

**TUMWATER CITY COUNCIL MEETING
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CONVENE: 7:00 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, Finance Director Troy Niemeyer, Fire Chief Brian Hurley, Parks and Recreation Director Chuck Denney, Water Resources and Sustainability Director Dan Smith, Fire Captain Josh Stewart, Communications Manager Ann Cook, Firefighter Evan Hagen, and City Clerk Melody Valiant.

SPECIAL ITEMS:

2021 FIREFIGHTER OF THE YEAR: Fire Chief Hurley reported 2020 and 2021 were challenging years for many in the community. City employees faced stressful challenges both at work and at home. Fire Department employees have performed exceptionally and continue to deliver fire and emergency medical services under challenging circumstances.

Fire Chief Hurley recognized Firefighter Evan Hagen as the City of Tumwater's Firefighter of the Year. Firefighter Hagen, a graduate from Tumwater High School, received his bachelor's degree in athletic training and fitness management and worked as a physical therapy assistant and an assistant athletic trainer at St. Martin's University. Firefighter Hagen has increased the level of physical fitness of fire department employees and is an active member of the department's Safety Committee. Firefighter Hagen is training to become a member of the Thurston County Special Operations Rescue Team.

Fire Captain Stewart reported he nominated Firefighter Hagen as Firefighter of the Year as he embodies what all firefighters strive to achieve. Since becoming a Firefighter with the Tumwater Fire Department in 2018, Firefighter Hagen has been very motivated and has served as one of the department's most dedicated Firefighters.

Fire Chief Hurley presented Firefighter Hagen with the Firefighter of the Year plaque and an encased United States Flag donated by Bill McLaughlin. The flag has been flown over the US capitol and the Washington State capitol.

Firefighter Hagen thanked Fire Chief Hurley and Fire Captain Stewart for the honor and recognition. He introduced his wife and children.

PUBLIC COMMENT: **Debra Boes, 1524 Durby Lane, Tumwater**, expressed concerns about the City's proposed public works maintenance facility off 79th Avenue. She referred to the five neighborhoods surrounding the proposed facility, which

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will be negatively affected by the new facility. The maintenance facility will not be a quiet operation as there will be constant vehicle backup alarms and other public works operations creating noise in the neighborhood. Over the last several years, rock and sand have been stored at the Old Trails arena. The neighborhood has been rattled with constant dumping and loading of the materials and constant beeping of trucks. Residents are awakened at night by diesel trucks and loader trucks. Daytime is miserable for neighbors trying to enjoy their yard or their home during constant noise. She asked the Council to consider another location for the maintenance facility because of the impacts to the neighborhood. If the facility is constructed in the neighborhood, the City will receive calls complaining about the noise. She asked the Council not to locate the facility in neighborhoods and consider other locations, such as 88th Avenue, 93rd Avenue, or on the west side of the airport. She questioned why the current maintenance facility could not be considered. More traffic along 79th Avenue will cause more congestion and increase danger to families, children, and bicyclists. The City of Tumwater sent a questionnaire to the neighborhood about the type of development preferred in the area. She questioned how many residents responded that they would like to have a maintenance shop located in the neighborhood. The Council should do the right thing for their constituents.

Mayor Kmet advised that as the City moves forward on the project, additional outreach to the community is planned. He lives approximately one block from the City's former public works facility, which was located in a residential neighborhood. He did not experience any significant impacts caused by the facility. The existing maintenance facility located behind City Hall is unable to accommodate existing and future capacity.

Lisa Ceazan, resident of Thurston County, thanked the Council for conducting a public hearing on the Port of Olympia development agreement with the City of Tumwater. The Council respectfully and patiently listened to all comments, which amplified democracy and action, something that can no longer be taken for granted. She only hopes that the Port of Olympia remembers its obligation to democracy and to the citizens and begins to act in a transparent, accountable, and responsive manner. The Council should reject the Port's proposed development agreement. The City has every right to expect a respectful partner that acknowledges the needs of the Tumwater community. The Council has the right to ask that the Port of Olympia work with the City to accept the proposed amendments. The City has the right to expect all promises made for economic benefits and environmental mitigation be substantiated contractually and with solid, realistic, and honest evidence. Even better, the City should remind the Port of Olympia of their joint obligation for environmentally sustainable development and following the New Market Industrial Campus (NMIC) Master Plan. The City should rezone the NMIC to ban large warehouses in District 4. According to recent publications, big corporations are driving the train on climate change

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mitigation and adaptation. The Port and Panattoni are not on the train as they are sitting and mobilized on the tracks. They will be left behind and so will Tumwater if this and similar projects are allowed to advance.

Carla Wulfsberg, 709 North 7th Avenue NW, Tumwater, referred to the development agreement with the Port of Olympia and the amendments proposed by the City of Tumwater. Recently, Port Commissioner Joe Downing rejected continuing discussions of the City's amendments in spite of Commissioner Zita's urgent request that the Commission show respect for Tumwater and at least discuss the revisions. Port Commissioner McGregor sided with Commissioner Downing. She asked how the document can be described as a "development agreement" when one party (Port) rejects any further discussion or compromise. Frankly, it is not good government. It is the worst kind of governing in her opinion as working together to reach a compromise is what good governing is all about. Good governing is lacking in leaders today at all levels of government, to include the Port of Olympia. She urged the Council to press the Port of Olympia to compromise. At the recent public hearing, 38 of the 40 speakers were opposed to the Port's development for very good reasons. Two speakers who spoke in support of the development were misguided in their belief that it would provide much needed revenue for Tumwater schools; however, there has been no independent market study or analysis for the Panattoni development to substantiate the Port's revenue projections. In fact, at the Port's worksession, John Martin, the Port's consultant, stated that the worst kind of investment is a speculative investment without a market study. Bad investments come from build it and they will come. That is exactly the practice the Port pursued previously and now has an empty warehouse in Lacey that is accumulating debt. She asked how another empty warehouse would benefit Tumwater, as there is an empty warehouse in Tumwater off 88th Avenue. Several new mega warehouses are under development in Tumwater along Kimmie Street. Tumwater has historically lost much with the most significant loss caused by the construction of Interstate 5 through the center of the City in the late 1950s. Logging larger urban forests is another great loss that generations will feel in decades to come. Another loss could be the contamination of the City's drinking water. If the Port refuses to compromise, she asked that the Council rezone District 3 to restrict large warehouses. The City Council has the power to protect quality of life, urban forests, schools, and the City's neighborhoods.

Aimee DeNey reported as a resident of Thurston County, she is an educator, business owner, and a doctoral student and is very concerned and disappointed to be constantly hearing about ongoing development projects on forestland in Tumwater. Everyone is facing a catastrophic global climate crisis and everyone is responsible for righting the wrongs of the present and of the past. Clearing land and building industrial complexes is irresponsible and outdated policy. World leaders have failed to make any real progress beyond lip service to reversing the climate crisis requiring drastic changes that clearly need to

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happen at the local level. The Council has stepped up as leaders of the community during a very difficult time. She encouraged the Council to use its power and make change within the City. She asked about the entity profiting from the development within the City because it is certainly not the people, the environment, nor the future legacy of our children. She suggested the City does not need to generate more wealth and more of the same business as usual because the community needs change in priorities towards a healthier and safer future.

Sue Danver said she recently learned about details of a problematic aquifer matter and believes that after Tumwater's sincere but unsuccessful effort to have the Port of Olympia adopt Mayor Kmet's version of the Interlocal Agreement (ILA), she supports Commissioner Zita's recommendation forwarded to the City earlier in the day. Tumwater is taking too great a risk in the contamination of its aquifer for very little benefit with the Port of Olympia's version of the ILA. She cited a warehouse aquifer quagmire in Lacey that could occur in Tumwater's future. Currently, Lacey has extensive warehousing that continues to expand. The final caveat of a recent Lacey experience is that before granting a permit for a deep injection well, the responsible jurisdiction must ensure the area of the warehouse development is not contaminated. In Lacey, a private developer plans to develop a large warehouse with impervious surface creating more runoff than usual. As part of the regiment for such a large warehouse, baseline data is collected in advance within the City of Lacey. The data determines whether any existing contamination is present in the aquifer. The requirement also protects the developer. Unfortunately, in this case, construction was allowed to begin before monitoring data had been collected and trichloroethylene (TC) was identified on the site. TC mobilizes in water. The contamination is localized in Lacey with Lacey's groundwater considered safe. The situation has become complicated and now involves the Department of Ecology and remediation, which will become more costly. Tumwater may have limited the size of warehouses within the ILA, but it has not eliminated the entire buildout, which means developing and creating impervious surface will be the equivalent of many large warehouses.

E. J. Zita, Port of Olympia Commissioner, said she is speaking as a citizen. She supports Mayor Kmet's proposed changes to the development agreement and was hopeful Tumwater's high standards might help the Port develop the NMIC with less damage and fewer long-term costs; however, the Port Commission recently confirmed moving forward without collaborating with the City of Tumwater. The Commission declined to consider the Mayor's suggested improvements and there is no guarantee the Port will terminate Kimmie Street, clean up bark waste, construct a promised public trail, or otherwise protect the Tumwater community from the worst impacts of Panattoni's mega warehouses. There is also no guarantee that Port development of NMIC District 4 will provide any of the financial benefits.

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The Port has a history of making promises that do not pan out. She referred to examples she provided in her written comments to the Council. The examples illustrate cautions that were provided by financial experts during the Council's public hearing. The bottom line is that Tumwater cannot count on Port development to provide the jobs, taxes, or other benefits it promises. The Port has no market study, feasibility study, and no independent financial analysis for the Panattoni plan, and the Port declines to use the Draft Master plan for the NMIC created over three years with extensive input from experts and the Tumwater community at great public expense. The Port and Panattoni's logging of Tumwater's largest urban forests for industrial development near the Bush Wellfield, Bush Middle School, and in a high groundwater area is fraught with risks. At the public hearing, hydrologists, public health experts, and other scientists testified about the risks of drinking water contamination, carcinogenic diesel emissions, climate impacts, and more if Panattoni develops as envisioned. She urged the Council to change zoning to protect the community and reinstate the ban on large warehouses in NMIC District 4. She and her neighborhood previously worked with the City Council to impose a ban under the belief that the vulnerable area would be protected. However, it is not protected anymore. She asked the Council to require environmentally sustainable development in the area. The Port should follow the NMIC Master Plan that prioritizes development along District 1 off Tumwater Boulevard and not in the urban forest. The benefits of retaining the urban forest in the face of the accelerating climate crisis far outweighs short-term lures of uncertain economic gain from the Port and Panattoni. The community is counting on the Tumwater City Council to protect the community.

Walt Jorgensen, 823 North Street, Tumwater, commented that Panattoni and the Port have attempted to run roughshod over the City of Tumwater's land use regulations and environmental protections. He advised the Council as a Tumwater resident, property owner, and taxpayer to terminate the current carnival proposal and counterproposals and simply dismiss any propositions that have been made to date. Instead, the Council should pursue another course after the first of the year starting with ensuring Tumwater does its job as a regulator and let the Port and Panattoni as aspiring developers, know what the rules are including the all-important provisions of cumulative impacts - a consideration strenuously emphasized by the Federal Aviation Administration. To evaluate all cumulative impacts, all impacts of a development are considered in totality and within the same timeframe. A provision in FAA Order 5050.4A states that in determining whether an environmental impact statement is required for a proposed federal action, it is necessary to consider the overall cumulative impact of the proposed action and the consequences of subsequent related actions. It further states that cumulative impact is the impact on the environment, which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or

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nonfederal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. Mr. Jorgensen stressed the importance of visual public participation and urged the Council to consider visual display of meeting attendees during future virtual meetings. He asked the Council to protect the City.

Barack Gale asked the Council to change the zoning. He is currently reading the book titled, *Braiding Sweetgrass* by Robin Wall Kimmerer. The book conveys how the factual objective approach of science can be enriched by the ancient knowledge of the indigenous people. He shared an audio clip of one of the short stories in the book that speaks to the importance of never taking more than needed. He questioned how many square feet is too much to take from a living forest and although Tumwater residents may have plenty to eat this winter, he questioned whether residents would have plenty of clear water to drink and air to breathe. He asked about the disadvantaged communities that are suffering more disproportionately from every action that harms the earth today. He hopes and prays that the Council is considering those questions.

Jim Lazar said he is frankly aghast at the arrogant response of the Port of Olympia to the consideration by the City of Tumwater for an alternate development agreement. He suspects that most of the Council are equally aghast. He recommended the City Council adopt a development moratorium for the NMIC. A development moratorium is a strong step and would convey to the Port of Olympia that the City is in charge of its own destiny. It requires a super majority of five members and expires in six months but can be renewed as needed. It stops the clock and provides time to give serious thought to the future of that area. It must be done at this time to be effective. Tumwater learned over a decade ago that waiting does not work for a moratorium. The gap of time between announcement for consideration of a moratorium and the actual meeting to consider the moratorium, affords time for a developer to submit an application and vest rights. The language is simple for the Tumwater City Council to adopt a development moratorium pursuant to RCW 36.70.A.390 for the new market properties surrounding the airport to be effective until June 7, 2022. During the moratorium, the Council should review zoning and development regulations and consider improvements that will protect forest cover in the region including the Department of Ecology's 65.10.0 Low Impact Development Standards.

Connie Campbell said she was encouraged by the Council's openness before and after the public testimony at the November 30, 2021 meeting. Since her testimony, her position remains unchanged and she feels more strongly based on comments by others who have testified. The City does not need gigantic warehouses on that property. The City needs to retain all mature trees to the extent possible. It takes considerably more years than the earth has according

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to climate crisis reports, for new seedlings to be helpful with carbon emissions. The Council needs a hydrogeologic assessment and a full environmental impact study completed. She questioned whether the short-term gain of revenue is worth it if the City is sued by individuals who could be severely impacted. Many concerns were conveyed about the impacts of the proposed development on nearby residents located in the Salmon Creek Basin Neighborhood Association. There were concerns that the Port of Olympia is acting in violation of its own master plan. A new Port Commissioner has a clear conflict of interest with the plan. She does not understand why the Tumwater City Council, who appears to be supportive of environmental concerns, act as if it does not have the power to change the outcome. She challenged the Council to reconsider, as now is the time to act as everyone is living in a climate emergency. She encouraged the Council to rise to the challenge to find ways for this deal to be stopped or modified. One way is too clearly spell out in paragraph 7.6 under sustainable development the property shall incorporate sustainable development principles instead of considering. If the Council is unable to stop the proposal, she encouraged the Council to delay the development until the proper environmental impact study and hydrogeologic assessment is completed.

Charlotte Persons, 903 Glass Avenue NE, Olympia, referred to Councilmember Althausen's response to public comments on the interlocal agreement with the Port. He stated that approving some form of the ILA is Tumwater's only way to exercise some control over the development of the NMIC. However, as the Council has heard, the current ILA offers many problems and in response, the Council and the Mayor drafted a proposal to address some of the concerns. Only two incentives are available to Tumwater of a very unhealthy multiuse path along I-5 and 10 acres for a community center at an unsuitable location. The project is vaguely outlined and covers a period of 12 to 20 years depending on how long it requires to finalize the Brush Prairie Habitat Conservation Plan. There is no campus-wide plan for stormwater management to protect the City's wells. However, the Council's options are not just rejecting or approving a bad deal, the Council has other options as recommended by Mr. Lazar. The Council could impose a moratorium immediately to provide the City with more time. Ms. Zita spoke to the option of a rezone. She urged the Council to consider either option because the Port of Olympia Commission refused to schedule any time on future agendas to discuss the proposal from the Mayor. On December 13, 2021, the Port of Olympia Commission is considering the Panattoni lease option. Either a moratorium or rezone might appear to be extreme; however, at this point, just rejecting the current version of the ILA will not prevent Panattoni from filing a permit application for its first building. The Council's only effective responses are an injunction, a moratorium, or rezoning.

**CONSENT
CALENDAR:**

- a. Approval of Minutes: City Council Joint Tumwater School District Meeting, October 7, 2021

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- b. Approval of Minutes: City Council, November 16, 2021
- c. Payment of Vouchers
- d. Advisory Board Reappointment of Simon Tee to the Civil Service Commission, Appointment of Shane Harrington to Board of Parks and Recreation Commissioners, Jeremy Barclay to the Historic Preservation Commission, Grace Edwards to the Planning Commission and Joel Hecker to the Tree Board
- e. Legislative Agenda
- f. Resolution No. R2021-017, 2022 Fee Resolution
- g. Ordinance No. O2021-024, 2022 Salary Schedule
- h. Ordinance No. O2021-022, 2021-2022 Budget 2nd Amendment
- i. Sapp Road Ten Hour Closure

MOTION:

Councilmember Dahlhoff moved, seconded by Councilmember Swarthout, to approve the consent calendar as published. Motion carried.

Mayor Kmet reviewed the items approved on the consent calendar. New appointees to the City's boards and commissions provided self-introduction.

**COUNCIL
CONSIDERATIONS:**

**LOTT PURCHASE AND
SALE AGREEMENT:**

Director Niemeyer presented the LOTT Purchase and Sale Agreement for a house located off Henderson Boulevard. The City of Tumwater entered into an interlocal agreement with the LOTT Clean Water Alliance and adopted a special disposition policy to enable the City to donate the house to provide affordable housing. The purchase price is \$200,000. The purchase will be through one-time grant funds from the American Rescue Plan Act. Following approval of the purchase, staff will connect the house to water and sewer and complete some minor repairs prior to donation of the property to Homes First. The request is to authorize Mayor Pro Tem Cathey to sign the LOTT Purchase and Sale Agreement.

Mayor Kmet said he deferred signature of the agreement to Mayor Pro Tem Cathey as he serves on the LOTT Clean Water Alliance Board of Directors.

Councilmember Cathey asked about the location of the nearest transit route serving the area of the home. Mayor Kmet advised that at this time, no transit routes are available along Henderson Boulevard; however, Homes First was advised of an opportunity afforded through Intercity Transit to apply for a van through the agency's Surplus Van Program. Many of the clients of Homes First also have vehicles.

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MOTION:

Councilmember Althaus moved, seconded by Councilmember Schneider, to authorize the Mayor Pro Tem to sign the LOTT Purchase and Sale Agreement. Motion carried unanimously.

**TEMPORARY ACCESS
EASEMENT
AGREEMENT:**

Director Denney reported the request is approval of a no-cost easement to provide access through Tumwater Development, LLC property at the former brewery site. The easement area is located between the LOTT property and the Boston Street gate and includes the northeast bank of the Deschutes River and the single lane roadway from Boston Street to the Capitol Boulevard Bridge. The easement would provide the City with the ability to enter/exit the properties in the valley for special event parking, construction and improvement projects, planning for future recreation facilities, trails, and environmental mitigation and improvements. The temporary access easement agreement is effective from December 2021 to March 2022 to afford time for staff to evaluate the site for future use benefitting the community.

Councilmember Cathey shared her environmental concerns about the potential of increasing vehicular traffic close to Tumwater Falls and the Deschutes River. Director Denney responded that the roadway is narrow and is approximately 25 feet wide at the widest point between the wall of the existing building and the barrier above the river. He does not foresee the area ever converting to a City street; however, the area provides access for special events and for emergency access. Staff normally access the valley from the LOTT gate at E Street; however, the proposed access offers staff another option to access the valley that is not congested with traffic during special events. Councilmember Cathey said her concern surrounds an incremental increase in vehicle traffic abutting an environmentally sensitive area.

Mayor Kmet clarified that currently, no public access is available along a portion of the riverbank. Tumwater Development LLC officials have offered the easement to the City, which is also part of a discussion between the company and the Department of Ecology to resolve some obligations for spill cleanup. The offer presented an opportunity for the City to afford a way to evaluate the area for potential environmental testing, as it is located downstream of the former brewery operation.

Following additional information from the Mayor, Councilmember Cathey emphasized the importance of the proposal as an environmental issue and dependent upon the outcome, it is important to consider that traffic would drive over a riverbank. It is important to protect the river and riparian areas.

Councilmember Althaus asked about the benefits the City receives during the three-month period of the agreement. Director Denney said staff plans to explore options for trail connections to the valley, options for continued use of the access for special events, possible discussions on the reconstruction of the warehouse that may require access from the site, and in conjunction with

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the Water Resources and Sustainability Department, consider options for improving and stabilizing the riverbank. Additionally, the area has historical significance and provides some potential to work with the Olympia Tumwater Foundation to highlight the history of the site and how it affected the development of Tumwater.

MOTION:

Councilmember Jefferson moved, seconded by Councilmember Dahlhoff, to approve the Temporary Access Easement Agreement with Tumwater Development LLC. Motion carried unanimously.

**RESOLUTION NO.
R2021-021,
DEVELOPMENT
AGREEMENT WITH
PORT OF OLYMPIA
FOR NMIC:**

City Administrator Doan reported the proposed development agreement pertains to 200 acres zoned Airport Related Industrial allowing a range of industrial aviation office and commercial development compatible with the airport. Zoning was created in 1995 and amended in 2018 to create the current warehouse distribution regulations following several years of work with the City's Planning Commission and the Council. The land is owned by the Port of Olympia and development of the land encumbers specific restrictions by the Federal Aviation Administration (FAA) requiring land use to be related to the functional or financial operations of the airport. References to the master plan pertain to the draft of the New Market Industrial Campus Master Plan developed by the Port of Olympia. The plan was never officially adopted by the Port Commission.

The proposed lease option is a concept plan between the Port of Olympia and Panattoni, a national development company outlining how the property could be developed. The plan is not a development proposal with any specific projects identified with the exceptions the Port has committed to honor. They include preservation of a large stand of trees at the southern end of the property near Bush Middle School, exclusion of the school district bus lot located in the middle of the property, and an emphasis on tree retention at the northern property line between the property and the hotels near Interstate 5 and along Center Street. Additionally, the Secretary of State is constructing a new library/archives building on the corner of Tumwater Boulevard and Center Street.

A development agreement typically covers those instances where a developer and a city want to share costs or exchange other value or mutual benefit. The exchange of value or mutual benefit is an important aspect of the agreement. The development agreement defines the specific provisions related to future development, such as certain development regulations, timing of development, infrastructure, or funding. The City of Tumwater has typically used development agreements as they relate to the timing of infrastructure and development or how infrastructure is completed through shared funding between the City and a developer.

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In terms of the proposed development agreement, the Port's benefit encumbered in the agreement is consistency of zoning for 10 years. The City's benefit is land for a community center, land for a trail, and an overall tree mitigation strategy with some locations identified as the south end, north end, and along Center Street. Conversely, a lot-by-lot development scheme might not offer the same level of tree mitigation.

The development agreement is not intended to prevent development of Port property, it does not change zoning, it does not void the Port of Olympia's lease option agreement with Panattoni, it does not prevent the removal of trees as the City has a tree protection ordinance that would apply to any development proposal, and it does not change any City standards or processes, or prevent future changes to standards or requirements other than zoning, which cannot change for 10 years (Mayor's proposed version). The proposed development agreement does not apply to a specific project.

The development process administered by the City for any project does not involve the City Council to include the permit review process. However, the ongoing community discussion has evolved to a specific development proposal. The City's development process begins with the Council's adoption of a City Comprehensive Plan that includes zoning regulations and provisions applicable to new development. The Comprehensive Plan sets the direction of development within the City. The City's regulations, zoning, and design guidelines guide the development process. Property owners and developers enter into a relationship to explore development of a property. Applicants then meet with staff to initiate development review and review development requirements, e.g. zoning, SEPA, infrastructure improvements, fees, and scheduling. Concerns addressed by the community involving traffic impacts, stormwater management, and protection of City wells all need to be addressed; however, it is not possible without an actual application submitted to the City.

City Administrator Doan identified the City's numerous development regulations that apply to all development proposals. He outlined the issues addressed by the City pertaining to the development agreement. Early in the process, concerns were addressed about the size of buildings, removal of major tree stands, and stormwater management. Those issues have been ongoing during conversations with the Port of Olympia over the last 18 months.

The Mayor's proposal, built on the Port's proposal, limits vesting to Title 18, the zoning chapter within the municipal code. The Port has insisted that vesting provisions should be broader beyond Title 18. The Mayor's proposal clarifies that it is not the City's intent to use the non-vested regulations as a way to block development proposals. The Mayor's proposal clarified some ambiguity in the Port's proposal involving the specificity for closing Kimmie Street, timing of closure, and the area of closure. The Mayor's proposal

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modified the timing of the trail construction to correspond with 50% of the development as opposed to a 10-year period. The Mayor's proposal clarified some timeframes for the community center lease and requires removal of bark waste prior to redevelopment. Additionally, the lower two-thirds area of the log yard was not included in the Panattoni lease agreement. The tenant was notified by the Port of Olympia that the lease would not be extended and the Port has indicated a desire to expand the lease with Panattoni to include that property. As a former log yard, the property is covered with bark waste. The Mayor's proposal includes a commitment by the Port of Olympia to remove all log waste in conjunction with redevelopment of the property.

City Administrator Doan addressed questions and comments pertaining to cumulative analysis. Many regulations articulate authority or when cumulative analysis might be required. Development review affords two avenues for cumulative analysis. One is through regulatory requirements (SEPA) and the second is technical analysis to identify potential impacts of a project.

Options available to the Council is adoption of the proposed resolution as presented, which includes the Mayor's proposed alternative, propose substantive changes and direct staff to prepare a new alternative development agreement, postpone action to a certain date, postpone with no date designated, or accept the Port of Olympia's withdrawal of its proposal and take no action. The Council could also consider amending the agreement without substantially changing the agreement.

Councilmember Althaus commented that much of the community concerns surround stormwater. He asked how stormwater is addressed for larger buildings and additional information regarding injection wells. Director Smith explained how stormwater regulations are applied to a development proposal, regardless of the size of the building. The beginning point is ground disturbing activity and the size of the footprint. The City's drainage manual is comprehensive with standards, regulations, and analyses required of the development dependent upon the size of the building and the land use. In those instances where the manual cannot address a specific issue, the Department of Ecology and other state agency coordination and analyses occurs to ensure groundwater or surface water would not be degraded by the proposal. The City's stormwater manual was updated in 2018 and the minimum development square footage that requires a comprehensive review is 5,000 square feet. The applicant is required to complete the City's checklists to ensure environmental protections are in place for both groundwater and surface water discharges.

Director Smith displayed an illustration of an underground infiltration trench with an oil/grit chamber as one of numerous options available for management of stormwater for commercial and industrial uses. The systems are designed

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to handle stormwater entering the facility, with stormwater flowing into a treatment facility (oil/grit chamber), with cleaned water discharged to an infiltration galley. Another stormwater management tool is a retention pond where stormwater enters a pond for infiltration treatment.

Director Smith described in detail the City's oversight of stormwater discharge, illicit discharge, accidental spills, and critical areas plans and requirements.

Councilmember Althaus asked how the City's regulations interact with wellhead protection or whether other standards coexist to protect the City's drinking wells. Director Smith explained that all the various reports, tests, and analysis required for the stormwater drainage manual for stormwater design center on the location of where wellfields exist within the proposed development area, to include any critical areas. Additionally, the City's wellhead protection ordinance restricts various land uses or quantities of specific type of materials within the City's wellhead protection areas.

Mayor Kmet cited the closing of a gas station off Capitol Boulevard because it posed a threat and was located within the City's Palermo wellhead protection area.

Director Smith responded to questions about deep injection wells and explained that any proposal for a deep injection well within the City would automatically trigger an in-depth review by staff. A deep injection well is a category of infiltration facilities, along with other Underground Injection Control (UIC) wells, that could include a catch basin not connected to an outfall pipe, an underground trench with a pipe, or a system that is deeper than the largest surface dimension of a catch basin system. It is important to delineate specific proposals and whether they are classified as a UIC. All UICs are required to be registered by the Department of Ecology because of subsurface infiltration capacity. UICs are not an open pond and all UICs have covers, such as a slotted drainpipe, covered by dirt, or covered by a building. A number of studies completed over the last 20 years as a result of flooding in the Salmon Creek Basin involved close work with the City and Thurston County to develop groundwater standards to limit impacts to neighboring properties. The City's high groundwater standards are more stringent than the state's infiltration standards as the City requires hydrogeologic mounding analysis to determine whether groundwater levels would increase the property boundaries by six inches or more based on *known* high groundwater levels versus *seasonal* high groundwater levels. If they exceed that standard, the developer must reconfigure its stormwater system or shrink site development plans. The City's high groundwater standards would be challenging for placement of any UICs in the proposed development area due to the known high groundwater that exists in the area. A development proposal is necessary

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to enable staff to examine the stormwater proposal and identify the nexus with high groundwater levels.

Councilmember Schneider asked whether the suggestion to enact a moratorium is an option the Council could consider. City Administrator Doan explained that the Council does not have an ordinance to take such an action at this time. Prior to enacting a moratorium, an ordinance would be necessary to include a set of findings and other requirements to support the action. Staff would need several weeks to up to a month to prepare an ordinance and draft findings.

Councilmember Schneider questioned whether it would be possible to implement a moratorium by the first of the year. Mayor Kmet responded that the City has not received any development proposal to undergo a feasibility review. For an applicant to become vested, a complete development application would need to be submitted with fees. The preliminary discussion concerning a proposal near International Wood Products has not resulted in any contact with staff to review the feasibility of a development proposal. Additionally, the City's Habitat Conservation Plan has not been completed and adopted, which creates another roadblock, as any development proposal would require gopher mitigation. Should the Council elect to pursue a moratorium, adequate time is available to develop an ordinance that would be defensible.

Councilmember Schneider thanked the Mayor for the clarification and reiterated his concern that the issue has been a topic of discussion for 18 months and as conversations have occurred, the Council indicated the process afforded plenty of time. However, it appears now is the 11th hour to pass a resolution, which appears to lack substance in terms of the possibility of the Port of Olympia ignoring the resolution. Mayor Kmet responded that his recommendation is to move the resolution forward even though the current Port Commission is not interested in negotiating with the City. In January, a new Commission will be seated and the proposed resolution could be reconsidered because the proposal is reasonable in spite of the Port's outright rejection. Should the new Port Commission elect not to consider the City's proposal, the Council has the option of revisiting next steps.

Councilmember Jefferson commented that the Council is pursuing a discussion with the community, which has provided feedback to the Council on expectations for development of the area. Since the Port has rejected the Mayor's proposal, the Council should move forward to determine how the area should be redeveloped based on concerns surrounding the retention of trees, stormwater management, and potential land uses. She recommended not taking any action until the Council agrees on how the City should move forward for development of the area.

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Councilmember Dahlhoff spoke to the obligation of the Council as the delegates and trustees of the residents of Tumwater and those who work in the City. She would prefer to develop a solution for the community and supports moving forward to approve the Mayor's proposed resolution to the Port of Olympia Commission and let the Commission respond to the proposal. The next step would be based on the Commission's action and if not accepted, the Council could move forward with the possibility of adopting a moratorium or other options.

Councilmember Cathey agreed the Council has not considered how the area should develop. The Council is divided in terms of supporting or not supporting more warehouses in the City. The Council has not had a conversation as to the type of preferred development for the area. She also does not understand why the Council is not acknowledging that the Port has not been honest and does not want to negotiate with the Council based on comments conveyed during the recent Commission meeting. The comments spoke to the Commission not wishing to collaborate with the City Council. Sending another proposal to a Commission that does not want to collaborate would not change the situation. She questioned the outcome if the Council postponed action with no time certain.

City Administrator Doan advised that the property is zoned regardless of any future action. The 200 acres are zoned Airport Related Industrial. The Port could submit a proposal to develop the property. Those regulations apply today. The Council embarked in a conversation about a development agreement to gain some value for the City (land for a community center and public use trail) and clarify the application of some regulations in exchange for some amount of vesting of regulations. Absent the development agreement by either party, the Port could proceed with development of the property under current zoning and City regulations.

Councilmember Cathey said the Port Commission rejected the Mayor's proposal outright at its last meeting. She believes part of that rejection is because the Port does not want to enter into an agreement with a change in vesting. The result is a stalemate between the parties. In response, it appears the Council is pursuing another similar action of forwarding another proposal. She questioned whether a development moratorium is a general blanket that can apply across the area or would it only apply to a development agreement. City Administrator Doan advised that the Council could place an interim control on the 200 acres; however, the Council would need to clarify whether the action is to prevent any type of development, whether it is specific to square footage limitations or the type of land use. During the period of interim control, the Council would explore the long-term resolution while also specifying what type of development might be possible during that period.

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Councilmembers shared their opinions and beliefs on a variety of issues pertaining to the Port's rejection of the Mayor's proposed changes to the development agreement and what they envision for development of the 200 acres of Port-owned property. The Council acknowledged the community's concerns for retaining trees, management of stormwater, and the types of desired development. Mayor Kmet pointed out that the Council has not formally submitted the City's proposal to the Port of Olympia. Many general discussions between the City and the Port have occurred about the agreement, but the Council has not formally acted on forwarding an agreement to the Port Commission.

Councilmember Althaus commented about the Port Commission not acknowledging the Council's concerns. One of the fundamental issues discussed during over the last 18 months were the different aspects of importance to the Council whether it was tree retention or ensuring other conditions such as SEPA or design guidelines were enforced. City staff has done a tremendous job in communicating the Council's priorities to the Port, and at each step along the way, the Port Commission has ignored the Council's concerns. It is important to state officially the minimum standards the Council expects to be achieved if the Port desires to develop the parcels.

MOTION:

Councilmember Dahlhoff moved, seconded by Councilmember Sullivan, to adopt Resolution No. R2021-021, Development Agreement with Port of Olympia for NMIC.

Discussion ensued on the Council's goal to promote economic development and good paying jobs while mindful of environmental impacts. The Council agreed the intent is not to oppose development but that more discussion is warranted on the type of development desired for the area. The goal is to support the community, protect the environment, and negotiate an honest and respectful agreement between the City and the Port.

MOTION:

Motion carried. Councilmembers Cathey and Schneider opposed.

Mayor Kmet encouraged the Council to consider next steps and pursue a positive discussion with the Port of Olympia and the community. He thanked community members for conveying their concerns.

**COMMITTEE
REPORTS:**

**PUBLIC WORKS:
*Eileen Swarthout***

The next meeting is scheduled on Thursday, December 9, 2021 at 1 p.m. to review the 2020 Sustainability Report and consider the Pioneer Park Restoration Grant and the Anderson Water Right Agreement.

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**GENERAL
GOVERNMENT:**
Debbie Sullivan

The committee is scheduled to meet on Wednesday, December 8, 2021 at 3 p.m. to review Ordinance No. O2021-019, Emergency Shelter and Housing and receive a status update on the Thurston Climate Mitigation Plan Phases 3 and 4.

HEALTH & SAFETY:
Leatta Dahlhoff

The December meeting has been cancelled. The next meeting scheduled on Tuesday, January 11, 2022 includes an update on the Code Enforcement Program.

**BUDGET AND
FINANCE:**
Pete Kmet

At its last meeting on November 23, 2021, the committee reviewed financing options for the new public works maintenance facility.

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

Mayor Kmet shared a video clip of King 5 TV's broadcast of the City's effort to highlight the history's brewing history and Governor Inslee's visit to the old historic Olympia Brewery Building built between 1905 and 1906 to help support funding efforts to rehabilitate the historic building. Mayor Kmet reported a letter was forwarded to the Governor following the visit with a request for funding for restoration of the old brewhouse and for work underway at the Craft District.

City Administrator Doan reported that traditionally the City of Tumwater has supported families in need during Christmas. Previously, the City worked with the school district to receive feedback from families on needs and gifts. The City compiled tags for each child and posted the tags in various locations in the community to solicit gifts for the families and children. This year, the City collaborated with the Tumwater Education Foundation to sponsor the program. Tags are available at City Hall, Tumwater Police Department, and at Trail Dragger Coffee off Capitol Boulevard and Tumwater Boulevard. Gifts are due on Friday, December 10, 2021 to afford time to process and distribute the gifts to children and families.

Between December 12 through December 17, 2021 from 6 p.m. and 8 p.m. Santa will be available at various locations in the community to include elementary schools and at the Park at the Preserve. The City's annual Tree Lighting event is scheduled on Saturday, December 11, 2021 from 1 p.m. to 5:30 p.m. at City Hall. Everyone is encouraged to bring a can of food for donation to the food bank. The event will feature crafts, school choirs, and lighting the Christmas tree.

City Administrator Doan requested action to cancel the Council's December 21, 2021 meeting.

MOTION:

Councilmember Sullivan moved, seconded by Councilmember Dahlhoff, to cancel the December 21, 2021 Tumwater City Council meeting. Motion carried unanimously.

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**COUNCILMEMBER
REPORTS:**

Charlie Schneider:

Councilmember Schneider reported on his attendance to the Bush event at the Capitol on Friday, November 19, 2021. The event honored the Bush family and their contributions to the region. Approximately 80 people attended the event.

Councilmember Schneider attended the Thurston Economic Development Council Expo on December 2, 2021. The all-day event included breakout sessions. He attended the session on naturally made and naturally located products with panelists representing Harmony Soapworks, Tyler Shellfish, and Holy Land Organics. The second session featured information on craft brewing.

Debbie Sullivan:

Councilmember Sullivan and Mayor Kmet attended a First Night of Hanukkah celebration at Swantown Marina, sponsored by Jewish community members residing in Tumwater. Participants also were able to tour Swantown Marina.

At the December 1, 2021 Intercity Transit Authority meeting, eight new members were appointed to the Citizens Advisory Committee. The Authority granted 14 vans to local non-profits as part of the agency's Van Surplus Program.

At the last Thurston Regional Planning Council meeting, members received a briefing on the new Washington State Department of Transportation's building in Lacey. Several retiring members of the Council were recognized for their service.

Michael Althausen:

The next meeting of the Joint Animal Services Commission is on December 20, 2021. The agenda includes action on the 2022 budget. Councilmember Althausen said he anticipates a small increase in the City's annual assessment based on the draft budget.

Councilmember Althausen plans to attend in conjunction with Councilmember Cathey, the next meeting of the Regional Housing Council on Wednesday, December 8, 2021.

Eileen Swarthout:

Tumwater HOPES is planning a holiday event on Wednesday, December 8, 2022 at the ASHHO Cultural Community and Job Training Center.

Joan Cathey:

Councilmember Cathey plans to attend three committee meetings on Wednesday, December 8, 2021.

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Councilmember Cathey thanked Mayor Kmet for his leadership and for his fairness by enabling the Council to express their opinions. Mayor Kmet has been a great leader for both the Council and for the City of Tumwater.

Mayor Kmet thanked Councilmember Cathey. Although he will miss participating in meetings, the makeup of the Council will be capable of moving the City to the next level.

Angela Jefferson:

At the last Thurston County Emergency Medical Services Council meeting, members received a briefing from officials representing Concierge Care Advisors, a free referral agency for seniors. Members discussed the Governor's vaccine mandate. To date, minimum impact has been experienced by EMS with employees able to provide service effectively. Members discussed Medic One surge capacity, which is expected to lessen in the near term. Local hospital waiting times for hospital beds have lessened as well.

Councilmember Jefferson attended the South Sound Military Communities Partnership breakfast at the Eagles Pride Golf Club. The meeting featured a briefing from several Joint Base Lewis-McChord commanders on the local high cost of living and how it has affected military members and their families. High housing costs are beginning to affect service members. As more military members move off base, many military families are experiencing food insecurity because of the additional expenses for transportation to the base. She inquired about options for sponsoring a food bank on base and contacted numerous officials about the potential of sponsoring a mobile food bank. She encountered some roadblocks but plans to continue efforts. She encouraged community members who need food to contact the Thurston County Food Bank.

Councilmember Jefferson thanked Mayor Kmet for his leadership.

Leatta Dahlhoff:

Councilmember Dahlhoff said most of her meetings are later in the month.

She acknowledged Mayor Kmet by quoting Dr. Seuss, "Today you are You, that is truer than true. There is no one alive who is Youer than You."

ADJOURNMENT:

With there being no further business, Mayor Kmet adjourned the meeting at 9:47 p.m.