

**TUMWATER CITY COUNCIL MEETING
MINUTES OF HYBRID MEETING
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CONVENE: 7:00 p.m.

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

Staff: City Administrator Lisa Parks, City Attorney Karen Kirkpatrick, Finance Director Troy Niemeyer, Transportation and Engineering Director Brandon Hicks, Water Resources and Sustainable Director Dan Smith, Transportation and Engineering Assistant Director Mary Heather Ames, Police Lieutenant Carlos Quiles Jr., Water Resources and Sustainability Program Manager Patrick Soderberg, Transportation Operations Manager Marc LaVack, and City Clerk Melody Valiant.

**CHANGES TO
AGENDA:**

MOTION: **Councilmember Von Holtz moved, seconded by Councilmember Dahlhoff, to add a discussion on the Davis-Meeker Oak Tree under Council Considerations. A voice vote approved the motion unanimously.**

SPECIAL ITEMS:

**NEW POLICE
OFFICER
INTRODUCTION –
JAVKHLAN
BATTUMUR:**

Police Lieutenant Carlos Quiles Jr. introduced newly hired Police Officer Javkhlán Battumur. Joining the Tumwater Police Department is a testament to his dedication to the community, his character, his motivation, and dedication. He successfully graduated from the Police Academy and the Field Training Program. He was born in and spent the first five years of his life in Mongolia. At five years of age, his family immigrated to the United States and settled in Colorado where he parents live today. Officer Battumur enlisted in the U.S. Army and served eight years. He continues his service as a member of the Washington National Guard. He joined the Tumwater Police Department in March 2023 and spent the first four months attending the pre-academy training program. He completed the Basic Law Enforcement Academy on November 14, 2023.

Officer Battumur acknowledged the Police Department and expressed his thanks to members of his team for their guidance and support.

Mayor Sullivan and the Council welcomed Officer Battumur to the City and the Tumwater community.

**PROCLAMATION:
PUBLIC WORKS**

Councilmember Swarthout read a proclamation declaring *Public Works Week, May 19-25, 2024*. The proclamation urges the people of

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**WEEK, MAY 19-25,
2024:**

the City of Tumwater to learn about the City's public works facilities and services, and to recognize Water Resources and Sustainability and Transportation and Engineering employees for the substantial contributions they make to protect health, safety, comfort, and quality of life in Tumwater.

Water Resources and Sustainability Program Manager Patrick Soderberg and Transportation Operations Manager Marc LaVack accepted the proclamation on behalf of public works employees. This year the theme for National Public Works Week is Advancing Quality of Life for All. Public works employees conduct activities that promote and sustain safe and healthy conditions for the community. The theme recognizes the value of the community's infrastructure and the public services performed by public works staff.

Manager LaVack added that Public Works Week affords an opportunity to celebrate all public works employees that silently work to support a thriving community.

Manager Soderberg thanked the Council for recognizing *Public Works Week* on behalf of the two departments and colleagues who work together to provide daily public works services.

PUBLIC COMMENT:

Beowulf Brower said he is an arborist and is advocating for the retention of the Davis-Meeker oak tree. He has attended many meetings concerning the tree and reviewed the reports in detail. The City's arborist, Kevin McFarland, made multiple mistakes in his assessment of the tree. When pressed to explain the mistakes, Mr. McFarland said they were innocent typographical errors. Accidents do happen, but the number of errors in a report that took months to author totaling half a dozen pages represents sloppy work or a report written for a means to an end. The tree deserves better. A place that calls itself a Tree City should categorically reject such shoddy work. After a branch fell last summer, three arborists physically inspected the tree. Only Mr. Burton and McFarland published reports. Mr. Burton inspected the tree using sonic tomography similar to a MRI for plants that provide a two dimensional internal view of the tree. His findings revealed that the tree is currently stable and recommended pruning to reduce future risks. Mr. McFarland hired an arborist to climb the tree and strike it repeatedly with a mallet while he listened from the ground upwards of 40 feet away. During the examination, he determined the tree should be removed. Notwithstanding the extreme differences and thoroughness of the inspection methodology, it is an even tie between the arborists to remove or retain the tree. An action wrought by fear and fueled by faulty data will, in the final sense, constitute a theft and irrevocable deprivation of this exemplary tree from future generations of both man and creature. The Mayor's

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decision is an affront to nature, the citizenry, arboriculture, and statistics. The odds of being injured by a tree are astronomically low, a well documented fact. He forwarded a paper from the National Institutes of Health to the Council to demonstrate the position. Notwithstanding, the other lack of communication about the decision to remove the tree with a single stakeholder is a valid code challenge as well. By condemning the tree against the decision of the City Council, the Historic Preservation Commission, and the citizens of Tumwater, the Mayor and City Administrator are in violation of Tumwater Municipal Code 2.62.060, which stipulates that any person including mayors, seeking to demolish an historic structure need to be granted a waiver by the Historic Preservation Commission. To date, no waiver has been granted. As such, neither the Mayor nor the City Administrator has the authority to order the tree cut down. Furthermore, there is nothing in the municipal code that authorizes the Mayor to initiate a high dollar contract absent a vote from the Council. He implored the Council to make a motion barring any expenditures related to the removal of individual trees absent a Council or Tree Board vote in perpetuity. Instead, use the Tree Fund to hire a consulting arborist to review the case for and against the tree.

Ray Gleason reported on August 26, 2023, the Davis-Meeker Oak Tree Summary of Recent Actions and Status was noted by Tumwater and not released to the public. On that statement his name is noted as one of 18 external stakeholders. He was listed as Ray Gleason, Arborist, but was never contacted. He questioned how many of the other 18 individuals were contacted. The summary also includes references to tribes as some of the stakeholders. He questioned how many if of the tribes were contacted. This is very disappointing from a public standpoint. He asked to retract and work more effectively from a public perspective. He would prefer working towards an amicable solution. There is time for an appropriate assessment using appropriate science and analysis before rendering management decisions that will forever impact what is available to be shared with future generations. A tree with such historic significance deserves patience while being mindful of safety.

Karina Murphy said she has been a member of the Tumwater community for 11 years and what is happening with the Meeker oak saddens her. The Meeker oak is visually healthy and based on the arborist's review proper trimming should address any dead branches. The species is a protected species. She has a Garry oak tree in her yard. The tree is historic and is over 400 years old. She conducted a survey of her neighborhood on whether the City should schedule a public hearing before cutting or removing the tree. She was able to collect 62 affirmative responses supporting a public hearing before moving forward with any kind of action to cut, trim, or otherwise

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harm the tree. She asked whether the road expansion is creating the issue. It does not make any sense that the City is moving fast as more time is required with proper arborist reports to render a decision during a public hearing. She expressed disappointment with the Council and with the Mayor and is hopeful the Council will move forward with an open process as it should be, as she believes the country has moved away from hiding politics.

Walt Jorgensen reported several individuals have weighed in on the Davis-Meeker Garry oak tree. They include Mr. Brower who works for the state and Robert Van Pelt who is the preeminent big tree authority in the nation. Both gentlemen explained why the tree is not at the end of its existence and should not be abruptly terminated for no good reason. Mr. Brower shared all his material with the Council and he is hopeful the Council will choose to consider his research and analysis and share it with the public at the next regularly scheduled Council meeting. He is also sure Mr. Van Pelt would be glad to share his evaluation with the Council. He is an owner of trees on properties in Olympia, Tumwater, and 10 acres in south Thurston County. He receives monthly offers to purchase his timber. He is placing the south county trees in a conservation easement with Capitol Lake Trust following the lead of several neighbors. He would no sooner allow the David-Meeker oak tree to be terminated or trespass on what was Jack's property and cut one of his trees down. His trees are old at nearly 200 years. The Davis-Meeker oak tree is a poster child for the rights of nature in the county. Mr. Jorgensen cited some petitions in Olympia and Tumwater on other issues supporting nature and encouraged the community to contact him at waltjorgensen@comcast.net to learn about the rights of nature. Anyone interested in learning about plans for the Davis-Meeker Garry oak should attend the Tumwater City Council on June 4, 2024. He encouraged everyone to read the lead article in the *Jolt* about saving the tree in an open letter to Tumwater Mayor Sullivan and City Administrator Parks submitted by Scott D. Baker, registered consulting arborist. The bottom line is that the Mayor and City Administrator made the wrong decision.

Jesse Brighten, Whidbey Island, reported he is a certified arborist and qualified tree risk assessor with over 20 years experience within the industry in the state. The assessments on the tree he reviewed are incredibly suspect in terms of City staff. He spoke in support of previous speakers and colleagues who have spoken out at the Council meeting and at other City meetings. Many options short of removal are available to salvage the tree for an extended period. Crown reduction can offer over 50% stability. Limitations are inherent in sonic tomography. The City's arborist report includes egregious errors in his risk assessments. Sounding is typically an indication of

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where to conduct advanced assessments. A level 3 assessment of a climbing assessment of the entire crown with sonic tomography could potentially reveal decay pockets with most mitigated with crown reduction, cabling, and retrenchment pruning, which is championed in European countries. Some of the oak trees in the Sherwood Forest written about in literature are over 900 years old and there is no reason why the Garry oak tree could not be a potential candidate for similar treatments. He is also interested about tribal input into the process as the tree is a cornerstone and has existed pre-settlement, pre-colonization, and pre-Isaac Stevens.

Janice Klinski said she is upset about the Davis-Meeker oak tree. Each time she drives past the tree near the airport, she feels that the tree is a survivor, which is empowering and inspiring to her personally. Until a few days ago, each time she drove by the tree she considered how wise the City was to keep the tree located next to the highway. People who retained the tree in its present location were wise. Thankfully, people are appreciating this beautiful piece of nature. The tree adds much to the surrounding area. She recently learned that the City was considering removal of the tree. She finds that difficult to comprehend. She reviewed all the reports and none of the arborists believe the tree is dead and needs to be removed. A falling branch from the tree would not fall on people as no one is ever under the tree. She implored the Council to listen to real arborists as the tree is a valuable asset for the community and brings a feeling of peace and strength. She asked the Council and Mayor to listen to the arborists as well as to the community.

Sue Surkura, 20103 Harrison Avenue, Olympia, said the Davis-Meeker oak tree is an historical tree that served as landmark for the Oregon Trail and is an indigenous native species. She asked the Council to find a way to preserve the living historical landmark. She acknowledged the Council's patience and goodwill and would be happy to help to include raising funds for the project or other help the City might need working together with professional arborists, such as Scott Baker and Ray Gleason. She would be happy to donate her time, believes in the Council's wisdom and experience, and knows members will find a way.

Lawrence Jacobson, 2628 112th Way SW, Scott Lake, said the decision to remove the tree also affects him as well. When he drives by the tree he feels the ghost of the tree. He moved to the area from Chicago in 1969 to conduct a land use study of Thurston County. At that time, there was much open space, thriving small farms selling delicious strawberries, blueberries, and summer vegetables. Only 17,000 people lived in the county then. Then large tracts of land were turned into urban zones with little public input. Many of the

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developers came from California and there were few regulations. Farms like Roy's Strawberry Farm with its unique soil became a golf course and large tracts of housing areas. This type of development was repeated consistently. Another example of this unbridled greed occurred when Mr. Mottman, who owned a store downtown died. He was working in the basement of the courthouse annex and observed a group of realtors cheering about his death as they could develop the westside the way they wanted. Today, approximately 300,000 people live in Thurston County with crime, homelessness, and drug use out of control. A great example is the recent development of 93rd Avenue SE. Old-timers were horrified to see the rural landscape turned into a sea of warehouses and tacky residential developments. No bike lane was built and the developers could not be bothered to put in a crosswalk to allow a 97-year old woman cross the street to visit her 75-year old daughter. Now the City wants to remove the Jack Davis oak. Most of the tree specialists so far agree that the tree could be saved at lower cost than cutting it down. He urged the Council not to remove the tree.

Andrew Jacobson, 2628 112th Way SW, Scott Lake, said the oak tree should be saved. The tree has existed for a long time and was here before the nation became a country. It would be a real loss to not have the tree and it appears input from many experts have indicated there are a million ways to keep the tree standing and healthy.

Rhonda Larson Cramer, 1814 Eastside Street, Olympia, said she owns 20 acres of forested land on Old Highway 99 and 93rd Avenue. She echoed prior comments, as she wants to speak about the Garry oak. She thanked Councilmembers for all the hard work they do, as it is not easy being an elected official. She respects the work of the Council. People make mistakes. It is okay to make a mistake because it can always be fixed. She asked the Council to fix the mistake. There is also a tendency of humans to focus on safety, which is a good thing, but the ideas of safety make people take notice more than other concepts. She believes that also causes overreaction sometimes, which is what is occurring in this situation concerning the safety issue as trees such as Garry oaks have a certain way of growth where they have a hollow tube surrounded by a sturdy shell supporting much weight. She believes there has been a kneejerk reaction as to the safety of the tree without consideration of the species. The species of the tree must be considered. Being a forester and tree farmer, she has noticed a tendency among people in the tree industry to have an immediate opinion about the lack of safety of trees and recommending removal of a tree. It is really an overreaction from what she sees as the actual chances of the tree hitting people is minimal. It is a societal change that needs to happen when considering trees and safety from her perspective as a tree farmer.

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Skip McConkle said he has lived in the county for many years and lives off Trosper Road. He suggested the status of the tree should be subject to the vote of the people similar to prior actions in Olympia. He cited community actions to save Olympia's isthmus. He commented on his work in Seattle on a mansion installing a roof working with logs delivered from Forks, Washington. He moved to Rosalyn, Washington to get away from the city, which eventually became the site of a TV movie. He suggested there is time to save the tree but that it needs to be groomed. He suggested not removing the tree and continue exploring options as the tree needs some assistance.

Sarah Stewart said she lives in Tenino off Old Military Road SE and drives by the oak tree each time she shops at Costco. She loves the tree. The tree is beautiful and has outlived humans. She implored the Council to seek out an expert because that specific species has an unusual way of growing unlike other trees. She asked the Council to take the time and ensure everyone is able to know what is occurring with the tree. On her way to the meeting, she stopped by the tree and was unable to observe the public notice sign until after she drove away from the area as the sign is posted parallel to the road. She suggested the City should do a better job of communicating to the community because she learned about the plight of the tree by reading Next Door earlier in the day. She felt compelled to attend the meeting with her children because the tree is so beautiful.

Pamela Hansen, PO Box 14521, Tumwater, said she did not plan to offer comments but believes it would be a disservice and non-participation. She echoed everyone's previous comments. Some people sent emails to the City to include her email. She also visited City Hall after the radio news report. She is hopeful the information will be included in the record along with all the public testimony.

Savannah Stewart referred to her mother's testimony. She said the tree is super old and although she understands it is the choice of the Council to remove it or retain it, she really likes the tree and does not think the tree should be cut down because people could be hurt removing the tree. She does not want people to get hurt because that would be bad because when people are hurt bad things can happen. The tree should live longer so people can appreciate the tree. She really likes the tree and believes it should remain.

- CONSENT CALENDAR:**
- a. Approval of Minutes: City Council, May 7, 2024
 - b. Payment of Vouchers
 - c. Ordinance No. O2024-001, Updates to Title 15 (2021 Building Code Update)
 - d. Ordinance No. O2024-003 Establishing a new fund "Public

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- Safety Sales Tax”
- e. Resolution No. R2024-003 Percival Creek Fish Passage Barrier Removal #22-1161
 - f. Enterprise Resource Planning System Contract Amendment No. 2
 - g. Interlocal Data Share Agreement with the State Auditor’s Office
 - h. Law Enforcement Records Management System Interlocal Data Share Agreement with the State Auditor’s Office
 - i. Memorandum of Understanding with the Cities of Lacey, Olympia, and Yelm for a Housing Displacement and Racially Disparate Impacts Analysis for the Housing Element of the 2025 Comprehensive Plan Periodic Update

MOTION: **Councilmember Althaus moved, seconded by Councilmember Von Holtz, to approve the consent calendar as published. A voice vote approved the motion unanimously.**

Mayor Sullivan reviewed the items approved on the consent calendar.

PUBLIC HEARINGS:

**RESOLUTION NO.
R2024-004 SIX-YEAR
TRANSPORTATION
IMPROVEMENT
PROGRAM:**

Assistant Director Ames briefed the Council on the annual process for updating the City’s Six-Year Transportation Improvement Program (TIP). The process serves as the foundation for transportation funding within the State of Washington. Each city/jurisdiction prepares a list of transportation projects for the next six years to serve as the local TIP. The lists are submitted through local planning organizations. For the Thurston region, Thurston Regional Planning Council (TRPC) serves as the local planning organization. TRPC submits local TIPs to the state to form the State Transportation Improvement Program (STIP). Although the TIP is comprehensive, not all projects listed in the TIP are achievable as the TIP includes as many projects as possible to ensure the City is positioned to apply for many different types of funding.

Changes to the TIP are grouped into three main categories of removals, modifications, and additions. Projects underway and anticipated for completion this year include the I-5/Trosper project, Israel-Linderson Way Bicycle and Pedestrian Improvements, and the Linwood Avenue Sidewalk. Those projects have been removed from the TIP.

A new project is the Somerset Hill Fish Passage Barrier Removal project that was amended into the 2024 TIP/STIP earlier in the year and is carried forward to the 2025 TIP.

Assistant Director Ames reviewed the status of several projects. The Tumwater Boulevard Interchange project is in the first phase of design

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to improve the interchange for safety and to accommodate growth occurring in the area.

The City continues the Pavement Maintenance Program funded primarily by the Transportation Benefit District. The project improves the quality of life for users of the street network in the City.

The Somerset Hill Fish Passage Removal project has secured funding.

Nearly \$45 million is planned in grant funding with over \$50 million in local funds totaling over \$95 million. The process of the TIP is not financially constrained. Staff will continue efforts to ensure completion of the project list.

Assistant Director Ames requested that following the public hearing, the Council approve Resolution R2024-0-04 adopting the City's TIP for 2025-2030.

Councilmember Swarthout pointed out that the list of projects is not prioritized. Assistant Director Ames affirmed the order of the list is not prioritized but are numbered to tie the projects to the list and map and for the online program for submittal of the TIP to the state.

Councilmember Althausen noted that the City has received funding for some of the trail improvements for Deschutes Valley Drive. One of the challenges is the need for civil engineers on staff to deploy the funds.

Mayor Sullivan opened the public hearing at 7:59 p.m.

With there being no public testimony, Mayor Sullivan closed the public hearing at 8:00 p.m.

MOTION:

Councilmember Swarthout moved, seconded by Councilmember Althausen, to approve Resolution R2024-004, the proposed Six-Year Transportation Improvement Program (TIP) Update for 2025-2030, as recommended by the Public Works Committee at their May 9, 2024 meeting. A voice vote approved the motion unanimously.

**COUNCIL
CONSIDERATIONS:**

**DAVIS-MEEKER OAK
TREE DISCUSSION:**

Councilmember Von Holtz reported on the receipt of an email from a constituent who mentioned a permit acquired by the City in February 2024. That timeline created some confusion, as the action was not included during the Council's discussion during a recent work session

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or during a briefing on the issues surrounding the tree in March 2024.

City Administrator Parks advised that the discussion was not included on the agenda as previously requested by Councilmember Von Holtz because of the lack of time to prepare information on all dates with certainty. Based on availability of accurate dates, the tree branch fell on May 16, 2023. The initial tree assessment by Kevin McFarland was completed on June 14, 2023. The aerial arborist completed an evaluation on June 29, 2023. Sonic tomography of the tree was completed on August 27, 2023. The report from Kevin McFarland was delivered to the City on October 10, 2023. She and the Mayor were first informed of the incident on October 11, 2023 during a Director's quarterly update meeting. On November 28, 2023, the City received information from WCIA regarding the tree. The gap in time is attributed to the level of City activity in terms of staff identifying the situation based on the receipt of an official arborist report recommending removal of the tree. A staff meeting was held on December 8, 2023 to discuss the different implications of the report and recommendation, as well as the recommendation from WCIA and City codes related to the Davis-Meeker Garry oak tree including the historic preservation code, tree codes, and other codes related to tree permits. An additional staff meeting was held on February 22, 2024. Some information regarding the meeting is missing other than there were discussions, research, and analysis completed during the holidays, as well as some illnesses experienced by several key staff members. A Friday update email with two attachments was forwarded to the Council on March 1, 2024. Both attachments included timelines and the status of the Davis-Meeker Garry oak tree. Several notifications during the ensuing months included public notifications and Facebook postings, etc. The Council's work session on March 11, 2024 included the first discussion about the oak tree. The Tree Board met on March 11, 2024 and received information concerning the tree and several public comments. The Historic Preservation Commission held a meeting on March 21, 2024 and a second meeting on April 18, 2024. A Friday update email to the Council was sent on April 19, 2024 followed by a Council work session on May 14, 2024. During the period of time between March 1, 2024 and today, several other individual conversations with Councilmembers have occurred with the Mayor and the City Administrator.

The information regarding the permit Mr. Brower received in response to his public records request was a permit application that was not reviewed nor approved. A permit application was completed in late February 2024 for tree removal in anticipation of needing a permit for removal, which is the typical process when a tree is being requested for removal. Concurrently, more questions and additional research

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from constituents, as well as from Councilmembers on options occurred. During the same timeframe it was determined that it would be possible to address the Davis-Meeker Garry oak tree administratively because of the hazard condition the tree posed to public safety. City Attorney Kirkpatrick can provide legal analysis for removal of the tree.

Councilmember Dahlhoff asked whether the administrative action voids the requirement for a permit application. City Administrator Parks affirmed an administration action does not require a permit based on the hazardous tree condition and the determination of the City's arborist, which determined it was a hazard tree. Under those circumstances, a tree permit is not required.

Councilmember Dahlhoff remarked that the confusion surrounded the collective process for input and next steps. She questioned why an application was completed prior to the information presented to the Council. City Administrator Parks advised that at that point in time, staff understood based on the unique situation that in order to issue the permit to remove the tree, a delisting of the tree from the register was required first. At that time, that process was understood by staff, which is why the permit application was submitted. The communications plan included all the steps and reflected that the application should be filed to trigger the request to the Historic Preservation Commission to recommend delisting the oak tree.

Councilmember Althausen referred to public comments referencing the section of the municipal code requiring the Historic Preservation Commission to approve removal of an object or an entity from the register. He asked whether the Mayor's authority falls under an emergency provision that essentially makes the action exempt from the requirement.

City Attorney Kirkpatrick advised that there are two issues. The action by the Mayor does not require an emergency declaration or implementation of the Mayor's emergency powers. The code does include an exemption from the waiver provision of the Historic Preservation Commission's actions for emergency measures, which is different from emergency powers. The situation is unique in that the City has no other trees listed on the Historic Register, which was not developed to list trees but rather to list buildings. An exemption for emergency measures exists when surrounding structures and people are in danger or at risk.

Councilmember Cathey clarified for the public testifying that the Council was not involved in the decision to remove the tree. The Council was informed that it lacked the power to render a decision.

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The Council was engaged only in a few discussions at the May 11, 2024 work session. During those conversations, she conveyed a preference for preservation of the tree rather than removal. The Council has had no level of input nor has the Council voiced an opinion other than during an executive session where it was conveyed that the Council did not have a role in the decision. During the timeline of those conversations, the Council's knowledge of the issue was similar to the public's knowledge. The Historic Preservation Commission convened two meetings, researched the issues, and reached a unanimous recommendation to save the tree. The removal of the tree is a decision of the Mayor and the City Administrator and it is important for the public to believe the Council is not letting them down or not listening to the community.

Councilmember Dahlhoff remarked that she remains unclear as to whether the tree is an emergency or not an emergency, as the language is similar under the exemption provision. She questioned how an administrative action occurs and whether it is considered an emergency. City Attorney Kirkpatrick said administrative action is not an emergency in terms of declaring an emergency or enacting emergency powers. The action is an administrative function as the City owns the tree and a property owner has a duty to remove a hazard tree. The City administratively and the Mayor, as the Executive, have a duty for public safety to remove a tree that could be dangerous to the public. That duty exists regardless if the tree is on the historic register. The emergency is the danger. The historic preservation code includes an exemption for emergency measures that are not considered a declared emergency as any property owner might have an emergency that needs to be addressed quickly.

Councilmember Dahlhoff acknowledged the explanation but indicated the challenge is the process as the Council was included to make a decision only to learn that it was not the responsibility for the Council to render a decision. That is the challenge moving forward as all the discussions included a request for feedback, which in the end is not factored into the decision. An administrative function should not include discussions seeking the Council's input.

City Administrator Parks responded that the situation is unique to the City. The tree is listed on the historic register as well as a designated heritage tree. The tree is dangerous. Staff has been discussing what the appropriate approach should be. Initially, the issue before the Council was if the Historic Preservation Commission had recommended delisting the tree, the Council would have acted to either approve or deny the recommendation. That is the only decision that has been presented to the Council in terms of conversations, presentations, and information conveyed from staff despite the

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confusion created in February. The decision by the Council was not whether the tree should be removed or saved. It was part of the conversation in all the staff presentations to the City Council.

Councilmember Dahlhoff said that although she does not doubt the explanation, she does not recollect conversations that spoke to the administrative function. City Administrator Parks replied that the issue has been confusing as it is a unique situation that has never occurred.

City Administrator Parks added that Kevin McFarland is the City's contracted arborist. He is ISA certified and is a tree risk assessment qualified arborist. He has cared for the Davis-Meeker Garry oak tree for 27 years. He took time from June 2023 through October 2023 to evaluate all the information from his own research and knowledge and research and information he obtained from other arborists who assisted him. His recommendation is a legitimate recommendation from a qualified professional arborist with decades of experience in this region and with the tree. His report was reviewed voluntarily by the City of Olympia's urban forester, who is also an ISA certified arborist with a tree risk assessment qualification and who has a municipal specialist designation. In his emails to the City both unsolicited and requested, he indicated that his review of the report found that Mr. McFarland's methodology was appropriate, accurate, and that the City of Tumwater by hiring two additional arborists went above and beyond what is necessary to demonstrate due diligence and understanding of the impacts of the potential failure of the tree. Failures of the tree or portions of the tree are not theoretical, they have occurred on May 16, 2023. On the Next Door application, a comment was posted by an individual who indicated they were driving down the highway two years ago when a branch from the tree fell in front of the vehicle. She indicated that if she left her home 30 seconds earlier, the branch would have hit her vehicle. It took her and six other people to remove the branch from the road. In March 2024, two people in Issaquah five miles apart were killed in vehicles by falling trees. In November 2018, during a storm, three people in the state were killed by falling trees with two of them in vehicles. A report completed by Kent State University on human fatalities from wind related tree failures in the United States from 1995 to 2007 documented 407 deaths from wind-related tree failures in the United States. The most common cause was from thunderstorms followed by high winds, tropical cyclones, tornadoes, and snow and ice. Most of the victims were males with a median age of 44 years. The most common location of the fatality was in a vehicle.

The tree presents a significant safety risk for people who live in Tumwater and travel the road every day. The issue is not about road

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maintenance or rerouting a road. The current plan for the Old Highway 99 corridor maintains the right-of-way alignment around the tree. The issue is not related to airport expansion but it is about a dangerous tree that will fail at some point in the future. Fortunately no one has been harmed or killed, which is why the tree is recommended unanimously by staff to the Mayor to be removed.

Councilmember Dahlhoff noted that with risks inherent in trees as shared by the City Administrator, she asked about the assessment of all trees in the City and what action the City has pursued to mitigate the risk since May 16, 2023.

City Administrator Parks advised that no mitigation actions have occurred to the oak tree. However, an inventory of all street trees has been completed. She is unsure whether the inventory includes risk assessments of trees. Risk assessments are typically completed when requested by the property owner.

Councilmember Dahlhoff emphasized that since trees often pose a risk based on the examples, the City should be addressing all trees in the City. City Administrator Parks advised of following up with information after checking to determine if the action has been accomplished as a component of the tree inventory.

Councilmember Von Holtz conveyed appreciation for the explanation as she worked for the Department of Transportation for over decade and is familiar with dangerous tree removal. She is also familiar with the expanded timeline because originally, the Council was led to believe that the branch incident occurred in June and not May. It has been a year and if such a danger and emergency exists, she questioned why the City did not act to mitigate any kind of risk. Based on community feedback received, the community is requesting another assessment. Although she understands the concerns surrounding the risk, it has been a year since the failure.

City Administrator Parks recounted the dates of the failure of the tree, tree assessment, and recommendation for removal. The City has not performed any mitigation on the tree since then. The only mitigation to ensure public safety was to close the highway and reroute traffic from Tumwater Boulevard to Henderson Boulevard. Staff determined that decision would be untenable at this time. She is responsible for the confusion associated with the issue, as it was complicated because the different factors that would result in a decision were unknown at that time.

Councilmember Cathey commented that it appears the issue with the tree began with removal of the tree rather than considering

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preservation or mitigation options. Mr. McFarland's assessment stated that the tree is not dead and some preservation methods could be implemented to save the tree. She questioned why the decision was only for removal without consideration of other options, and what prompted the assessment of the tree in June 2023.

City Administrator Parks explained that the 18-inch diameter branch that fell onto the highway instigated an assessment of the tree as well as the amount of decay present in the branch. Following the incident and after observation of the tree and branch, staff requested a risk assessment.

Councilmember Cathey advocated for pursuing another assessment of the tree because the tree is historical and spiritual and marks the end of the Cowlitz Trail connecting to the Oregon Trail. The tree is important to Native Americans. The tree is not just a dangerous tree in the City, it is an historical living being that is over 400 years old and deserves another assessment.

City Administrator Parks agreed the tree is significant and historical and is important to the City of Tumwater. Assessment of the tree was not from a position of removing the tree but rather the intent was to assess the tree because of a condition that appeared to be dangerous. The City received a recommendation from its arborist to remove the tree as well as from the City's insurance authority. Mr. McFarland acknowledged in his report that there are alternatives but even with those alternatives his recommendation was to remove the tree.

Councilmember Cathey reiterated her request for another assessment of the tree.

Mayor Sullivan commented that she realizes the community is grieving the loss of the tree because she equates the situation to a person who looks healthy but learns after visiting the doctor that they have terminal cancer. That shock often takes a very long time for a person to come to terms with. There are also times when it not possible to treat the cancer. She understands the public, the City, and everyone else is experiencing a similar realization as to the actual health of the tree and the reality of what will happen to the tree as it could be compared to the death of a family member. However, she cannot allow the tree to jeopardize humans. She referred to a flyer forwarded to Councilmember Cathey that will be provided to the public for information on the tree.

Councilmember Dahlhoff remarked that it is not necessary for everyone to agree but that a better resolution occurs from having the discussion. The one issue of concern is the reason for the submittal of

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a tree removal application if the original intent was not to remove the tree. That timing is concerning. She expressed appreciation for sharing the information because the decision was not easy and likely challenging. She thanked staff for sharing the information but is still is troubled by the decision while understanding it is not the Council's decision.

**COMMITTEE
REPORTS:**

**PUBLIC HEALTH &
SAFETY:**
Peter Agabi

The meeting on May 14, 2024 resulted in a recommendation to the City Council to surplus Police Canine James. Officer Mize who was his handler for nine years will have the opportunity to purchase James. Members received a presentation from Police Lieutenant Carlos Quiles on the use of force by police officers in Tumwater.

**GENERAL
GOVERNMENT:**
Michael Althausen

Items on the May 8, 2024 meeting agenda were included within the Consent Calendar approved earlier by the Council.

PUBLIC WORKS:
Eileen Swarthout

The next meeting is scheduled on Thursday, May 23, 2024. The agenda includes consideration of a Construction Contract with Active Construction, Inc. for the Interstate 5/Troster Road/Capitol Boulevard Reconfiguration Project, Request for Additional Construction Funds and an Interlocal Agreement with City of Olympia for the Mottman Road Pedestrian and Street Improvements Project.

**BUDGET AND
FINANCE:**
Debbie Sullivan

The next meeting has not been scheduled at this time.

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

City Administrator Parks reported the Tumwater Valley Golf Course is hosting WIAA State Golf Championship with 44 high schools from across the state participating.

The Council will receive information on the amount of the City's allocation from the recent opioid settlement of \$47 million.

**COUNCILMEMBER
REPORTS:**

Angela Jefferson:

Councilmember Jefferson reported on some progress by Tumwater HOPES. Since the last meeting, the group hosted a function on May 21, 2024 featuring a media awareness film on screen time and impacts on mental health of youth and young adults. Members are planning to create partnerships with Family Education and Support Services (FESS) to share information on ways to guide good choices with the

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community. During the drug take back event, 84 lbs of medicine was collected with plans to offer another event in October. Members also plan to collaborate with the Opioid Response Task Force to provide medical lockboxes to the community.

Earlier in the day, Councilmember Jefferson attended Experience Olympia and Beyond Board of Directors meeting. Members discussed the status of the Thurston County Destination Master Plan. The plan guides the region into the future to create a master area to attract visitors. Because of some pushback from local officials, an informational briefing will be presented to local jurisdictions on the destination marketing plan.

Peter Agabi

At the May 8, 2024 Transportation Policy Board meeting, members reviewed and discussed the call for projects process and received a briefing on the 2024 Congestion Management Process (CMP).

At the May 13, 2024 the Joint Animal Services Commission meeting, members reviewed potential sites for the new animal facility. The Executive Director plans to present information on the new facility to the Council in the near future.

Joan Cathey:

Councilmember Cathey reported on her attendance to the Olympic Clean Air Agency and the Regional Housing Council meetings.

Kelly Von Holtz:

There were no meetings and no report.

Leatta Dahlhoff:

At the last LOTT Clean Water Alliance Board meeting, members engaged in budget and strategic planning and adopted a policy for public comment similar to Tumwater's policy.

Michael Althausen:

At the last Regional Housing Council meeting, members appointed new members to the Affordable Housing Workgroup and Homeless Services Workgroup. Tumwater is represented on both workgroups. Members approved the 2024 funding awards of several contracts with local non-profits and public organizations for cold and hazardous weather, human services funds, anti homelessness funds, and affordable housing funding recommendations totaling approximately \$17 million to help support the housing and human services system countywide. The recommendations were forwarded to the Thurston County Board of County Commissioners for approval. Members agreed to author a letter in support of a potential mobile home project in Olympia.

Eileen Swarthout:

The 40th anniversary of the Olympic Women's Marathon event was a success with participation from runners from across the country. Tony Ventrella, former TV news personality, served as the MC for the

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event.

ADJOURNMENT: **With there being no further business, Mayor Sullivan adjourned the meeting at 8:56 p.m.**

Prepared by Valerie L. Gow, Recording Secretary/President
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