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CITY COUNCIL MINUTES

**City Council Chambers, 7:00 P. M.
Monday, March 13, 1961**

Council met in special session. Present on roll call 9: Bott, Cvitanich, Easterday, Murtland, Olson, Porter, Price, Steele and Mayor Hanson.

Mayor Hanson advised that this special meeting was called for discussion on the position of the City with reference to House Bill 455. He said he would like for the City Attorney to explain the bill, but first of all he asked that the Resolution be read in full which he had asked to be prepared.

Resolution No. 16489:

Requesting the Governor of the State of Washington to veto said House Bill No. 455, or as many sections thereof as may be necessary in order to prevent said bill from overruling the decision of the Supreme Court rendered in the Parosa vs. City of Tacoma et al, case. Read in full.

Mr. Steele moved that the Resolution be adopted. Seconded by Mrs. Price.

Mayor Hanson said the presentation will be given of an analysis of the precise relation of House Bill No. 455 to this Resolution of the City of Tacoma. He said he would like briefly to point out the need for such immediate action. This House Bill No. 455 was originally submitted to the Legislature as an Association of Washington Cities Bill designed to rectify certain questions which had arisen with reference to the validity of certain fourth class Cities which had exceeded the one mile area limitation in other legislative enactment. The Bill proceeded satisfactorily. There were two amendments in the House by the House Committee which were acceptable and consistent with the policies of the Association of Washington Cities and also the policy of the City of Tacoma. It got to the Senate. There were two Senate Amendments which were attached as Senate Committee amendments, at a date immediately approaching the deadline of consideration of Bills. The amendments themselves were not recognized in terms of their import until after the Legislature had acted and the Bill was presented to the Governor. The only way to stop the Bill then remaining, is to convince the Governor that a veto of those sections, specifically Sections 1, 2, and 3, which are opposed to the policy of the City of Tacoma, must be accomplished prior to March 21st. He said he would have waited until Tuesday to consider this matter at a regular Council session had it not appeared upon investigation and discussion with members of Governor Rosellini's staff that there had been several members of the Council who had actually urged passage of the bills. There was some confusion on the part of the Governor's staff at least as to the position of the City of Tacoma. Mr. Max Nicolai, Attorney for the Governor, indicated that several members of the Council had contacted him. He said the name of the Councilman that he remembered was George Cvitanich

who had urged the passage of this Bill, and with reference to the City of Tacoma it indicated certain differences of opinion, and since a great deal must be done if we are to stop this bill, he felt it was the utmost importance that we take action just as soon as possible to establish the policy. But before going into it any further, he would like an explanation of the effects of the Bill from Mr Hamilton, Assistant City Attorney, who has been working on the matter.

Mr. Hamilton, Assistant Attorney, said as the Council knows this matter has been before the Courts; the Supreme Court of the State of Washington rendered its decision the 22nd day of December of last year. Dr. Joseph Parosa, individually and as a representative of the signers of the petition, was the one party, and the Port of Tacoma, the City of Tacoma, and the County Commissioners, were the other party in this consolidated action. The question here basically was the question of conflicting petitions; one for incorporation of the Town of Tidehaven; the other was an annexation petition which was duly followed by an Ordinance passed by this Council some time in the summer of 1958. In any event, the Court in its decision held that the laws of 1889 and 1890, particularly Chapter 7, Section 15, were still the laws of this State, notwithstanding an attempt to amend them by the Legislature in 1951. The Laws of 1890 provide that a municipal corporation, particularly cities of the fourth class, may incorporate, and sets forth their powers and supervisors. (1) "That they shall not exceed one square mile in area; (2) that not more than 20 acres of land belonging to any one person shall be taken within the corporate limits of the municipality without the consent of the owner."

The decision is a difficult one to understand, Mr Hamilton added. However, there are many times that it is split 4, 3, and 2, although nine judges concur in the result. But the gist of the opinion appears to be that the Laws of 1890 are still the laws of the State, and the fourth class municipality to date at least, cannot incorporate if it exceeds more than one square mile of an area, or if more than 20 acres of unplatted land are incorporated in the town without the consent of the owner of the land. The case in question, Tidehaven, encompasses considerably more than one square mile in area, and takes in more than 20 acres of unplatted land belonging to the Port of Tacoma, without its consent. As a matter of fact, the Port itself petitioned the City to annex this parcel of land to the City of Tacoma. That, in essence, is the basis of the decision, and a very brief history of the litigation involved, he added.

Mayor Hanson said, with reference to this Bill as it has been amended and as it is before the Governor, first of all with reference to the Senate amendment, in Section 1, page 1, line 8, "of the engrossed Senate Bill, after "act" insert ", and the provisions as contained in this act shall apply to all incorporation and annexation proceedings now pending or hereinafter initiated", is the present litigation, although we have received a decision, still pending?

Mr. Hamilton said there is a petition for rehearing on file before the Supreme Court at this time.

Mayor Hanson said the second Senate Committee amendment, in Section 3, page 1, line 22, "of the engrossed and printed bill, after "thereof" insert ", except that this limitation shall not be applicable to original incorporation proceedings", then that would mean that this 20 acre limitation, the need to obtain the consent, would not apply on the original corporation, and the corporation of Tidehaven is an original corporation. So this is the basic reason why

the City embarked upon the annexation proceedings requested by the Port is to forestall or to stop the annexation into a small fourth class city called Tidehaven of approximately 1000 acres of Port property which is presently in the County. At this point, perhaps it would be well to hear from John Binns, Attorney, who represents the Port.

Mr. Cvitanich said he rises to the point of personal privilege. There may be some misunderstanding about the usage of his name and he was surprised that Mr. Nicomi could do such a tremendous job in remembering it. Number one - we are members of the Association of Washington Cities. My prime concern is that this bill was introduced by Mr. Taylor in the House of Representatives who is president of the A. W. C. Mr. Brown also was co-sponsor and Mrs. Henry. All three are members of a 4th class city and in discussing this with Mr. Nicomi I certainly urge passage of the Bill without any reservation whatsoever because we are members of this very group that are sponsors of this bill. So I want, for the record, to clarify right now that there is no intention or anything else, or misunderstanding so that ^{anybody} ~~anybody~~ tries to impugn me in any way, shape, form or manner on this bill.

Mayor Hanson said that is the reason, one of the prime reasons, this meeting was called tonight so that any misunderstandings can be cleared up, so that every member of the Council will have an opportunity to indicate his position on the bill so that I can then indicate very clearly the position of the City of Tacoma to the Governor and his staff.

Mr. Murtland said he assumed then that Mr. Cvitanich meant that this was prior to March 5th when you had that conversation.

Mr. Cvitanich said the date he did not particularly remember as he talked with hundreds of people all day long.

Mr. Murtland: I understood the way you were expressing yourself that you meant that you had, on the original bill, had mentioned that you

Mr. Cvitanich: the original or the amended bill I cannot tell you for sure. I believe this is not a Court of law and I am not required to answer any questions.

Mayor Hanson: no, I only indicated the confusion in my mind with reference to the position of the City and that confusion can be eliminated upon consideration of this Resolution.

Mrs. Olson: Mayor Hanson mentioned Mr. Nicomi and the reason I bring this up - you said that he requested that the City of Tacoma call a special session so that this be clarified.

Mayor Hanson: no I did not. I decided that it was necessary to clarify the City's position at the earliest date possible. We met on Saturday and I immediately made arrangements for notices to go out for a special meeting. Mayor Hanson asked Mr. Binns to speak at this time with reference to the effects of this bill with reference to the Tidehaven matter.

Mr. Binns: It is a privilege to be permitted to present my view and I think the view of the Port of Tacoma on this matter. As you know it has been in the Courts for several years and I have been authorized specifically by the Port Commission to represent the Port of Tacoma in the litigation which is designed to eliminate the Port of Tacoma's industrial district from the incorporation of Tidehaven. Those instructions at anytime have never been varied

nor departed from. He said I do not purport to speak for the Port Commissioners as to matters of policy except to give you the factual statement that my instructions says.

Mr. Binns: What this Tidehaven Corporation will do will be to incorporate in a small 4th class community all of the inhabitants on the east side of Highway 99. I might emphasize that not one living soul lives in that portion of the Port of Tacoma's industrial district which is intended to be taken into the town of Tidehaven by the sponsors of that Corporation. All of the inhabitants live in this area on the east side of Highway 99. One cannot help but conclude that the purpose of including this large area of industrial land is to tax that land to the extent that it ^{is} now privately owned, for the benefit of the people living in the other section, as it is very unlikely that there will ever be again any residential district in what is now the Port of Tacoma industrial development district. In view of the fact that a single factory on any one of the many sites in this area may run into millions of dollars this would obviously be a gold mine for these people on the other side of the highway - they could literally pave their streets with gold at the expense of industry, if they were able to do what they are trying to do.

We have been to the Supreme Court twice on this matter, once on the constitutional question where we were unfortunate and lost the case. The second time on the statutory construction where with the very able assistance of Mr. Hamilton and Marshall McCormick we won a complete victory in the opinion of the Supreme Court on December 22, 1960. Petition for rehearing which has been filed by the Counsel of the other side does not ask for a reversal of that opinion but merely for a clarification of it. If this were something that affected only the City of Tacoma, and the Port it would be a very important factor. Actually it could adversely affect every other community in the State situated near large tracts of undeveloped unincorporated property. I feel that the City of Tacoma by opposing this bill can strike a real blow for liberty of other communities.

An example of something that is absolutely possible that everyone is familiar with Wahkiakum County down on the Columbia River. A County with three or four straggling towns along lands composed of million of acres of standing timber owned by a number of different owners and with practically no inhabitants at all. The first Tidehaven case, established principle that on the condition for incorporation of a 4th class, the County Commissioners could not decrease the area on hearing by more than 20%. That is the law of the State. No one has contested this so far. The two remaining ones are the one square mile condition prohibiting a 4th class town from having more than one square mile in area; the other is the provision pointed out by Mr. Hamilton that not more than 20 acres of unplatted lands of any one owner could be included. If this bill becomes law both of those conditions are gone. Now, let us assume that, I think there is only one incorporated town in Wahkiakum County, which is very small. Let us assume that some other little struggling community down on the river decides they want to incorporate all of the area of Wahkiakum County which is outside of any incorporated town, they can present a petition to the County Commissioners to take in the whole county except for that one town that is already incorporated. The County Commissioners can cut it down not to exceed 20% which means for all practical purposes 80% of that County can be included in one 4th class town. There are about 3,000

or 4,000 people in the entire county, so it is obvious that a stand of timber 40 miles from the river will never get any benefit from the services in a 4th class town. They are not going to improve the logging roads to get up to this timber and yet as the law stands now plus this bill, it will be entirely possible for such an incorporation to take place within the next year, and nothing the Courts can do to stop it because of the legislature in the Courts if this bill goes through that will foreclose all of the possibilities of exercising these safeguards. The fact that human nature being what it is, I would predict that exactly that same thing will happen in several counties with comparatively few and small settled communities and enormous areas of timber or wheat lands where the inhabitants are few in numbers, the absentee owners will not be able to do anything to outvote the other people who want to make up a community of that type.

The Port of Tacoma does not have the vote on their corporation of Tidehaven should it ever come to a vote. There is no single individual in this industrial area who can vote on it. You are not only doing your own community a service but you are also doing a service for every undeveloped area in the state if you confirm your previous stand on this matter.

No one has ever yet construed the potential conflict between the zoning power of a fourth class town and the power of a Port Commission to prescribe the industrial use of an industrial development area. There is not a word in the statute relating to cities and towns; there is not a word in the statutes relating to Port districts which bears directly on that point. What would happen if a fourth class town got possession of an industrial development district and proceeded to put into effect its ideas as to what is the proper zoning. The Port Commission might have decided that certain industries acquiring deep water transports be concentrated along the water front; it might have decided that another area was proper for heavy industry. The questions of fumes might arise, etc. The City fathers here on the other side of the highway may have entirely different ideas and proceed to put in effect their own ideas. I very much doubt that they would be as well qualified to zone industry as the Port Commission yet 4th class towns have specific powers as to zoning and any powers that the Port Commission has on zoning. That is something that accounts for the opposition of the Port Commissioners of the Port of Tacoma to this Tidehaven Incorporation.

Mayor Hanson thanked Mr. Binns and asked, am I correct when I say that this area includes almost a thousand acres.

Mr. Binns said about a thousand acres, 800 of which belong to the Port as I recall the figures.

Mayor Hanson said is that about 2/3 of our present port potential in development.

Mr. Binns said the entire industrial development is approximately 1,500 acres. The part inside Tidehaven is 1,032. Some of it has been sold. A little of it belongs to Bonneville. There is roughly 800 acres that still belongs to the Port.

Mayor Hanson said almost two-thirds of this area, Tacoma and Pierce County potential development would be in the hands of approximately 300 people who live in the section which is only contiguous by a little neck.

Mrs. Olson said Mr. Binns mentions that the only people who reside in this Tidehaven area reside on the east side of the road. When the original petition for incorporation was filed there were residents elsewhere - what happened to those people.

Mr. Binns said we were already in the process of acquiring that land. Some small tracts were acquired by condemnation - at least 80% was acquired by purchase. We were in the process of acquiring the land when the first petition was filed. In fact we were already acquiring it when Fife was incorporated. Fife tried to incorporate this territory. The County Commissioners then had power to exclude it and they did exclude that entire industrial development district from Fife. The Tidehaven petition followed. It has been charged that the Port of Tacoma speeded up its acquisition program in order to throw the people out of the industrial development area and make the incorporation possible. I was not in charge of the acquisition of that land but as far as I have been able to determine the charge is not correct. That the acquisition of land went ahead at the rate it had already been planned. There were something like 100 people living in the area when the first Tidehaven petition was filed.

Mrs. Olson said that is what she thought. So then at the time the first petition was filed, this situation did not exist.

Mr. Binns said not in the extreme form that it exists at this time. They were still only about one-third of the total population of the proposed town and they knew that their land was in the near future to be acquired for industrial sites.

Mr. Cvitanich asked Mr. Binns what the 1890 law did.

Mr. Binns said the 1890 law sets up two safeguards against a 4th class town spreading ~~out~~ all over the map. It says that it shall not exceed one square mile in area and that it shall not include more than 20 acres in unplatted land of any one owner without the consent of that owner.

Mr. Porter said Mr. Binns made the statement, I believe, that should this bill be enacted, it would be of no benefit to any area of the State.

Mr. Binns said he did not quite say that. He did say these three sections are a threat to any undeveloped area in this state.

Mr. Porter said he wondered just why it was presented by ^{Dick} Taylor, Br~~...~~ and Henry, and what the arguments were used for it if nobody in the State were to benefit from it.

Mr. Binns said it is the amendments which are tacked on which make it a vicious bill. The original bill accomplished two things. It did take off the one square mile limitations. We were not too happy about that. We could have lived with it. It regularized certain situations which had arisen by an application of the '51 Act which the Supreme Court later held invalid. The original bill merely took off the one square mile limitation. That was a legitimate subject of debate. This bill by the amendments does two things: The amendment to Section 1 makes it applicable to pending procedures. The amendment to Section 3 takes off the 20 acre provision as to original incorporation.

Mr. Porter said he did not attend any hearings on this, so his only knowledge would be from what he has read in the paper. It just seemed to me that there were people speaking in favor of it including John McCutcheon and

Mr. Binns said as far as we have been able to determine, there has been no hearing on this. Our criticism is almost all directed at what happened

in the Senate the dying days of the session.

Mr. Porter said the Senate amendments were committee amendments so you do not know who they were proposed by.

Mayor Hanson: Before going any farther . . . Under the press and consistency of this pending deadline and consistent with what I construed to be the policy of the City in pressing our position in Court, I arranged for a number of meetings. I was able to arrange one with the Executive Committee of the Teamster's Union this morning, and their action was taken endorsing our opposition to the Sections 1, 2, and 3 which would weaken or tend to defeat our position with reference to Tidehaven, Inc. Mr. Hatfield of the Teamsters Union came to the meeting but had to leave early. I was authorized to make public the position of the Teamsters and I wondered if that is the position.

Mr. Hatfield who was present, answered: Yes.

Mrs. Olson asked what other groups have taken action. Has the Port taken action?

Mr. Binns said the Port has not discussed this matter at a commissioners meeting since the bill was passed. One of the commissioners has been out of the city for the last two weeks. At the meeting last week, as is customary when there are only two commissioners present, the matter was not discussed.

Mrs. Olson said, but the bill was passed prior to the last meeting.

Mr. Binns said the bill was passed Sunday.

Mrs. Olson asked what was the vote on the bill as amended?

Mayor Hanson: It was almost unanimous, largely because no one was aware of the implications of these amendments until after it was passed. In fact, with reference to that, Senators Kupka and Petrich became very concerned after action was taken, and I will read the letter Senators Kupka and Petrich wrote to Gov. Rosellini. They sent me a copy. "Dear Gov. Rosellini: I would like to call to your attention the significance of Senate amendments placed upon Engrossed House Bill 455 which, in my opinion, justifies your serious consideration of vetoing section 3 of the bill. The amendment in question is to section 3, page 1, line 22 of the engrossed and printed bill which provides that a necessary safeguard against unwarranted inclusion of undeveloped lands in towns of the fourth class shall not apply to original incorporation proceedings. The amendment was tailored to reverse a Supreme Court decision rendered December 22, 1960 on which a petition for rehearing is now pending. The case, Parosa v. the City of Tacoma, and Port of Tacoma v. Harry Sprinker, is reported in 157 Washington Decisions, page 307. The cited case was a culmination of five years of litigation involving Pierce County, the City of Tacoma and the Port of Tacoma, all asserting the same position in opposition to that of Mr. Parosa who represented a large company situated in the Port of Tacoma Industrial Development District.

"In brief, the litigation has involved an attempt by a few individuals to incorporate the Town of Tide Haven City as a private town occupying nearly all of the port industrial development district. Although the district has no residents in the mile square tract of unincorporated land which it occupies, and although the port admittedly has ample powers to provide, and, under its comprehensive development plan is providing water, light, power, fire protection,

streets, waterways, rail and terminal facilities, the incorporators have persistently over the past five years attempted to accomplish its incorporation. In a series of earlier and unsuccessful petitions for incorporation, the incorporators have included a small territory to the east of the industrial development district and connected thereto by a narrow neck of land in order to provide the minimum population of 300 persons necessary for incorporation. There are no services or advantages to the Port of Tacoma which could result from the incorporation of the area. The port, in earlier proceedings, requested the Board of Pierce County Commissioners to delete from a prior incorporation petition all of the industrial development district, which the county commissioners did. At all times the county commissioners have allied themselves with the port, although in the recent decision cited above they were named as defendants in a declaratory action brought by the port. The Port of Tacoma desires that its industrial development district not be incorporated as a fourth class town because the intensive and comprehensive development of the district can better be achieved without the conflicting and overlapping jurisdiction of a fourth class town whose attempted incorporators have been at odds with the port for the past five years.

"Inasmuch as the amendment to section 3 of the Engrossed Bill 455 is patently designed to over-rule the decision of the Supreme Court upholding the position of the Port of Tacoma, and inasmuch as the bill as amended permits the inclusion of unlimited acreage of unplatted land belonging to a single owner although as in the instant case there may be no benefit and on the contrary great harm resulting from such incorporation, I respectfully request your serious consideration of vetoing the section. Yours very truly, (signed) John A. Petrich, George W. Kupka."

Mayor Hanson said: The reason I read the letter at this point is to indicate that had these two Senators been aware of the import, in fact, had anyone been aware of the very existence of these amendments at the time action was taken, there would have been great and serious debate on the bill.

Mrs. Olson: I think you are assuming certain things, Mr. Chairman, in that I do feel very strongly that 43 Senators and a number, I believe everyone, in the House of Representatives, with the exception of one person, were probably not so weary and so tired at that particular time that they were totally unaware of the type of legislation they were passing. I think that this is not a fair assumption to make. Also, in reference to Mr. Petrich, isn't he an associate of yours, Mr. Binns?

Mr. Binns: He is a partner of mine. Senator Kupka was a member of the committee which put on these amendments and he did not know about this.

Mayor Hanson: They are headed "Senate Committee Amendments" and we have been unable to find out when and where the committee . . .

Mrs. Olson asked if other Legislators in Tacoma have taken any position?

Mayor Hanson: I have been contacting people at quite a rate. I have not yet contacted all the Legislators. The only ones I have contacted are Kupka and Petrich, although they will all be contacted.

Mayor Hanson: As soon as I received word of these amendments, and after an examination of the amendments, I sent a wire to Gov. Albert D. Rosellini dated March 6th: "Strongly urge veto of House Bill 455. Bill as finally amended would tend to encourage stifling satellite communities on

outskirts of City. Final amendment designed to frustrate Tacoma's apparently successful fight against special interest Tidehaven incorporation attempt. Port of Tacoma would be adversely affected. Request hearing on bill if needed before veto is exercised."

Mayor Hanson: I have been assured that such a public hearing will be granted prior to the date when the bill becomes a law or prior to the signature of the Governor. The telegram in reply, March 7th, from Gov. Rosellini: "Senators George W. Kupka and John Petrich have already called the subject matter of House Bill No. 455 as finally amended to my attention. You may be assured that this measure will be scrutinized with the greatest care. (signed) Albert D. Rosellini."

Mayor Hanson: I was assured. My first call was to the Governor. He was busy and I talked to Charlie Hodde. Later, meetings were made with Max Nicolai on two occasions, the last being this afternoon. I talked with the Governor by telephone this morning, and he assured me at that time that a hearing would be set up prior to his signature approving the bill or prior to the date when it would become operative automatically, and that date is March 21st.

Mr. Cvitanich: What was the vote on this bill?

Mayor Hanson: I do not know the specific vote. It was nearly unanimous. It was taken care of as a housekeeping measure of the AWC.

Mr. Cvitanich: This was both the House and the Senate?

Mayor Hanson: Yes.

Mr. Steele: I think it should be made a matter of the record that this action in the Senate Committee taken on March the 5th, a Sunday, this bill was passed out of the committee and into rules and was on the calendar that same date and was passed later on in the day on Sunday. In my conversation with Senator Kupka on the morning of March 6th after the matter had been called to his attention and he was quite disturbed and was planning on talking to Senator Petrich, I talked to Senator Petrich later on that day. On Tuesday the 7th I encountered Mr. Hodde, the Governor's liaison man, and alerted him to the fact that the Senate amendments were prejudicial to the City and Port's special development program. He referred me to Mr. Nicolai, and I was able to see Mr. Nicolai on the 8th and then reported to the Mayor on the 9th as to the developments at that time. So it was kind of a rush act.

Mayor Hanson: The County was represented at the meeting by Harry Sprinker, and he indicated that it was the unanimous position of the County Commissioners. There was no question down there as to misrepresenting the position of the County Commissioners. I have been informed that they intend to consider this matter at their regular meeting on Tuesday morning. Their present position has been established but to make certain there is no question about it, they are going to consider one with reference to this specific bill.

Mayor Hanson: I might say that one of the reasons for the need for immediate action is to give people an opportunity to clarify their positions, if there is any question in the minds of anyone. It was represented to me that the Pierce County Democratic Chairman, Mr. Sheridan, had been working for this bill. If that is not true, it would be very simple for him to clarify his position by joining with us in our effort to obtain the veto of sections after analysis. It was determined that Sections 1, 2, and 3 would have to be vetoed in order to accomplish the results that were intended. Perhaps we could have

an analysis from the Attorneys with reference to the effect of the Act if 1, 2, and 3 were vetoed. Would the general import of the bill with reference to clarifying the legality of 4th class cities be retained?

Mr. Binns: It would help. It would legalize the incorporations over one square mile which were undertaken under the law of 1951.

Mr. Porter: The Mayor mentions veto of Section 2. Was there any amendment on Section 2?

Mayor Hanson: Perhaps we could have an explanation as to the need for the deletion of Section 2.

Mr. Binns: That is a very technical question. There is a rule of statutory construction that where an original section upon section is re-enacted with part of it missing, that implies an appeal of the part which is omitted. If we veto Section 3, re-enact Section 2 which was part of the original section upon section, we have still by implication repealed Section 3. It is extremely technical. The lawyers are unanimous that you have to veto 2 to get at 3 and then by paradox 2 is still the law because it is there all the time.

Mr. Bott: In one reference the Mayor makes - that the Pierce County Democratic Chairman is working for the passage of the bill - in all fairness to him would it not be right to explain the fact that he might be acting in behalf of his employers who, I understand, are the ones that sponsored the bill, and not as a political leader.

Mr. Cvitanich: The bill is sponsored by the AWC, Mr. Taylor, Mr. Brown, and Mrs. Henry.

Mr. Steele: I rise to a point of order. The amendments certainly were not sponsored by the AWC.

Mrs. Olson: What is Mr. Taylor's position as of this minute?

Mr. Steele: Mr. Taylor's position is at this moment confused.

Mayor Hanson: We had a meeting with Mr. Biesen. I had previously discussed it with him briefly. I discussed it at some length with Mr. Floyd Jennings and with Ken Cole, the Attorney. We had a meeting with Chester Biesen this morning and discussed it fully, and he very definitely indicated that the amendments were not a part of the bill as presented by the AWC. I discussed the matter with Mr. Taylor and he also indicated that it was not part of the policy or intent of the AWC, and he stated that as far as he was concerned it should be vetoed as long as it did not do away with the sections that were important to clarify the legal status of certain 4th class cities. I am attempting to arrange a meeting of the Executive Board of the AWC. After the meeting with Mr. Nicolai, I asked Mr. Biesen to arrange it and mentioned it to Mr. Taylor who indicated that whatever Mr. Biesen felt was necessary should be done, so I asked Mr. Biesen to call one. I was told just before this meeting that Mr. Taylor doesn't feel the meeting is necessary. I was unable to get hold of Mr. Taylor again. However, I intend to do so tomorrow.

Mr. Cvitanich: When did you have the meeting with Mr. Biesen and Mr. Taylor, Mr. Mayor?

Mayor Hanson: Just about 3:00 P. M. this afternoon.

Mr. Cvitanich: Their thinking again?

Mayor Hanson: That the amendments are not a part of the intent or the policy of the AWC and that as long as the intent of the bill as presented is retained the sections should be vetoed.

Mr. Easterday: Mr. Binns stated a moment ago that the original bill eliminated the one square mile. Did it place a limitation upon it?

Mr. Binns: It strikes out the one square mile provision which is the first sentence in Section 3. Then with a slight change in grammar to make the thing read sensibly, it confirms the 20 acres. Now the Senate amendment says that the 20 acres even does not apply to the original incorporation. So the one square mile is entirely gone and the 20 acres is confined to annexation if this bill should become law in its present form.

Mr. Easterday: In other words, the 20 acres is still there. That would stop those people out in Wahkiakum way from incorporating.

Mr. Binns: No, it does not apply to original incorporation. Under the Senate amendment the 20 acre provision is not applicable to original incorporation. Wahkiakum can incorporate all of Wahkiakum County, but if Cathlamet tried to annex it they couldn't.

Mayor Hanson: I might say that this is a radical departure from the policy of the AWC which has been in the direction of simplifying procedures on annexation rather than stifling abilities of presently existing cities to incorporate. It is a complete reversal in that it places a greater restriction upon annexation and encourages incorporation, which is not only a reversal of the policy of the AWC but it is a complete reversal of policy of all trends throughout the United States and in some states the trend toward encouraging annexation is quite dramatic so in short, it's opposed to all matters, analyzing it on the basis of general theories of government, general trends, general policies, and it's quite easy to see the problems that would result, the problems that would relate to the very heart of the hopes of this City and this community and county to develop industrially.

Mrs. Olson: Mr. Binns, how many major industries have located in the tideflats in the last 10 years?

Mr. Binns: I could not give you the number.

Mr. Cvitanich: I would like an MC on that if I may have.

Mrs. Olson: The reason I raise the question is because it seems to me that everything we are discussing tonight is based on an assumption, and my question is that I am sure industries which have located elsewhere in the State undoubtedly investigated Tacoma. I think Dow Chemical Co. recently located itself in a small community in the State; I think Continental Can recently located itself in Lacey, Washington, which is a small incorporated community on the fringe of Olympia. I think that research would indicate to us that industry very frequently feels there are advantages to locating in small communities. I think we should explore these things very carefully because benefits can accrue to Tacoma just as well with industry on the tideflats, whether it is located inside the City of Tacoma, within the County, or within the incorporated city limits of Fife, or any other City which happens to be on our perimeter. I think when we say, when we assume, that no industry is going to come there if this City is permitted to incorporate, I think this is a false premise and a false assumption. For every person employed in a basic industry, 3 other persons are employed in a service industry. Many of those people would be within the City of Tacoma. We have many people who earn their living within the City of Tacoma, many of them are very prominent within City affairs, in the Chamber of Commerce, prominent in downtown who make their Associations

living within the City of Tacoma and reside outside the limits. The same people thing could hold true in reverse. There could possibly be and there are ~~people~~ who make their living down on the tideflats industrial area which is not located within the City limits of Tacoma and who reside in the City of Tacoma and are taxpayers and contribute towards this community. Now I think we are confusing the issue. I think the fact that two legislators out of the whole state have seen fit to address on this. . . . We have heard the Mayor say he has spoken with other people, which is true perhaps, but I think that before we take action we should have evidence of the feeling of some of these other people, because we are entirely dependent upon the Legislators for other favors. We have bills before them now, hoping, praying, asking for some kind of financial relief. It seems to me that we have many things to consider, and for the City of Tacoma to be the only public body to take a stand of this magnitude in the face of almost a unanimous legislative vote - asking the Governor to put himself on the spot to veto an almost unanimous action seems to me to be a very serious step, and one I think we should consider from many other standpoints than those which have been presented to us tonight. There are other principles involved in this business than whether or not a group of people on the perimeter of Tacoma should be permitted to incorporate, and I think we should discuss some of those other things before we get so far afield that we can't back track and discuss some of these other things.

Mayor Hanson: First of all, Mrs. Olson, the people who live in the section of Tidehaven, excluding the Port District, they have every right and they can go ahead and incorporate if they wish. Second, your reference to our taking a lone action: first of all, to take no action would mean that we are departing from previous and well-established policy; second, the Board of County Commissioners are clearly embarked upon this same course, and as is the Port. The only reason the Resolution will be presented is to answer obvious efforts to misconstrue the position of the County. They felt it was clear all the way. In fact, it was clear enough for the Chairman of the Board to come down and present it very forcibly to the Legislative Attorney for the Governor, and also this afternoon when we met to discuss further with Mr. Biesen.

Mr. Porter: I believe that Mrs. Olson's point was that whereas the Dow Chemical Co. or some other company has located in a 4th class city in this area, the salaries paid to their employees would perhaps be spent in the City of Tacoma, and perhaps some of the unemployed people in the City would be employed there. I would like to ask a question. It seemed to me when this question came up in the past that there was some concern about a School District out in that area. Can you recall which School District this was?

Mr. Binns: The Fife School District was at one time concerned about it, but I think that fear has been allayed.

Mayor Hanson: I might point out that with reference to the Dow Chemical Co. or any other industry there as it presently exists, it would be in the County and the same reason would apply, of course. In fact, this is a very fine argument for industrial development and actually it is the basic reason why it is important for us to ^{retain} ~~retain~~ the most healthy situation for the Port.

Mr. Steele: The fact remains that the Port of Tacoma under their industrial development plan - Comprehensive Port Industrial Development Plan - an effort to clear that area north of U. S. 99, an embracing area, - as a matter of fact, the initial program was to extend the city limits to the boundaries

of U. S. 99. Subsequently it was back up to what is now known as the Fife City limits. The Port started condemnation proceedings and as money was available started to develop this industrial site, to prepare the land to acquire the property, to put the necessary facilities and utilities in the area, and one of the areas that went into this area is noted in the northwest corner of just above Marshall Avenue - a refinery. And during all this period of time this property is in process of being planned for this development by the Port of Tacoma. Subsequently at the time the residents of Fife undertook their incorporation plans, it is interesting to note that they proposed to go up to the Tacoma City limits, but this was restricted by the County Commissioners to their present City limits. Now subsequent to that time and with all this development going on, these people with the knowledge of this program undertook to incorporate an area some 800 acres that was being acquired by the Port for industrial purposes and throw in an area to the east which Fife did not show any interest in or undertake to include in their incorporate structure. I do not think there is an assumption to be had with reference to this bill - that this bill is pointed directly at the Tidehaven program and the amendments in the Senate are directly pointed to this Tidehaven matter being permitted to exist and disrupt again the Port of Tacoma in like proper purpose of developing as they have been programming for several years. You can talk about an MC, you can talk about a lot of things, but the only thing before the House at this present time is the current Resolution No. 16489 which is to urge the Governor to veto these provisions of the bill.

~~Mr. Steele~~ Mr. Steele continues: I do not care whether you call it due consideration or anything at all, but if you are down at the Legislature and observe these goings and comings of the bill you can understand that this is a particular rush thing. This gets amended in the Senate Committee on Cities and Towns; it gets out of that Committee and into the Rules Committee and out on the counter and bucked over on these amendments on second readings; it's bucked the third reading; it's passed; it gets back before the House for concurrence on the Senate Amendments; and it gets back to the Senate with concurrence for the House; and if that is not a rush piece of action, I will tell you that Mr. Kupka will certainly tell you that that went right over his head, and Senator Kupka would have certainly alerted the balance of the Senate. Why shouldn't it go through the Senate without a nay vote with no one rising to say, "Wait just a minute there, fellows. Let's take a look at this thing." There's a counter with 15 or 20 bills on it. Everyone has his pet bill on the counter trying to get to it. Somebody trying to impress me with the fact that this is a mature, considered, sincere judgment - no, not by quite a bit.

Mr. Cvitanich: Just departing a second, if I may. I find it somewhat amusing. Number one, in relation to Bill 436. Secondly, where were you the night of the gas tax exemption hearing?

Mr. Steele: I rise to point of order.

Mayor Hanson: You are out of order, Mr. Cvitanich. There has been a great deal of effort down there to work in the direction of the established policies of the City of Tacoma. There has also been a great deal of effort to work in opposition by certain members of the Council, and if you wish to go into that at a later time after we get this matter disposed of, I will be very happy to do it.

Mr. Cvitanich: Mr. Mayor, you made the statement; I think you should qualify it.

Mayor Hanson: Your position on this bill remains to be seen. You may clarify it possibly. Your position with reference to the Police Pension Bill was quite open and apparently working in opposition to the established policy of the City of Tacoma.

Mr. Cvitanich: I have never worked in opposition to the established policy of the City of Tacoma; nor by what authority do you have right to send telegrams to every member of the House of Representatives, or almost every member, for reconsideration in regard to the Policemen pensions? Do you have any authority of the Council?

Mayor Hanson: It was consistent with the policy established.

Mr. Cvitanich: You are nothing more than the titular head of the City Council.

Mr. Porter: Point of order, Mr. Mayor. In regard to your ruling Mr. Cvitanich ~~is~~ out of order for speaking of another matter which is not of the special meeting tonight, and I think you should also refrain from speaking of another matter.

Mayor Hanson: Fine. I did it at the request of the person who was apparently aggrieved.

Mr. Murland: I would like to ask Mrs. Olson a couple of questions about her statement. First, I would like to ask her if she did not think that this was certainly a very sudden rush as to the manner this came before the Senate? And the other one is, as far as to mention the way we should look at it, as far as what is happening in other cities, if it is not important that we should consider what effect it has on Tacoma at this particular point, because that is why we are here as City Council? I think that she should consider those two things.

Mrs. Olson: I don't think that it is unusual for the House and the Senate to take action on bills which are reported out of Rules Committees. I think that is a very proper and legal procedure. I think when a bill comes out of Rules Committee, whether it is amended or not, with a due past unanimous recommendation, that the body to which it is presented would take action on it. I think if we had a Resolution in front of us that we would take action on it, but I would assume that we would consider it before we vote on it, and I would assume that if somebody accused us of being so asleep at the switch that not one of the nine of us would be able to spot something which we should have spotted, I imagine there would be some little resentment on our part. I think the contention of Mr. Steele is false, that this slipped through.

Mr. Steele: My suggestion is not that it slipped through; my suggestion is that it was run through like a "greased pig."

Mrs. Olson: Well, that is your suggestion, but it seems to me that tonight a good deal of the things that we are discussing are based not on reason or fact but on emotion, and I think this is a very dangerous thing for us to be doing in the heat of obvious differences of opinions for us to be sitting here. The Mayor is the only one who is able to tell us anything. He tells us he has been to Olympia, he tells us he has talked with certain people, he tells us what they have said. Well, I think we should hear what they have said. I think we should have Mr. Taylor come up here and talk with us. I think we should have Mr. ~~Braun~~ come up here and talk to us. If this is their opinion, I think they
Braun

should tell us, and I think that they should tell us also that it will probably not have any effect on any future vote they cast as far as the interest of the City of Tacoma is concerned. I think Mr. Biesen should come and talk to us if these things are so important, and I think we should have Mr. Sprinker and the County Commissioners come. They met this morning and they took no action on any Resolution. The Port met last Wednesday, and the Port did not even discuss this very, very important thing which had already passed the Senate. I read in the paper where the Mayor asked for a special meeting of the Executive Committee of the Central Labor Council. Did they meet and take action?

Mayor Hanson: The meeting was held this afternoon - not sufficient members were present to take action. It will be considered Wednesday. I might also say that this matter can be analyzed without waiting for anyone. First of all, we talk about the merits that should be considered of creating a small industrial city here. Perhaps if that is a good idea it should have been something that was considered as part of our Legislative program, perhaps proposed by us. We are now confronted by a time limit. You are suggesting very lengthy and complicated approaches that would be very clearly designed to get us beyond the time limit so that the matter would go into law automatically.

Mrs. Olson: That is your interpretation, Mr. Mayor. I am suggesting an orderly procedure by which we can apprise ourselves of certain facts.

Mayor Hanson: You mean you cannot analyze this matter until you have heard from all these bodies? Do you wait for such action on each controversial matter that comes up? or could it be that there is another reason?

Mrs. Olson: You raised the question of these other bodies, Mr. Mayor, not I. I am perfectly willing to base judgment on these questions before us, but I also think that as long as these other questions are raised that they should be analyzed, and I see no reason why we should sit here and discuss what someone might have said to somebody because they are perhaps some other interpretation that Mr. Taylor might have said or might feel.

Mayor Hanson: I will be perfectly happy to confine the topic of the discussion to the merits of the matter before us, and your reference to waiting to find out what everyone else is going to do perhaps others would like to know what the City of Tacoma is after. Members of the Council went down and represented to members of the Governor's staff - he spoke in the plural but there was only one name that he recalled - that the City of Tacoma's position was not in opposition to these amendments.

Mr. Cvitanich: Evidently you are making reference to me again, and for your edification, I did not speak, I wrote to him, so I suggest you check your references in the future.

Mr. Bott: I suggest that we confine our business to the merits, as I can well see how it would delay if we called everyone in. It would be impossible and I think we are capable of deciding for ourselves on the merits/ I hate to see this getting so warm. of this

Mr. Murtland to Mr. McCormick: This matter is now for rehearing before the Supreme Court, is that correct?

Mr. McCormick: It is.

Mr. Murtland: In the event that this bill is enacted into law, what, in your opinion, would be the effect as far as our legal action that is presently

pending? Do you believe if the Supreme Court would consider it, in their opinion? Have you given this any consideration?

Mr. McCormick: Mr. Binns and Mr. Hamilton would be able to answer this in more detail than I, so I will ask Mr. Binns to answer this.

Mr. Binns: My best opinion is that if the Supreme Court should firm up its opinion before the date on which this law would take effect, that the Supreme Court judgment would prevail, and this law would not actually do the damage that we fear. However, I have experience with Supreme Courts on these hearings, and I have known them to hold them up for what seemed to me an unreasonable length of time. If this went over June 10th, I am inclined to think that it might bring about all the results which I fear.

Mr. Murtland: And the litigation would be adverse to the Port.

Mr. Binns: The validity would in effect be superseded by the legislative act. If on the other hand, the remittitur comes down based on the present opinion or its equivalent before that date, I don't believe that it will actually affect us as far as Tidehaven is concerned. But I think it is still a bad situation as far as the rest of the State.

Mr. Murtland: Would Tidehaven be able, if this enactment went in after the Supreme Court decision, to proceed with a new incorporation?

Mr. Binns: At the present state of the Supreme Court decision, they would have to get up a new petition.

Mr. Murtland: Nothing would prevent them from starting again?

Mr. Binns: The present ruling is that the whole petition is void. The petition for rehearing suggests that at least the small settled area should be allowed to proceed with the incorporation. The Supreme Court may well take some time to settle that question.

Mr. Porter: Mr. Mayor, I was contacted by quite a few people today as a result of yourself and Mr. Blair being in Olympia Saturday, I believe that was reported to me, and also Mr. Sprinker and others, and I got rather curious myself and made several calls. There were various statements that conflicted. One of the calls about 5:00 tonight resulted in my talking to someone who said he was Mr. Nicolai, and there are a lot of things here that I would like to clear up. Frankly, I think it was very wise that you called this meeting tonight as it gives us an opportunity to bring some of this out and then find out exactly what happened. I certainly want to find out what happened in many places before I vote on this Resolution, so I am going to suggest that we don't vote on it tonight. In fact, if we vote on it tonight, I intend to vote against it.

Mr. Easterday: I am something like Mr. Taylor. I am confused. I heard Binns, Bob Hamilton, express their views as to why the bill should be vetoed. I heard Mrs. Olson and I feel somewhat like Mr. Porter. I do hope that we can put this over until tomorrow at least. I would like to hear from Mr. Taylor and I do believe that Mr. Sprinker if prevailed upon would appear here and advise us to what his thinking is on the matter. If it comes to that, I shall vote against it.

Mayor Hanson: There is much to be done in a very short time between now and March 21st, and the effects of the amendments have been made clear: that is, it puts in jeopardy the position that we have been fighting to attain and

apparently successfully so. The matter is not that complicated. I see no reason to put this matter over. I will be very happy to invite whoever the Council would like to hear from tomorrow night, but that does not mean that it is necessary to put off the action.

Mr. Porter: Mr Mayor, I intend to take tomorrow off from my work and go and get the information from the horse's mouth. May I say also that I respect the opinion of Mr. Binns and Mr. McCormick, and I have no doubt that they are probably right in their effect here, but I want to confirm everything I have heard myself.

Mayor Hanson: I will vote against any continuance - the matter could be reconsidered tomorrow night if any new facts are to be presented.

Mr. Bott: My feeling seems to be that the effect on Tacoma and the surrounding area is so apparent I don't see why we have to bring any other individuals here. What does it matter if Mr Jones said yes or no, or what he said to you. I don't see what bearing that has on our immediate problem right here.

Mayor Hanson: That is the way I feel.

Mr. Murtland: That is the way I expressed myself, Mr. Mayor, by saying that I felt that it was Tacoma that is important at this point, and not whether Mr. Taylor is in favor of it or not or perhaps even the AWC. I think perhaps it is very important to Tacoma and it just doesn't make sense that now we have taken a poll of the Legislature to find out whether they voted yes or no. With the way that this came on, as far as the vote of the legislators is concerned, it seems not to have been a thing that was ever given any consideration.

Mr. Bott: Furthermore, it seems that if there is a difference of opinion in the Council, this might well be clouded as well. The fact that as you stated there wasn't a total agreement, that there was a unanimous vote there, might say that we are divided right within one vote of whether we are for it or against it. I understood that the City has long since taken the position as being opposed to such a thing and it seems a shame to me that we have to do this.

Mr. Murtland: Along with Mr. Bott, it seems to me that it is the position of the City to consider it, and whether or not we are, by not taking action, making possible the loss to the Port of Tacoma and of course to the annexation to the City of Tacoma of this particular area. It's been, as far as I can understand from the news, etc. that has been given on this in the past, it seems that there is one primary industry out there that has been pushing and is now a part of that particular area, and the man who represents that particular industry is present here tonight, and it seems that there might be some reason to believe that there has been some use of that to perhaps get this through. As Mrs. Olson says, this is an assumption, but we know that it has been pressed in the past, and I think that it is for the value of the City of Tacoma we should look rather than how they voted in the Legislature.

Mr. Cvitanich: If I may add another word of caution, there will be additional legislation submitted, so I have been informed, that will be beneficial not only to the people of the City of Tacoma, but as well to those throughout the State of Washington, and with our votes tonight we will, to some degree, be censuring both the Senate and the House of Representatives, so I heed all of us to vote cautiously.

Mr. Steele: I would suggest, for Mr. Cvitanich's edification, that Senators Kupka and Petrich's letter indicates we are not going to have any reaction from the Senate with reference to any action taken by the City Council tonight. And so far as the House is concerned, they are not concerned because what we are concerned with are Senate amendments, so I suggest that this is not very well taken.

Mr. Cvitanich: Mr. Steele, you are on the Legislative Committee, so I assume you were down there today. However, the primary place of discussion took place in the House

Mr. Steele: I will correct that assumption. I was not there today. I was here taking care of the L I D Committee.

Mr. Cvitanich: Excellent. We were not notified.

Mayor Hanson: You were notified at the last Council meeting.

Mr. Cvitanich: That was the appointment to the Committee, your Honor.

Mayor Hanson: And the date of the hearing, Mr. Cvitanich.

Mr. Porter: Do you believe that if the Council does not take action on this tonight, the Governor is going to sign the Bill before we have a meeting tomorrow night?

Mayor Hanson: I do not know what is going to happen, but I can tell you this that the amount that remains to be done, the loss of one day is important.

Mr. Porter: Don't you believe that the effect upon the Governor might be more strong if the Council waits to take action on this until the time when all of us have answered the questions to our own satisfaction? I hope tomorrow night, so that we might perhaps have a unanimous vote for the Resolution.

Mayor Hanson: Upon the indication of anyone, should I vote on the prevailing side, who wants to be recorded as voting favorably, I would move for reconsideration.

Mr. Murtland: In this idea of asking for a continuance of this matter until tomorrow, what frankly is the urgency of another short 24 hours? Are we losing ground by 24 hours?

Mayor Hanson: First of all, in order to have a matter vetoed, it is necessary not only to show the logic of the reasoning but also to show the concern of the community, and in approaching various bodies in the community, it is necessary for me to indicate what the position of the City of Tacoma is, and there is going to be a great deal of work done tomorrow, and if I cannot show that the position of the City of Tacoma is consistent with my position, then it would be very difficult for me to justify efforts to get support for our contention. One day sounds like very little time, but one day at this point may well be the difference between giving organizations the opportunity to take action, or making it impossible because of notice requirements of the organization. So it is extremely important that we take action tonight. I personally want to know tonight where we stand. I am not one bit fooled by the allegations that this is so complicated it cannot be understood.

Mr. Bott: Lest anybody feels that they are rushing into something without contacting the people that are involved, I might call to your attention that last week there was a Resolution presented to us which all of us signed, expressing our objection to the fact that this group - AWC - had approved a certain bill, so I don't think that we should hesitate in any manner to express ourselves tonight that we disapprove of what has been done.

Mayor Hanson: I am going to call for the question. Will you proceed with the roll call.

Mrs. Olson: I know for a fact that some of the statements in this letter are not accurate. Mr. Graves is here representing the people of Tidehaven. I really feel that this is a very important matter and one which we should not be railroaded into and I feel that the Governor will not look with very much enthusiasm on this kind of action if we refuse to listen to the other side. Now I can't understand why we are so reluctant to hear Mr. Taylor, for instance, and others who are going to have a tremendous effect upon the balance of this legislature.

Mayor Hanson: Not one bit reluctant.

Mrs. Olson: But I certainly would request that Mr. Graves be permitted to speak.

Mayor Hanson called upon Mr. Graves.

Mr. Graves: I would make a few remarks. First of all I would say that Mr. Hamilton's analysis of the opinion and of the legislation is fairly accurate. The only thing about this, that has been overlooked is this: that it has been suggested that House Bill 455 is an attempt to reverse the Supreme Court. Now that is one connotation of it. The other one is that it is nothing more or less than an attempt to reinstate a law which the legislature in this State passed in 1951. Now what happened in this litigation is this: In the 1889 law there was a limitation that the cities of 4th class could not be larger than one square mile and they couldn't have more than 20 acres of unplatted land. In 1951 the legislature passed, re-enacted or amended a part of the 1889 statute. When they did that, they, by implication, repealed the one square mile provision. I don't think there has ever been any question about this. Every man sitting to my left agrees in this. The next thing is that they purported in the Legislature to amend the 1951 Act by deleting or applying the 20 acre provision with respect only to annexation and leaving it out with respect to original incorporation. I don't think this Act has done any more than reinstate the 1951 law which the Supreme Court just held failed because the Legislators referred to an RCW provision rather than a session law provision. The Legislators in the State of Washington have twice passed this bill which you are asking the Governor to veto.

Mr. Graves: I do know that the letter to the Governor is mistaken in this respect and I can categorically say that Dr. Perosa does not now nor ever has he any connection with the U. S. Oil & Refining Co. on the Tideflats. There has been a lot of suggestions here, but I would say to this Council that the Supreme Court said in the first decision on the litigation where Judge Rosellini said, I believe that the Port has yet to demonstrate whereby they are hurt. Has anyone demonstrated to you how the Port of Tacoma would be hurt if this land is included within the incorporated limits of Fife, Tidehaven, Tacoma or any other place. The Port of Tacoma despite its name is a body that represents all the people of Pierce County. I am asking the Council to do something and that is not to engage in a fight with every little community around Tacoma. As the Council pointed out a minute ago, when Fife started to annex a part of this, the City of Tacoma engaged in a controversy with them. When we started out, the City of Tacoma started a controversy with us, despite the fact that there is not a

drop of this land in the City of Tacoma.

Mr. Steele: Point of order. I did not say the City of Tacoma. I said the Port of Tacoma.

Mr. Graves: I understand that. I am only saying that the Port of Tacoma represents the County of Pierce and not the City of Tacoma. These people who do not live in the City of Tacoma certainly have as much right to incorporate the area in which they live as do the people in the City of Tacoma. This has been the pronounced intent of the law since 1889 when we became a State. In the long run the actions of this Council towards people on its perimeter cannot but help have some effect on the growth of the City. Tomorrow when this Council asks people in Browns Point or University Place or Lakewood or any other part of the County to become a part of the City, in the face of the record where they have in every instance fought any attempt of these people to organize on their own behalf, isn't going to set very well. Mr. Binns has told you they would have a town with streets paved in gold. If it were true, why would Industry want to come with us rather than the City of Tacoma? Why is it a couple of months ago I stood by Mr. Russell's chair at the City of Steilacoom when they were trying to get the West Tacoma Newsprint in a 4th class town called Steilacoom? Why did Glacier Sand & Gravel Co. want to go into that town? Why did Shell Oil Co. go to Anacortes? Now I would say that it is better to have Industry close to the City of Tacoma even if it is not in the City of Tacoma than have none at all. If we incorporate successfully and we have a lot of industry, it is certainly going for the benefit of this town. I will not take any more of the Council's time except to say that this thing has passed twice and it does no more than reinstate a law which everybody in the State believed to be a law from 1951 on, including the Secretary of State and the Attorney General, and other cities have acted upon this basis.

Mayor Hanson: You first mentioned that we have been operating on an assumption that this is designed to have an effect on this Tidehaven incorporation. Then you do agree that it will have an effect?

Mr. Graves: Yes.

Mayor Hanson: Another one is with reference to the other cities. You are aware of the fact that we are asking that just those provisions that would accomplish something that did not exist - that is, the matter of the exclusion of the consent requirement in 1951 - and the other one is that I think we are talking about assumptions and speculations, we all of a sudden have assumed by the creation of this that industrial development is going to mushroom. There is the biggest assumption of the bunch.

Mr. Graves: At this point there isn't anything there but one industry and that industry has not aligned itself with the City of Tacoma but with the people who want the 4th class town, if that is any indication.

Mayor Hanson: There has been a period of instability as a result of efforts which might have had something to do with the failure to develop.

Mr. Steele: Mr. Graves so ably alluded to our quarreling with contiguous territories which might have a warm feeling of joining our little happy throng here, but I believe, Mr. Graves, that the residents remaining in this area are pretty few. Hasn't it been for several years a projected Port Industrial Development? Haven't the people known that the Port is acquiring that property and condemning those properties and purchasing and destroying and wrecking those houses?

Mr. Graves: That is absolutely true. The only reason for Tidehaven or any other municipal body for wanting to incorporate this land is that it has industrial potential.

Mr. Steele: Mr. Graves also referred to the Legislature twice passing this bill. Now it is true that the 1951 Legislature of which (now Senator) Henry was a member, did what he thought would accomplish the necessary and that is now reflected in the bill, plus the added Section 5 relating to annexations made prior to any city or town, shall be valid. Does Mr. Graves suggest that the two Senate Amendments here do not add portions to the legislation that strikes right at the heart of the plans of the Port of Tacoma?

Mr. Graves: I do not understand what you mean when you say "these strike at the heart of the plans of the Port of Tacoma" because no one has ever demonstrated yet that the Port of Tacoma would ~~be~~ be hurt by the annexation of that area to any town. I think it is clear from the 1951 Legislation, I think the Supreme Court so indicated, that the Legislature at that time attempted to amend the law to provide the things that are now in HB 455.

Mayor Hanson: That is your contention, even as amended?

Mr. Graves: Yes, sir.

Mr. Murtland: Mr. Graves made some mention that the City of Tacoma is of course no more entitled to this land because it belongs to the people of the County. Do we not have somewhere around one-quarter of a million people in the County, so you are a little presumptuous, are you not, in saying that 300 people should suddenly acquire 800 acres of land that they do not even live on or have any connection with except a slight connection? Do you not see an inconsistency in saying that the City of Tacoma shouldn't have it over 300 people?

Mr. Graves: It is normal for people to incorporate the area around which we live. I am just saying this, that the action of some of you on the Council would be this - that this property is part of the City of Tacoma - and I am saying that any other municipality on the perimeter would have just as much right.

Mr. Murtland: That is correct, Mr. Graves, but again we are talking about is it not now held by the Port of Tacoma, which is a separate body?

Mr. Graves: It still would be.

Mr. Murtland: But they have already requested that it be annexed to the City of Tacoma.

Mr. Graves: What they did, Mr. Murtland, is this. They did not ask to annex the whole area to Tacoma, they asked that a little strip be annexed.

Mayor Hanson: To separate you from the Industrial area. It was very clearly stated that that was the reason for the request, to separate the Tidehaven residential area from what they would like to include in their city limits.

Mr. Murtland: asked Mr. Graves: Under this 1951 Act, do I understand then that this 20 acre provision was actually deleted and was not affected then as far as original incorporation, as far as annexation, or just how did it fit into the situation?

Mr. Graves: In 1951 the preliminary part of the Act indicated that it was designed to amend the law of 1889, Section 15, etc., and if that was an amending act and related to annexation as is titled, then the 20 acre provision would not have applied to original incorporations, and I believe that the decision in the Supreme Court said yes, that is correct if you look at the title only, but the Act itself was not valid.

Mr. Murtland: Then it was never determined by the Court itself whether you were correct or not?

Mr. Graves: The Court said it was not its intent to look at the face of the Act to amend it with the clause.

Mr. Murtland: In other words, by the fact that it did not mention original incorporation, then they meant to have it apply only to annexation?

Mr. Graves: That would be the intent, I say, from the face of it because it purports to relate to annexation.

Mr. Binns: Mr. Graves, you would agree with me that there is a "no man's land" between industrial development districts and communities which have never been passed on by the Court?

Mr. Graves: I think it is only in this instance, Mr. Binns; so far as I know, the Legislature has never given the Port the power to zone land.

Mayor Hanson: So then from that we can conclude that the powers of zoning would reside in the governmental body representing 250 or 300 people?

Mr. Graves: At this time the County Commissioners and the people who incorporated would be somebody else. I don't think it resides in the Port, in any event.

Mr. Binns: There is an open question there. I think you can get up an argument on it. All I am trying to establish is that there is a question and we do not know how it would come out.

Mr. Bott: In Mr. Graves' statement, where he says that this letter from Mr. Petrich and Kupka contains some misinformation, and I believe that you said at no time as alleged did Dr. Parosa represent the Refinery - it does not say that. It says that Dr. Parosa, "who represented a large company situated in the Port of Tacoma", so you were assuming that it had reference to the refinery company.

Mr. Graves: That is the only company there.

Mr. Bott: It doesn't say anything about a refinery so I just wanted to make that clear for the records.

Mr. Murtland: Who is Dr. Parosa? but what is he besides a figurehead?

Mr. Graves: He is a practicing dentist in the City of Fife, residing in this area.

Mr. Murtland asked Mr. Graves: Do you happen to represent the U. S. Oil & Refinery Co. ?

Mr. Graves: I have never represented them, nor do I now.

Mrs. Olson: Mr. Graves, you do not have a copy of this letter, do you?

Mr. Graves: I do not.

Mrs. Olson: There is a statement here that I would question, and perhaps you would. It says, "There are no services or advantages to the Port of Tacoma which could result from the incorporation of the area. The Port, in earlier proceedings, requested the Board of Pierce County Commissioners. . . ." I think on the 2nd page in that paragraph there are again some conclusions which have been drawn which again I think are based on assumptions.

Mayor Hanson: I think it would be wrong to approach our whole case on this letter, which can be gone into later. The situation is obvious - we have embarked on the policy of fighting this action for incorporation. We are party to the action. If that policy was wrong, we should have changed it prior to this. We should have indicated to our Attorneys that we will no longer pursue

the action. If it is right, we should continue it. Tonight it is merely a question of whether or not we have been on the wrong policy in the past. It's not a matter of a last minute analysis of something. It is a thing we have been living with ever since we have been on the Council. It is very clear. There is no reason that I can see why we should delay. I would suggest that the Council members who would like to have additional information contact those people themselves. They will be given an opportunity to speak if they come at the request of a council member. I am not going to spend my whole week trying to line up meetings for the people that individuals would like to hear, as I think that can be done just as well by the people who desire to have them present. But if action is taken tonight, we will hear from those people next week and at that time it is possible to reconsider the action taken this evening.

Mr. Porter: I would like to state that if there had been no meeting, or if there were no action taken tonight, we would still be continuing our previous action. At which time I voted in the opposite manner in which I intend to vote tonight. At this time I would like to move to amend the motion for adopting to add that there be a roll call vote taken when we vote on this Resolution, and that the results of the roll call shall be included as part of the Resolution. Seconded by Mr. Cvitanich.

Mrs. Olson: I only intend to say this because I intend to vote, and earlier Mr. Murtland asked whether I intended to vote, and I do intend to vote. I see no conflict of interests as far as I personally am concerned, any more than I feel Mr. Petrich feels a conflict of interests when he votes on this thing in the Legislature or urges the Council to take an action, because I think there is a principle involved that we are overlooking - I think Tacoma is making more and more enemies and fewer and fewer friends, not only in the areas that surround us but also amongst the people in the Legislature. I have friends who live in Lakewood who think very little of Tacoma. I know people who travel who say they don't even like to admit they are from Tacoma. I think it is about time we face up to some of these things that are happening to us, and why, and for that reason I intend to vote against this Resolution.

Mayor Hanson: You feel then that by voting against the position of the County Commissioners, you are picking up the friendship of all other people in the County?

Mrs. Olson: I am not voting against the position of the County Commissioners. I am voting to concur with an almost unanimous vote of the Senate and of the House, and I am not going to ask to put the Governor in a position - and I happen to be a member of his political party - I am not going to put the Governor in the position of vetoing an almost unanimous action of the Legislature at this point.

Mayor Hanson: You feel the fact that your husband is engaged in some operation which has some connection with the U. S. Oil & Refining Co. does not give rise to any conflict of interest?

Mr. Cvitanich: Point of order, Mr. Mayor.

Mrs. Olson: I do not, Mr. Mayor, because if I decline to vote, I would be recorded as a "no" vote under the rules of the Council at which I was not present nor had anything to do with establishing. There is no such thing as remaining neutral on this Council since a vote to pass is a "no" vote and that is not by my action, so I might as well go ahead and record my feelings.

*** Mayor Hanson: There comes a point when we have exhausted a matter, but go ahead, Mr. Olson.

Mrs. Price: I believe that the passing vote being recorded as a "no" vote is not a rule of the Council but is in the Charter. Am I correct, Mr. McCormick?

Mr. McCormick: That is correct.

Mr. Porter: Was my motion to amend seconded?

Mr. Cvitanich: I seconded it.

Mayor Hanson: The amendment is that a roll call be taken on the Resolution and the roll be recorded as part of the Resolution. Those in favor of the motion say aye: Voice vote was then taken on the motion resulting as follows: Ayes 8; Nays 1, Cvitanich.

Mr. Murtland: I just wanted to inquire again - I am in favor of the Resolution - but I am still, as far as Mr. Porter and Mr. Easterday are concerned, asking what do you feel that can be accomplished tomorrow that could not be accomplished the next day? I still want to be expedient and I still want to be of the mind that they have a right perhaps to inquire as to other reasons for this vote of the Legislators and the opportunity has not availed itself. As you know, it was around 11:35 A. M. that I found anything about SB No. 455 because the letter to me did not describe it, and I did not know what it was. As you know, I had a previous engagement tonight that I cancelled because I did feel it important when I did find out what it was, but still, expedient or not, I am torn between both ways because I think Mr. Porter has a point coupled with what Mr. Easterday has requested. I think there are other things to consider, although I think perhaps they are less important than the welfare of the Port of Tacoma. That is why I direct this to you, Mayor, and I would like to have you, if you can, tell me what do you think will be lost by putting this over until tomorrow night? What can be done tomorrow that could not be done Wednesday?

Mayor Hanson: First of all, the deadline is next Tuesday. It will go into effect automatically if the veto is not exercised. Tomorrow it is perhaps three times as valuable as Wednesday because tomorrow when I contact organizations I can convey the position of the City of Tacoma and ask them to concur in the position. Now if after additional information is collected by the members who are not sure which way they should vote on this, and after further discussion consideration at the meeting tomorrow night, it is possible to reconsider the action so that we can change the votes of those who wish to go along with the policy of the City. But tomorrow is far more valuable than Wednesday. Thursday becomes almost useless in terms of getting any action out of any organization. Tomorrow gives me an opportunity for them to arrange for a meeting of, whether it's their members or their executive board, to take action, and I would imagine that many of them will try and set it up for Friday and Monday at the latest. But Monday is almost too late to convey it effectively to the Governor because Tuesday the Bill goes into effect. So each day is extremely important, and if anyone wants to join with the prevailing side, if this position is not upheld, if it fails tonight I will not do anything other than with reference to conveying the official position of the City. If it passes ^I must then those who wish to change their position tomorrow night will be given an ^{Know} opportunity to do so, so that is the reason for the urgency.

Mrs. Olson: You have already used the Resolution to convince other people so even if people found reason to change their vote again tomorrow night you will still have taken action on the premise that this was the

Mayor Hanson: I have been embarking upon the policy that has been very clearly set forth by the Council. The question has arisen whether or not it is the policy, and I must know in order to take effective action. Otherwise, the opportunity to take action is greatly lessened. / Proceed with the roll call:

In fact it is greatly prejudiced.

Ayes: Bott, Murtland, Price, Steele, and Mayor Hanson;

Nays: Cvitanich, Easterday (passing), Olson, and Porter.

Resolution was declared adopted by the Chairman.

Mrs. Price: Am I to understand that there can be hearings before this is either signed or vetoed by the Governor?

Mayor Hanson: I have asked him for a public hearing on it prior to his signature or prior to its going into effect without his signature. In other words, the last time that a hearing could be held really ^{would be} next Monday, and between now and then I am going to have to get an awful lot of material ready for a hearing unless he decides to veto it. So the action is essential. The County meets tomorrow, but ~~they~~ they have very clearly indicated their position.

Mrs. Price: If there is a hearing, we will be notified?

Mayor Hanson: Very definitely. Between now and then there is going to be a lot of activity, and again I suggest to those who wish to have additional people present to notify them and make their arrangements to have them here.

Mr. Cvitanich: There was some reference made to the Democratic Chairman working in opposition to this Bill.

Mayor Hanson: In favor of this Bill. I mention it as that is another name that was mentioned on frequent occasions, and if that is his position it can be clarified - if it is not, then I invite him to accompany me to the Governor's office and request his veto.

Mrs. Olson: Why is that important, Mr. Mayor?

Mayor Hanson: Because this is an additional factor that has had a great deal to do with the confusion that has resulted.

Mrs. Olson: Do you think the party chairman should not take a position?

Mayor Hanson: I would like to find out if his position in fact is in favor of the position of the creation of Tidehaven. It certainly is the position of his employer. I don't believe that it is the position of the Pierce County Democratic organization.

Mrs. Olson: Have they ever taken action to the contrary?

Mayor Hanson: They have certainly not taken action in favor.

Mrs. Olson: They have not taken action to the contrary.

Mayor Hanson: We would like to find out what their position is.

Mr. Cvitanich: This is a similar situation to the Wheel Tax. We favored it, but we weren't opposed to it, but we didn't want it.

Mr. Rowlands: The Wheel Tax situation came up several weeks ago. It was brought up to the Council by the Mayor. The Council did not indicate any action at that time.

Mr. Cvitanich: I went on record as opposing it.

Mayor Hanson: It was at the request of the Mayor of the City of Seattle and a couple of the Council members also talked to me of just indicating that they would like our support because they had this great problem. I might say

City Council Minutes - page 26 - March 13, 1961

that the principal reason that I encouraged the Council if they ~~felt~~ ^{didn't feel} that they could not go along with it, and I certainly do not favor the tax for the City of Tacoma, but I did feel that if we could not go along with it in the spirit of cooperation with our neighbors, we should take no action opposing it.

Mr. Murtland: Because Mr. Cvitanich makes such a point of the fact that three of them went on record as opposing it, and because I happened to say nothing that night, I would like, for the record, that I oppose the Wheel Tax. I am getting tired of of every time that somebody like Mr. Cvitanich ~~opposes something~~, says "I oppose something", automatically he assumes everyone else is in favor of it.

Mr. Cvitanich: No, no, I never try to convince anyone

Mr. Steele: I think it is significant with reference to the Wheel Tax, that as far as I was concerned, the Council never made any representation for or against it, and I don't know what Mr. Cvitanich is concerned about his rule.

Mr. Easterday moved to adjourn. Seconded by Mr. Steele.

Ben Hanson
Mayor of the City Council

Attest:

Josephine Merton
City Clerk