide much stormwater infiltration or air pollution filtration. The photos displayed earlier are misleading as she has walked through the woods and the forest is quite dense. The aerial photograph of 30 years ago reflecting log yards on the property do not reflect the existing tree canopy today. Tumwater signed on to the Thurston Climate Mitigation Plan, which includes tree protection. The plan declared a climate emergency. One agreement from the international climate meeting was the need to prevent deforestation in order to stave off heating of the planet. She questioned how Tumwater will do its part based on its commitments to the Thurston Climate Mitigation Plan, as well as to the Real Estate Development Plan, which would be nullified. It is another example of ignoring public will. She does see sufficient vision and wise governments that will ensure the long-term health of Tumwater's natural environment as well as the health of its citizens. The lure of tax revenue and jobs has been presented as reason enough to approve the agreement. Although she understands those reasons, there should be better deal and better tenant. The gore of tax revenue and jobs have not really been substantiated or ascertained. The sketches of the proposed development are vague and are no substitute for a site-wide plan. Again, the public is not receiving enough information. An environmental analysis is needed according to SEPA rules, a completed Habitat Conservation Plan, and a plan for the increased traffic and the need for more housing that might be necessary if the so-called jobs do materialize. She urged the City of Tumwater to table the plan, ask more questions, and demand a better plan and a better tenant from the Port.

Denis Langhans commented that he did not plan on offering comments but did submit written concerns as outlined by Mr. Lazar as to how the developer relies on LLCs, which places the public in danger of absorbing all the risks. He urged the Council to complete a risk management assessment to identify the real risks.

With there being no further public testimony, Mayor Kmet closed the public hearing at 8:20 p.m.

Mayor Kmet invited comments from Councilmembers.

Councilmember Althausen thanked all participants for attending the public hearing and for persevering while the Council grapples with a challenging issue. He thanked Mayor Kmet for proposing the alternative for consideration because it embodies much of the feedback shared during the Council's recent worksession particularly on vesting. With the discussion

TUMWATER CITY COUNCIL SPECIAL MEETING
MINUTES OF VIRTUAL MEETING
November 30, 2021 Page 22

focused on climate change, there are too many unknowns that present challenges to the Council to consider an agreement that locks vesting for environmental concerns, designs guidelines, and other City development regulations for years. Climate change could affect how the City addresses stormwater in the future. The vesting provisions are critical and it is important the City not set a precedent by granting vesting for a variety of requirements beyond zoning. Vesting for zoning is a fairness issue because it affords some protection for developers in the near-term; however, vesting of other code requirements would represent an unprecedented action by the City. The closure of Kimmie Street was a major concern because it would eliminate truck traffic along Kimmie Street and increases safety for children and pedestrians. The closure of the street by a particular date was a good addition to the agreement. The log yard addition is another important element in terms of groundwater because it represents a potential environmental hazard. He believed it was sensible to enter a negotiated process and acknowledged the numerous hours required by staff. However, if the City had not pursued an agreement then essentially with the adoption of the Habitat Conservation Plan, Panattoni could have submitted a completed application and become vested of all City regulations, which is an alternative that continues to apply today. By not acting, the City would lose all modes of control over the process and would not benefit from a trail, property for a community center, removal of bark waste, closure of Kimmie Street, or retention of trees as outlined in the proposed agreement. Those are all important elements to exercise some control over to the extent possible. By taking no action, the issue is whether the City wants to bank those assets by giving up the ability to change the zoning in the next 10 years. By signing the agreement, the City does not waive SEPA, stormwater regulations, or other city regulations other than agreeing not to change zoning for a period of 10 years. Public testimony generated many questions that deserve answers before voting on an action. He proposed tabling action to afford time for the Council to consider potential action within the next week and receive information on some of the requirements involved in the permitting process.

Councilmember Sullivan agreed with Councilmember Althausen's comments. She supports the Mayor's proposal as it was supportive of the feedback offered by the Council at the worksession. She supports deferring action as recommended, as well as enabling the Port Commission to provide input. It is important to clarify that the City has no control over contracting by the Port. The City's only control is zoning and development regulations. She also has faith in staff who are responsible for permitting and ensuring drinking water is safe and that the City's rules are followed. She is confident staff would perform due diligence to ensure enforcement of all regulations while not tying the City's hands when future environmental issues could be of concern.

TUMWATER CITY COUNCIL SPECIAL MEETING
MINUTES OF VIRTUAL MEETING
November 30, 2021 Page 23

Councilmember Schneider read his prepared statement into the record: *It has been approximately 1-½ years ago that the Port of Olympia announced Panattoni presented a proposal to develop the New Market Industrial Campus. Since that period, he has made his concerns known both to the Port and at various City Council worksessions. During that time, he received over 150 emails and phone calls from the community opposed to the development, and for the most part, expressing the same concerns he had. So what are these concerns? 1. The potential amount of truck traffic on Kimmie Street putting children at risk of injury or possible death. Panattoni's response was that it may relocate Kimmie Street. 2. There are concerns about potential flooding in that area, contamination of the City's wellhead protection area, and the use of injection wells to control water. The City of Tumwater and the Port of Olympia have stated that Panattoni would be held responsible for any water contamination, however, if that should occur it is possible the water supply would be greatly impacted. It also appears the City acknowledges the property could handle a flood of at least 6 inches of water on the property with no impact to the Salmon Creek Basin area, which has flooded in the past. 3. Panattoni continues to claim that its development will create jobs. After viewing the PowerPoint presentation between 5 to 6 times over the last 1-1/2 years, the number has continued to climb from at least 900 jobs to approximately 2,600 jobs based on the most recent presentation. The fact is, their presentation is all conceptual and not binding, which makes it impossible to project the number of jobs that would be created. Simply put, intentionally or not, there is no way to project either the employment numbers or financial benefits the City would receive. 4. Panattoni has agreed to lease to the City almost 10 acres of land for a future community center for one dollar per year. Unfortunately, due to this timeline restraint, the entire 10 acres might not be available for development for at least 10 years and the location is undesirable because of the lack of public transportation and the continuous flow of truck traffic from new development. Except for economic development and protecting the environment, the Port of Olympia and Panattoni have not addressed the concerns most of the community has about the property and after several requests, Panattoni has not taken any time to meet with the City Council. After much consideration and much input from the community it is his position the Council should object to both interlocal agreements until Panattoni addresses the concerns the project presents. Rest assured the public have been heard loud and clear and it is much appreciated.*

Councilmember Jefferson agreed with Councilmembers Althausen and Schneider regarding vesting because the landscape is changing because of climate change. She cited the community's comments from 30 individuals. Twenty-six speakers spoke in opposition of the development and four speakers supported the proposal. It appears the community does not want a mega development warehouse in Tumwater. Many of the comments spoke to being held accountable for environmental harm. She questioned the

TUMWATER CITY COUNCIL SPECIAL MEETING
MINUTES OF VIRTUAL MEETING
November 30, 2021 Page 24

responsible party for environmental harm and whether it would be Panattoni or whether the City would assume that risk. The Port is not following the Real Estate Development Plan. Many concerns were conveyed about traffic congestion on Center Street and exposure to diesel fumes. She stands with the public and supports tabling the agreement with no action to follow.

Councilmember Swarthout expressed appreciation for the testimony and the emails forwarded to the Council. She agreed with Councilmembers Althausen and Sullivan because of the many unanswered questions. She supports affording time for staff to address the questions prior to the Council taking any action as she learned that the area is considered a wetland mitigation area and wellhead protection area. There are many questions that she would like addressed before the Council acts on the proposal.

Councilmember Dahlhoff commented on the checks and balances afforded to the community by the City's Comprehensive Plan, the Urban Forestry Management Plan, the Thurston Climate Mitigation Plan, and other City plans and policies. Plans and regulations were not established through a piecemeal process but were established through a comprehensive planning process. All the comments by the community are valid. Staff's responsibility is to prepare and implement the checks and balances as they do not represent plans sitting on a shelf. Tumwater is a city striving for continuous improvement, adaptation, and meeting the needs of the community. The City provides a level of excellence and quality of services. Her goal is to continue negotiating and the discussion to avoid losing an opportunity of providing services to the community.

Councilmember Cathey expressed appreciation for all the testimony as it speaks to community's honesty, passion, and expertise. She is not ready to act on the proposal and supports tabling action. She spoke to the process of tabling action and ways to structure or design a process to address the proposal that enables the Council to support a proposal. She is still mystified as to the Port's outright rejection of the Mayor's proposal and is unsure as to which version of the agreement is under consideration. She has never supported the proposal since the onset and continues not to support the proposal but wants to continue the discussion as the Council should not lose any opportunity that could result from an agreement supported by the parties.

Mayor Kmet explained his approach as the City could have delayed the public hearing and attempted to negotiate with the Port. However, at the staff level, staff reached a point where it was no longer possible to pursue discussions with Port staff. The agreement lacked some key issues that should have been addressed. Most of his proposed changes were clarifications or adding some deadlines. However, the most important issue is vesting. Normally, a development is not vested until the developer has submitted a complete application, which essentially means the final plans

**TUMWATER CITY COUNCIL SPECIAL MEETING
MINUTES OF VIRTUAL MEETING
November 30, 2021 Page 25**

have been prepared. Within this process, that situation is not consistent as it entails planning at a highly conceptual stage with many uncertainties in terms of the size of the buildings, uses, configuration of roads, stormwater managements, and other development conditions. Tree preservation requirements are dictated by the City's development review process. A number of provisions in the agreement outline a framework as to how the City believes future development of the area should occur. The merits of whether that development should be large warehouses should be factored by considering the City's zoning, which limits the area of large warehouses. It is possible that one or two large warehouses could fit within the zone. The threshold question of whether the agreement moves forward should be based on how that area has been designated by the City as one of the few potential economic engines for the City for some time. He asked whether the agreement or other zoning requirements currently in place establish an adequate vision for what the City would like developed in that area. Should the Council elect to sign the agreement, discussions can continue as the City could help the Port connect to different uses the community desires for the area. Additionally, the City has many warehouses and many house important and successful businesses. Warehousing is part of the City's economy and it is important for the City to determine a course that attains an agreement. He recommended directing staff to respond to some of the questions surrounding cumulative impacts, provide additional clarity on stormwater management, and provide a copy of the Real Estate Development Plan to the Council. He recommended adding a discussion on the proposal to the Council's next worksession to afford time for staff to provide the information.

Councilmember Cathey commented on the consequences and the trade-offs between development and the environment and encouraged the Council to consider the City's environmental commitments.

MOTION: Councilmember Althaus moved, seconded by Councilmember Dahlhoff, to table the Development Agreement with Port of Olympia for New Market Industrial Campus to the Council's December 7, 2021 meeting for further discussion. Motion carried unanimously.

Mayor Kmet thanked all speakers for attending and providing testimony.

ADJOURNMENT: With there being no further business, Mayor Kmet adjourned the meeting at 8:51 p.m.