

Monday, November 4, 1957

Council met in regular session. Present on roll call 7: Battin, Bratrud, Goering, Humiston, Perdue, Stojack and Mr. Tollefson. Absent 2, Jensen and Mayor Anderson. In the absence of Mayor Anderson, Dr. Battin presided.

It was moved by Dr. Humiston, seconded by Mr. Bratrud that the minutes of the previous meeting be approved and the reading thereof be dispensed with. Motion carried unanimously. Ayes 7; Nays 0; Absent 2.

PETITIONS:

X Lincoln Land Company, Inc., for rezoning the area from Sprague to Steele and from South 38th Street to South Tacoma Way from an R-3 and R-4 District to an M-1 District. Referred to the City Planning Commission.

RESOLUTIONS:

Resolution No. 15143: X

L I D 463}

By Bratrud:

Fixing December 17, 1957 as date for hearing on L I D 4631 - permanent type pavement, including concrete curbs, concrete gutters, storm water catch basins and necessary storm drainage on North 8th Street from Lawrence Street to Warner Street, on North 8th Street from Union Avenue to Proctor Street, on North 11th Street from Lawrence Street to Alder Street, on North 13th Street from Lawrence Street to Alder Street and on Vista Drive from Jackson Avenue to Jackson Avenue.

Adopted on roll call November 4, 1957
Ayes 7; Nays 0; Absent 2, Jensen, Anderson.

Resolution No. 15144:

By Battin:

Authorizing settlement for the sum of \$700.00 of the lawsuit of Arthur A. Kelly and Hulda G. Kelly for damages resulting when Mrs. Kelly tripped and fell on a crack in a sidewalk.

Adopted on roll call November 4, 1957
Ayes 7; Nays 0; Absent 2, Jensen, Anderson.

Resolution No. 15145:

By Battin:

Authorizing sale and execution of a local improvement assessment

deed for sum of \$405.00 to Kirby P. Hickey covering property located on the north side of Thurston Street between Asotin Street and Cushman Avenue.

X Dr. Humiston asked what fund received the benefit of the profits from the sale of property after the various liens have been satisfied. Mr. Gaisford advised all the money derived from sale of property was placed in the L I D Guaranty Fund. Dr. Humiston said he felt the General Fund needed the money more than the L I D Guaranty Fund and asked Attorney McCormick to review the statutes to ascertain if this money can be turned over to the General Fund.

Adopted on roll call November 4, 1957
Ayes 7; Nays 0; Absent 2, Jensen, Mayor Anderson.

Resolution No. 15146:

By Anderson:

Authorizing delivery of a real estate contract in amount of \$950.00 to Arne and Edna Reyier and Harold and Dagmar Wick, for the purchase of property located at southeast corner of North 42nd and Bennett.

Adopted on roll call November 4, 1957
Ayes 7; Nays 0; Absent 2, Jensen, Mayor Anderson.

Resolution No. 15147:

By Humiston:

Authorizing execution of the attached agreement, terminating the Arundel-Dixon Company contract for the construction of the Mayfield Dam of the Cowlitz Power Development, and authorizing the payment of \$2,700,000 from the Cowlitz Development Construction Fund of 1954.

Mr. Tollefson said he had looked over the settlement of the contract, which the Council is called upon to reject or accept by this resolution based on the information they have been able to obtain in the short time allowed. They will have to rely on the representation made by the Utility Board and the Utility Staff. He does not have enough information to know if this is a good settlement or a bad settlement, but since the Utility Department sees fit to terminate the contract, he will be called upon to vote on the matter, Mr. Tollefson stated. He thought the agreement might need to be amended and he had in mind one amendment with regard to the retained percentage as set forth on page 4 in Paragraph B, Mr. Tollefson said. If certain stipulations were added to this section it might tend to protect the sub-contractors and facilitate the settling of their claims on the contractor. Mr. Tollefson read the following: "Provided, however that in the event that settlement has not yet been made between the contractor and sub-contractor and suppliers within said 45 day period, then an amount equal to the demands of said sub-contractors and suppliers shall be retained by the City until such settlement has been made", which he believed should be added to Section B on page 4, in order to protect the sub-contractors. Before making this in the form of a motion, he would like to hear comments from other members of Council, Mr. Tollefson added.

Mr. Bratrud said this seemed like a sound idea to him, and he felt it was a proper amendment.

Dr. Humiston said he would like to know what Mr. Dixon thought of this amendment. F. D. Metzger, attorney for Arundel-Dixon Co., said the State Law provides that sub-contractors have 30 days to file liens, which is about what this proposed amendment provides, and he felt it was not keeping faith with the contractor to attach superfluous and unnecessary conditions to the agreement. Mr. Dixon said he thought this amendment would tend to slow up the settling of the claims with sub-contractors and thus prolong the final termination of their contract with the city.

Both Mr. McCormick and Mr. Bannon, attorneys for the City, advised that the sub-contractors were already protected by State Statutes and Mr. Bannon explained in detail the Law which covers this. He further explained that only labor and materials are items for which the contractor can file a lien against the retained percentage, but that a claim for damages because of cancellation of the contract does not come under this category.

Mr. Tollefson made the following motion: "That Paragraph B on Page 4 of the agreement be amended by adding 'Provided, however, that in the event that settlement has not yet been made between the contractor and sub-contractors and suppliers within said 45 day period, then an amount equal to the claims of said sub-contractors and suppliers made in writing against the City and legally filed with the City Clerk, shall be retained by the City until such settlements have been made'". Motion seconded by Mr. Bratrud. After further discussion roll was called on Mr. Tollefson's motion, resulting as follows: Ayes 3; Bratrud, Goering, Tollefson. Nays 4; Humiston, Perdue, Stojack, Battin. Absent 2; Jensen and Mayor Anderson. Motion declared lost on roll call.

Dr. Humiston pointed out that in the mechanics by which the Utility Board and City Council were to handle the termination of the contract, the Council was told that if there were factors of damages involved, the City Council had to pass on the settlement. In Paragraph E on page 4, this is delegated to the Public Utility Board without mention of Council as far as settlement of claims is concerned, Dr. Humiston stated. Mr. McCormick said he did not believe this was a delegation of authority, as in discussing this phase, it was felt that the Public Utility Board was in a better position to handle this. Dr. Humiston said he felt the Council, to conform to previous statements of policy, should be included. It was moved by Dr. Humiston, seconded by Mr. Bratrud, that "and City Council" be inserted on page 4, Paragraph E of the Agreement, after the words "Public Utilities Board." Motion carried on roll call: Ayes 5; Battin, Bratrud, Goering, Humiston, Perdue; Nays 2; Stojack, Tollefson, Absent 2; Jensen, Anderson.

Roll was then called on the adoption of the Resolution.

Adopted on roll call November 4, 1957.

Ayes 7; Nays 0; Absent 2; Jensen, Anderson.

Numerous questions of Council members, irrelevant to Resolution No. 15147, concerning where the funds to take care of this obligation would be obtained, what effect the use of current funds for repayment of the loan would have on the capital improvement program of the Utility Department, and the offers which have been received by the Utility Board for the Cowlitz Project, were answered by Director of Finance Gaisford, Director of Utilities Barline, and Utility Board Chairman Harold Johnson.

Resolution No. 14913. (Laid over to this date on October 14, 1957.)

BRATRUD:

Submitting to qualified voters at a Special Municipal Election for their rejection or approval of a proposition to amend Sections 4.8 and 4.9 of the City Charter. (providing for election of members of the Utility Board, reducing the membership to three; and providing compensation).

In this connection the Clerk read a communication from the Tacoma Branch of the American Association of University Women, stating they adopted a resolution on Oct. 19th, which reaffirmed their confidence in and their approval of the present

Charter for the City of Tacoma. Placed on file.

Dr. Humiston said he is not in favor of this amendment for several reasons. There has to be some chain of authority in any municipal set-up, and since the City Council has the decisions to make in the last analysis, it seems to him that to have the administration of the Light Division in hands other than those which are controlled by appointment by the Mayor and confirmation by the City Council, such as other people independently elected, is quite a strenuous violation of administrative set-up.

Mr. Tollefson said he also is not in favor of electing the Utility Board because this would remove the Utilities farther from General City Government, and this has been one of the complaints. We have had an example of this on the Cowlitz even under the present set-up and he felt the Utility Department is too far removed now, Mr. Tollefson said. When the Freeholders met, he was not in favor of a Utility Board, and there were a number of others who also did not favor this Board, Mr. Tollefson stated. He would be in favor of a resolution that would put the Utility Department under General Government, without a Utility Board, he stated. Mrs. Goering said she has voted against several amendments to the Charter because she felt these might weaken the Charter. However she feels this is an area that should be studied, that the Council should get public opinion on this, and that the people should be given a chance to express themselves with regard to how the Utility Department is to be administered, Mr. Goering said. The Freeholders' minutes will show that many felt the Light Department should be made a part of the general City Government, she added.

Roll was called on the resolution, resulting as follows: Ayes 2; Bratrud, Stojack. Nays 5; Goering, Humiston, Perdue, Tollefson, Battin. Absent 2; Jensen, Anderson. Resolution declared lost on roll call.

FIRST READING OF ORDINANCES:

Ordinance No. 15969.

Relating to zoning, and amending the Official Code of the City of Tacoma. (C-2 District- south side of North 7th Street from Pearl Street to State Highway No. 14. right of way. Petition Investment Exchange Development Corp., et al- 9-23-57). Read by title. Hugh C. Faville of the Planning Staff advised that the Commission believes this property will not be suitable for residential purposes after the proposed Freeway goes in. Another parcel north of North 7th Street, which likewise will be unsuitable for residences, was not included for the reason that the owners did not join in this petition nor the petition for the vacation of the alley some time ago, Mr. Faville stated. The Commission felt it should not take any action on the other property unless the owners make a request for alley vacation and rezoning, Mr. Faville added. Mr. Perdue asked if the C-2 District would increase traffic congestion. Mr. Faville replied that the rezoning and alley vacation petitions were both checked with the State Highway Department and they offered no objections. The ordinance was then placed in order of final reading.

Ordinance No. 15970.

Vacating that portion of East D Street from a point 181 feet north of the north line of East 60th Street to its terminus at the north line of previously vacated East 58th Street; and retaining and reserving an easement therein for the construction, repair and maintenance of public utilities and services. Read by title and placed in order of final reading.

FINAL READING OF ORDINANCES:

Ordinance No. 15968.

Relating to zoning and amending Section 13.06.190 of the Official Code. Read by title and passed.

Roll call: Ayes 7; Nays 0; Absent 2; Jensen, Anderson.

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ITEMS RECEIVED FOR FILING IN THE OFFICE OF THE CITY CLERK:

Annual Report upon Running Audit- 1957- Lybrand, Ross Bros. and Montgomery.

UNFINISHED BUSINESS:

The Clerk reported she had received a communication from General Motors Acceptance Corporation, advising that their attorney will be tied up on another matter on November 12th, the date fixed by Council for hearing on their business tax statement; and asking that this hearing be deferred to November 25th, 1957. Moved by Dr. Humiston that the hearing be continued to November 25th, 1957. Motion seconded by Mr. Stojack and carried on roll call: Ayes 7; Nays 0; Absent 2; Jensen, Anderson.

* Mr. Rowlands pointed out that next week's Council meeting will be held on Tuesday night, November 12th, due to the fact that Monday is Veteran's Day and is an official holiday.

* Dr. Battin stated that Council has been working with the Mayor in setting up a Citizens' Committee for Tacoma's future development. Invitations have gone out to a large number of citizens, asking them to work on this committee, and it is anticipated there will be 200 members, Dr. Battin said. The first meeting will be held Thursday, November 14th at 7:30 P. M. in the Library Auditorium, he advised. There is really developing quite an interest in this and he has had a number of calls asking how to get on this committee, he added. Dr. Humiston said he understood it was the consensus of opinion of Council members that they wanted to examine the material in advance before turning it over to the Citizens' Committee. Dr. Battin suggested that Council meet on Thursday, November 7th at 7:30 P. M. for this purpose. This date was discussed but a number of the members were unable to be present at that time. It was finally decided to meet at the conclusion of the session to set a date for the meeting.

Attorney Fred Metzger expressed his appreciation, and that of Mr. Dixon, to Council for the action taken in the terminating of the Arundel-Dixon Contract, which he believes was resolved as happily as possible tonight by the adoption of the resolution.

Mr. Krabler, who resides on the Peninsula, asked if there was anything definite on the proposed airport in that area. The people living there do not want an airport, and he hopes the Council will consider the feelings of the residents in this matter, Mr. Krabler said. Dr. Battin advised him that Council has done nothing as yet; and the things he has been hearing are merely rumors. Dr. Battin suggested that Mr. Krabler and other residents stop worrying until they hear something definite.

* State Senator H. N. (Barney) Jackson appeared before Council with reference to an addition to his garage, which he is constructing on his property. The Building Department has put a "red Tag" on the job because his addition is 18 feet high to conform to the "English Colonial" construction of the garage instead of the maximum 14 feet allowed under the ordinance. He asked what could be done so he could legally proceed with this construction. City Attorney McCormick advised Council that Mr. Jackson had taken the matter up with his office and they were now in the process of determining whether Mr. Jackson's problem can be solved by the granting of a variance permit by the Board of Adjustment.

* Mr. Tollefson reported that he had received an air mail letter from the American Municipal Association advising him of his appointment as a member of a new committee on Urban Renewal. There is to be a meeting in Washington, D. C. on November 13th, which he has been asked to attend, and he has informed them he will be glad to be present, if the Council will give him the authorization. He asked if the Council desired to have him attend this meeting. The matter was discussed and

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Dr. Battin said he felt it would be worthwhile for Mr. Tollefson to attend this meeting. It was moved by Dr. Humiston, seconded by Mr. Bratrud that Council approve the necessary travelling expenses for Mr. Tollefson to attend this meeting in Washington, D. C.

9:47 P. M. Upon motion, duly seconded and carried, Council then adjourned at

Charles T. Battin
Vice-President of City Council

Attest: Edna Melnes
Deputy City Clerk.