

CITY COUNCIL MINUTES

City Council Chambers, 7:00 P. M.
Tuesday, December 12, 1961

Council met in regular session. Present on roll call 8: Bott, Cvitanich, Easterday, Murtland, Olson, Porter, Price and Steele. Absent, Mayor Hanson. Deputy Mayor Porter presiding.

Mr. Murtland called attention to an error on Page 7 of the November 28, 1961 minutes on line 4 which should read, "penalty on conviction reduced from \$300.00 to \$25.00" instead of "\$50.00 to \$25.00". Mr. Murtland moved that the minutes be so amended. Seconded by Mr. Easterday. Voice vote taken. Motion carried.

Mr. Easterday moved that the minutes be approved as amended. Seconded by Mr. Cvitanich. Voice vote taken. Motion carried.

HEARINGS & APPEALS:

a. This is the date to which the hearing has been continued on the appeal filed by Mr. Albert DeLeon from the decision of the Planning Commission in denying his petition for the rezoning of property located at East 38th & Portland Ave. from an "R-2" to a "C-2" District. ²⁰⁹₂₅₁

Mr. Buehler, Director of Planning referred to a map explaining that the area in question is presently zoned "R-2". Mr. DeLeon's request is to rezone the area "C-2" so that a self-service coin-operated dry cleaning establishment, similar to the one located at 6th and Proctor Street, can be constructed.

Mrs. Olson asked if there is available space in the area which is already zoned "C-1" for such an establishment.

Mr. Buehler said most of this area is being used for off-street parking at this time, and it may be possible that some of the area or an extension could be made to the existing zone. This is a one ownership affair and not attached to any commercial zone. He further stated, the Planning Commission have now under study the question of whether or not a dry cleaning establishment would be allowed in a "C-1" zone because of the fumes and the toxic chemicals used.

Mr. Rowlands explained that Mr. Overland, Attorney for the petitioner, submitted a letter appealing the recommendation of the Planning Commission, a copy of which was sent to the Council members. He said they are considering this particular type of operation in a "C-1" zone, so it would merely be adding a use to the "C-1" district rather than having it zoned a "C-2" district as is required at the present time.

Mr. Overland displayed photographs showing the proposed area to

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to be classified and its surroundings. He explained in view of the large concentration of people in the Salishan area, an unofficial market survey was made through the records of the Tacoma Housing Authority and also an estimate from other surveys of the purchasing power of the market area, being a corner location and with ample parking, the Norge Corporation and Mr. DeLeon decided they would like to locate there. He further stated, he believed that this type of business establishment would appeal to the people of modest income and would certainly serve the community, inasmuch as the Salishan housing would be located directly across from the establishment. He added, Mr. DeLeon and the Norge Corporation have the plans all drawn.

Mr. Easterday asked if there has been any instance where the fumes have become obnoxious to the people in the area where these have been installed.

Mr. Overland said he had not heard of any, however, he could not say that this has not happened.

Mr. Buehler stated that in California there had been instances where there was a leakage within the building and precautions had been taken. That is the reason an attendant is present at all times, whether an Ordinance requires it or not.

Mr. Steele asked Mr. Buehler if the area along Portland Avenue from 38th to 40th on the east side is owned by the Housing Authority.

Mr. Buehler stated that it was.

Mr. Swedberg, chairman of the Planning Commission stated there is a tendency for these types of uses to be installed in legal non-conforming use buildings. In shopping districts or centers, they pose no real problems, but to allow them in legal non-conforming use buildings might, however. For this reason, the question was raised as to whether they might be limited somehow, not to be allowed in non-conforming use buildings, but rather to be limited to only those commercial zones which shall be determined to be appropriate. He felt if there is a hazard involved in these coin-operated machines the City Council could control it by Ordinance.

Mr. Steele then said the west side of Portland Ave. would be the only practical area for Commercial use. He felt that would be the proper area to rezone Commercial, and that it be zoned a "C-1" rather than a "C-2".

Mr. Buehler said many committee investigations have been conducted in reference to allowing this kind of establishment in a "C-1" zone, however, more information should be had to establish the outcome. He said they have had some inquiries about allowing mobile homes in the area which would require the "R-4-L" zoning but at that time the Planning Commission was considering the Commercial zoning.

Mr. Bott remarked that the corner would be appropriate for Commercial use and for this type of business rather than a duplex or some type of housing, as the Salishan Housing project across the street would not add to any establishment.

Mr. Steele said he thought the decision on the petition should be postponed for one week, until December 19, 1961, in order to give the Council members an opportunity to survey the situation.

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Mr. Steele then moved that the decision be postponed for one week until December 19, 1961. Seconded by Mr. Bott.

Voice vote taken. Motion carried.

Mr. Porter said a tour could be arranged after the study session next Tuesday.

b. This is the date set for hearing on the petition submitted by the Tacoma School District #10 for the vacation of No. 13th between No. "I" and the alley between No. "I" and Yakima. (Lowell Elementary School)

It was moved by Mr. Easterday that this hearing be continued on January 23, 1961. Seconded by Mr. Cvitanich. Voice vote taken. Motion carried.

Mr. Rowlands stated this is being continued for the reason there are several problems in the community which are unresolved and have to be worked out.

RESOLUTIONS:

Resolution No. 16847:

Fixing Monday, January 8, 1962 at 4:00 P. M. as the date for hearing on L I D 3534 for sanitary sewers in So. 17th from State St. to a point approx. 150 feet east of Prospect St.

It was moved by Mr. Easterday that the Resolution be adopted. Seconded by Mr. Cvitanich.

Voice vote taken on the Resolution.

The Resolution was then declared adopted by the Chairman.

Resolution No. 16848:

Fixing Monday, January 8, 1962 at 4:00 P. M. as the date for hearing on L I D 4694 for paving of So. Yakima Ave. from So. 56th to So. 72nd Street.

It was moved by Mr. Cvitanich that the Resolution be adopted. Seconded by Mr. Murland.

Voice vote taken on the Resolution.

The Resolution was then declared adopted by the Chairman.

Resolution No. 16849:

Fixing Monday, January 22, 1962 at 4:00 P. M. as the date for hearing on L I D 4702 for permanent paving on various southend streets between So. "D" and Ash Streets from So. 17th to 49th Streets.

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Resolution

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

Voice vote taken on the Resolution.

The Resolution was then declared adopted by the Chairman.

Resolution No. 16850:

Fixing Tuesday, January 16, 1962 at 7:00 P. M. as the date for hearing on the vacation of property between Fife and the alley between Prospect and Steele St. Petition of Lincoln Land Company.

It was moved by Mr. Steele that the Resolution be adopted.
Seconded by Mr. Easterday.

Voice vote was taken on the Resolution.

The Resolution was then declared adopted by the Chairman.

Resolution No. 16851:

Authorizing and directing the proper officers of the City to execute an application or permit with the Washington State Highway Commission for the installation of fire alarm wiring circuit across a portion of State Highway 99.

It was moved by Mr. Easterday that the Resolution be adopted.
Seconded by Mr. Cvitanich.

Voice vote was taken on the Resolution.

The Resolution was then declared adopted by the Chairman.

Resolution No. 16852:

Awarding contract to Woodworth & Company & Tucci & Sons for L I D 3515 on their joint bid of \$34,120.26 which was determined to be the lowest and best bid.

It was moved by Mr. Steele that the Resolution be adopted. Seconded by Mr. Murtland.

Voice vote was taken on the Resolution.

The Resolution was then declared adopted by the Chairman.

Resolution No. 16853:

Accepting the bid of H. M. McDowell for the house at 2701 So. K in the amount of \$775.00 plus tax and the bid of R. B. Churchill for the house at 1306 So. 27th for \$307.00 tax exempt and rejecting the bid of R. B.

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Churchill for the house at 2701 South K and the garage at 2916 South I.

**It was moved by Mr. Steele that the Resolution be adopted.
Seconded by Mr. Easterday.**

Mr. Rowlands said the Board of Contracts & Awards had reviewed this as well as the legal department and the bid of Mr. Churchill was rejected because of a transposition of bids. Bids will be called for again on the garage located at 2916 South I Street.

Voice vote was taken on the Resolution.

The Resolution was then declared adopted by the Chairman.

Resolution No. 16854:

Authorizing the proper officers of the City to execute a quit claim deed to Nettie B. Lane for the sum of \$1.00 for property located on the north side of So. 19th and west of Sprague Ave. to remove the cloud from the title.

**It was moved by Mr. Easterday that the Resolution be adopted.
Seconded by Mr. Cvitanich.**

Mr. Rowlands said this Resolution does not necessarily clear the title. This particular piece of property did not have an assessment against it, and such property should not have been included in the original foreclosure. Therefore, the quit claim deed clears the title of the property.

Voice vote was taken on the Resolution.

The Resolution was then declared adopted by the Chairman.

FIRST READING OF ORDINANCES:

Ordinance No. 16950:

**Amending the Official Code of the City relating to zoning by adding a new section 13.06.115-5 to include property located on the east side of 49th Ave. N. E. at the Pierce County-King County line in the "C-P-N" Planned Neighborhood Shopping Center District. (W. D. Kelly-petition)
Read by title.**

Mr. Rowlands referred to the map designating the area and its surroundings.

The Ordinance was then placed in order of final reading.

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FINAL READING OF ORDINANCES:

Ordinance No. 16940 (as amended)

Amending (12 sections of the Official Code of the City in reference to the Compensation Plan for 1962. Read by title.

Mr. Murtland explained, as he has stated before, he felt the City cannot afford a full range increase. He feels that only a 1/2 range increase should be given.

Mr. Murtland moved that the Compensation Plan be amended to provide for a 1/2 range increase for all of the City employees. Motion failed for want of a second.

Mr. Easterday said he had requested a financial report on the budget for 1963 and as to date had not received such a report. He said, until such time as the financial report is submitted, he would vote against the Ordinance, therefore, he moved that this Ordinance be continued for one week, until December 19, 1961. Seconded by Mr. Cvitanich.

Mr. Rowlands said the information that Mr. Easterday had requested is ready for distribution. He added the budget for 1963 will be most difficult and severe. The 1962 budget should balance if the adjustments recommended by this Ordinance were passed by the Council.

Voice vote taken on the motion to continue for one week. Ayes 7, Nays 1, Steele. Absent, Mayor Hanson. Motion carried.

Ordinance No. 16947:

Vacating the alley north of So. 30th between Gunnison and Madison Streets. (petition of Harvey R. Coffield). Read by title and passed.

Roll call was then taken on the Ordinance resulting as follows:

Ayes 8; Nays 0; Absent 1, Mayor Hanson.

The Ordinance was then declared passed by the Chairman.

Ordinance No. 16948:

Vacating a portion of So. 7th Street between Orchard and Shirley Streets. (petition of William M. Busch) Read by title and passed.

Roll call was then taken on the Ordinance resulting as follows:

Ayes 8; Nays 0; Absent 1, Mayor Hanson.

The Ordinance was then declared passed by the Chairman.

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ITEMS FILED IN THE OFFICE OF THE CITY CLERK:

Report from the Tacoma Municipal Court for the month of November 1961.

COMMENTS:

Mr. Rowlands explained that they are still waiting the decision of Calabrese & Son on whether or not they will accept the Airport Bid. He added, they have 10 days in which to give the City their decision. ✓

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Mr. Murtland asked if the communication from the Association of Washington Cities dated December 4, 1961 was their final determination not to approve putting the proposition on the ballot of obtaining 5% of the retail sales tax for local governments.

Mr. Rowlands explained that a sheet was distributed to the Council members showing how many were for and how many against the proposition. He said Seattle voted "no" which did not help the cause. Some of the Cities voting "no" however, will favor getting some kind of relief. The two reasons that Seattle did not favor the proposition was they are engrossed in Century "21" and also that they have placed a garbage fee on the householders which will net them an additional \$600,000 which previously came out of the General Fund. He said, the fact that Seattle does not see fit to go along with the proposition is a deciding factor in which direction this initiative will go. ✓

Mr. Steele inquired if the matter of the street vacation regarding Mr. McIllevanna's property at So. 43rd St. and Ferry was taken care of which was discussed at last week's meeting.

Mr. McCormick, City Attorney, said their office had not received any word from Mr. McIllevanna or the Southcenter Corp. as to whether or not an agreement had been negotiated.

Mr. Rowlands said it is important that this information be obtained otherwise as it stands the City could be held liable. Mr. Rowlands asked if it would be agreeable to hold the rezoning Ordinance over until the Ordinance for the vacation comes in for first reading so that they will become effective at the same time. This was agreeable to the Council members.

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Mr. Steele said he would like to bring up two subjects which were discussed at the noon study session. One matter regarding the City of Tacoma petitioning the County Commissioners with reference to the State Justice Court Act permitting the City of Tacoma to establish their own Municipal Police Court; the other relates to the possibility of imposing an increase in the Business and Occupation Tax for the Gas and Fuel Oil Dealers. He believes these two subjects should be resolved in a Council meeting.

Mr. McCormick said a memorandum was sent to the Council with an attached copy of Chapter 229, Laws of 1961 commonly known as the Justice Court Bill passed by the last legislature, which was quite lengthy consisting of 12 chapters and 132 sections. He called attention to those of which will require action by the Council in the near future. Under Chapter 1, Section 2, the application of the act pertains only to three counties, Spokane, King and Pierce. Chapter 2, Section 14 provides that all justices of the peace be elected at the general election in November, 1962 and every four years thereafter. In Chapter 3, Section 25 it specifically sets up the Justice Court Districting Committee. The purpose of this committee is to meet at the call of the Prosecuting Attorney to prepare a plan for the districting of the County into one or more Justice Court Districts proposed to be established which should be transmitted to the County Commissioners not later than March 15, 1962, who can amend or revise it as they see fit.

Mr. McCormick pointed out on page (5) of the summary, that Chapter 5, Section 38 provides for the establishment of a Municipal Dept. who shall be initiated by a petition from the legislative body of the City to the Board of County Commissioners. Such petition shall be filed with the Commissioners not less than thirty days prior to Feb. 1, 1962 or any subsequent year: 1. The number of full time and part time judges required for the Municipal Dept. 2. The amount of time for which a part time judge will be required for the Municipal Dept. 3. Whether the full time judge or judges will be elected or appointed.

Mr. Rowlands explained that information was given to some of the Council members at the study session showing the increase of cases in Municipal Court from 1951 to 1961.

Mr. Steele said in order that some action can be taken on the matter he would move that the City Attorney be authorized to prepare a petition to be filed with the County Commissioners to set up a Municipal Court of Tacoma.
Seconded by Mr. Easterday.

Mr. Steele then moved that the Court have one full time and one part time Judge who will serve one-fourth time as Police Judge of the City.
Seconded by Mr. Murtland.

Mr. McCormick stated inasmuch as the report from the Police Judge shows such a definite increase in traffic violations, he feels that the Judge should serve one-half time as Police Judge.

Mr. McCormick suggested that the Council decide on what they wish to propose and he would submit a tentative rough draft, which could be changed if they wish, at the next Council meeting.

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Mrs. Price moved to amend Mr. Steele's motion, that one full time and one part time judge who will serve one half time as Police Judge. Seconded by Mr. Murtland.

Voice vote taken. Motion carried.

Mr. Steele moved that the full time judge and one-half time judge be appointed from the Justices of the Peace elected in the District by the Mayor and confirmed by the Council. Seconded by Mrs. Price.

Mrs. Olson moved to amend the motion so that the full time Municipal Court judge be elected instead of appointed. Seconded by Mr. Cvitanich.

Voice vote taken. Motion carried.

It was moved by Mr. Steele to accept the motion as amended. Seconded by Mrs. Price.

Voice vote taken. Motion carried.

Mr. Steele moved that a part time Judge be appointed by the Mayor, but the manner of the appointment be determined by the Council. Seconded by Mrs. Olson.

Voice vote taken. Motion carried.

Deputy Mayor Porter suggested that the salary for full time Judges be left blank, to be filled in next week when the Resolution is presented.

Mr. Steele then moved that the salary for full time Judges be left blank. Seconded by Mrs. Olson.

Voice vote taken. Motion carried.

Mr. McCormick suggested the petition be so written to allow the City to retain the old law if it is found they have a choice.

Mr. Steele moved that the petition be so written to allow the City to retain the old law, if a choice is to be had. Seconded by Mr. Cvitanich.

Voice vote taken. Motion carried.

Mr. Steele remarked that the subject of the increase of the B & O tax on the Fuel Oil dealers should be considered.

Mr. Rowlands said the two items that were considered during the budget discussion were an increase from 3 to 6% on the Washington Natural Gas Co.; 1% would come to approximately \$18,000 and 3% would be approximately \$54,000.00 and the telephone increase from 8 to 9% would net \$65,000.00 which would amount to \$119,000.00. On a change from 1/10th of 1% to 1%, the increase from Fuel Oil Dealers would amount to \$82,000.

Mr. Murtland indicated the increases were not necessary, but if it is felt an increase is needed, it should be apportioned throughout all dealers, such as Natural Gas, Coal, Wood, oil etc.

Mr. Rowlands brought out that there is another point of consideration and that is a question of "utility". A franchise tax indicates that a company whether it be a private telephone company or a gas company, use the City streets as part of their business. It could be said that oil trucks use City streets, but they also pay other taxes. He said, there is a distinction between a "utility" in that sense and another company which might be

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selling fuel. He agrees with Mr. Murtland in saying that all companies should be taxed regardless of what type of fuel, otherwise, it would be discriminatory.

Mr. Murray, Attorney, representing the Fuel Oil Dealers thought it was discriminatory in taxing independent Fuel Oil Dealers. He thought these dealers are in the same logical category as all other retailers and should not be singled out to pay a tax increase any more than the milk or bread companies. He also stated this would put the Fuel Oil Dealers at a disadvantage with fuel dealers outside of the City. The Gas Company is a utility and has no competition from other Gas companies. He reiterated such a tax would be a gross discrimination.

Mr. Richard Hodge, representing the Natural Gas Company explained that the Gas Company would be willing to pay a fair share of taxes, if there is to be an increase and if it were a fair one. If this increase were proposed, it would not be absorbed by the Company, but would be passed on to the consumers. He indicated it would be more equitable to tax Fuel Oil Dealers for at least part of the increase as they pay only 1/10th of 1% of their gross revenues to the City, while the Gas Company, under the proposal, would be paying an 8 percent increase.

Deputy Mayor Porter stated inasmuch as this discussion is under Comments by the Members of the City Council and there is no Ordinance before the Council at this time, he suggested that any member of the Council who wishes to ask for an Ordinance imposing this tax may do so at any time they wish.

Mr. Bott suggested that the Mayor be instructed to write a letter of appreciation to General Train of Ft. Lewis for the Christmas tree erected at 9th and Broadway.

It was moved by Mr. Steele that the meeting adjourn. Seconded by Mr. Easterday.

The meeting adjourned at 9:55 P. M.