

JUL 14 1958

COUNCIL CHAMBER, 4:00 P. M.

Monday July 14, 1958

Council met in regular session. Present on roll call 9; Anderson, Bratrud, Easterday, Goering, Perdue, Porter, Price, Hanson, Humiston.

It was moved by Mr. Anderson, seconded by Mr. Perdue, that the minutes of the meeting of July 7, 1958, be approved as submitted. Motion carried on roll call: Ayes 8; Nays 1, Humiston; Absent 0.

Capt. Charles Zittel, Chairman of the City Employees' Picnic, announced that on Saturday, July 19, 1958, at Titlow Beach, the City employees are having their annual picnic and extended an invitation to the Council.

UNFINISHED BUSINESS:

Mayor Hanson said the first matter on the agenda will be the hearing on the petition for annexation submitted by the Port of Tacoma. Mayor Hanson asked Mr. McCormick, City Attorney, to give a report to Council on the present status of the Restraining Order.

Mr. McCormick said the Restraining Order that was served on the Council last Monday was returnable on the floor of Judge Johnson's Court at 9 A. M. this morning. Through the efforts of the City Attorneys, the Attorney for the Port, and Mr. Graves who is the attorney for the Plaintiff, a stipulation was entered into which specifically provides that the temporary injunction and restraining order was modified to read that any ordinance that is passed and published by the City Council, pursuant to the petition for the annexation filed with the City on June 18, 1958, shall not be filed with the Board of County Commissioners or any provisions provided for in such ordinance shall not be effective until further order of the Court. In other words, Mr. McCormick said, the restraining order was lifted prohibiting the Council from proceeding with the hearing or the passage and publishing of an ordinance. But the restraining order is still on the Council preventing them from filing an Ordinance with the County Commissioners that would consummate the annexation procedure until further order of the Court. If the Council wishes to pass an ordinance, or any proceedings taken in connection with it, it would not enhance the right of the Court or the right of the Council in this litigation, he added. Therefore, it leaves the City free to hold its hearings, but its actual effectiveness on the annexation will not take effect until further order of the Court.

Mr. Bratrud said he thought that there would be no necessity of having a hearing if they could not come to some conclusion.

Mr. McCormick said if the majority of the Council decided that they did not want the annexation, then that would be the end of the litigation.

Then on the other hand, Mr. Bratrud said, if the majority of the Council want it, how will they indicate they are in favor of it?

Mr. McCormick said they would request an Ordinance for the annexation, which could be passed and published, but the actual filing of the Ordinance with the County Commissioners would await further order of the Court.

Mr. Ray Graves, attorney for the committee for the incorporation of Tidehaven, said the people in the area want to incorporate to keep the area in the Five School and Fire Districts. He also explained that new industry would find a small town more appealing than a larger city where there would be heavier taxes imposed. He said it appears to him that the City Council should defer action on this matter until the Courts have proven they have the right to proceed.

Mayor Hanson asked Mr. Graves if the annexation petition is successful will that take this area out of the school district?"

Mr. Graves said, assuming that the present law is valid, it would probably be left to the discretion of the County Board of Education.

No one else wished to speak on the annexation.

Mr. Anderson requested that the City Attorney be instructed to draft an ordinance providing for the annexation in accordance with the petition of the Port of Tacoma.

**RESOLUTIONS: \* - PETITIONS, (See page 273)**

**Resolution No. 15420:**

**By ANDERSON:**

Awarding contract to Concrete Construction Co. on their bid of \$29,253.59 for concrete paving and storm drainage on Cushman Ave. from So. 19th to So. 23rd St.; and on Cedar from No. 25th to No. 26th St. -- L I D 4637, which bid is determined to be the lowest and best bid.

Mr. Rowlands said in connection with this Resolution a letter was filed by Mr. McClements protesting the block on No. 25th & Cedar Sts. Mr. McClements pointed out in his letter that the original petition filed with the Public Works Dept. was from 21st to 23rd and Cushman, and the Public Works Dept. added one block from 19th to 21st and also one block in the North end at No. 25th and Cedar. He said they are protesting the area on No. 25th and Cedar because they are so far removed from each other making the Local Improvement District illegal. Mr. Rowlands said there was approximately 58% remonstrances filed against this area.

Mr. Hamilton explained that the statutes authorizing Local Improvement Districts provide that there can be various disconnected units, grouped together

JUL 14 1958

for the purpose of forming a district. The Code reads that a Local Improvement District may include neighboring streets, avenues, and alleys even though the improvement thus made is not connected or continued. He said this is a situation where it runs south to So. 19th and Cushman to No. 25th and 26th on Cedar St. On several occasions he said, the Public Works Dept. has asked for an opinion in a matter of this nature and they have advised them that in their opinion there may be some risk involved as far as to the validity of the district where there is such a large spread. He said they have normally adopted a rule which would probably justify a spread of a mile or so, but it is questionable in an area where the two disconnected units are this widely separated.

Mr. Rowlands explained that during the last couple of years the area in Local Improvements Districts have been increased with the result of savings to the City and property owners.

Mr. Bratrud asked what percentage of remonstrance was filed against the Cushman area, excluding 25th & Cedar.

Mr. Rowlands said approximately 58%.

Mr. Calkins, Acting Public Works Director, said he would like to explain the matter to the Council. He said the hearing on this Local Improvement District was held before the L I D Committee last February. The reason for including this other block in question was that a petition was submitted for paving of 21st and 23rd Street. Nineteenth Street was approved for paving last year under the previous bond program, so that left a gap from 21st to 19th Street unpaved. In the past, he said, they have had this situation where the intervening block is difficult to maintain properly, due to pavement on either end leaving sub-standard surfaces in between. The intent was to enlarge the district sufficiently to make a connection of the pavement. At the time of the hearing there was only 27.9% remonstrances filed. According to State Law the property owners have 30 days after the Ordinance is passed to file remonstrances, and if the percentage amounts to 60% at the end of the 30 days the district would be abandoned. In this particular district the percentage had not reached 60% at the expiration of the time limit, so the only recourse the Public Works Department had was to proceed with the project, he added.

Mr. Bratrud said inasmuch as the remonstrances was over 50% he did not think the City should proceed with the improvement.

Dr. Humiston said he felt it would be improper to defeat this Resolution or to direct the Board of Contracts and Awards to do anything until the Council takes action on repealing the Ordinance providing for the improvement. Dr. Humiston then moved that the Resolution be postponed for three weeks - August 4, 1958. Seconded by Mr. Anderson.

Roll call: Ayes 9; Nays 0; Absent 0.

JUL 14 1958

Dr. Humiston then requested an Ordinance be brought in repealing Ordinance No. 16054 for next weeks Council meeting.

Resolution No. 15421:

By BRATRUD:

Awarding contract to Lige Dickson Company on their bid of \$189,282.64 plus sales tax for Storm Drain Trunks from So. 19th and Woodlawn to So. 7th St. near Orchard, and Sanitary Sewer Trunk from So. 19th and Woodlawn to So. 15th and Bennett Streets.

Adopted on roll call July 14, 1958  
Ayes 9; Nays 0; Absent 0.

Resolution No. 15422:

By EASTERDAY:

Awarding contract to Rogers Construction Company for sanitary sewers in the amount of \$15,476.75 plus sales tax on Items 5 to 14 incl.; and a supplemental bid of \$1,660.00 plus sales tax on Item 4 for L I D No. 1972.

Adopted on roll call July 14, 1958  
Ayes 9; Nays 0; Absent 0.

Resolution No. 15423:

By PORTER:

Fixing Monday, August 11th, 1958, at 4 P. M. as the date for hearing on the vacation of property abutting upon No. 47th Street between Mullen and Gove Streets.

Adopted on roll call July 14, 1958  
Ayes 9; Nays 0; Absent 0.

Resolution No. 15424:

By PRICE:

Authorizing the proper officers of the City to consent to the assignment by Marush Fish & Oyster Co. of its leasehold interest on property at 11th & Dock St.

Adopted on Roll Call July 14, 1958  
Ayes 9; Nays 0; Absent 0.

**Resolution No. 15425:****By HANSON:**

Authorizing the proper officers of the City to execute and deliver to George Smith a quitclaim deed for property located No. of South 19th Street and East of South Gove Street extended North, in order to clear title of property.

Adopted on roll call July 14, 1958  
Ayes 9; Nays 0; Absent 0.

**FIRST READING OF ORDINANCES:****Ordinance No. 16151:**

Amending Chapter 6.70 of the Official Code of the City, relating to the Utilities Gross Earnings Tax, by adding a new section to be known as Sec. 6.70.011. The Ordinance was read by title and placed in order of final reading.

**Ordinance No. 16152:**

Prohibiting discrimination in private housing against inhabitants of the City of Tacoma, because of race, creed, color or national origin, and establishing a board to be known as the City of Tacoma Board Against Discrimination, consisting of five members to be appointed by the Mayor with the approval of the City Council.

Dr. Humiston asked how this Ordinance differs from the Ordinance that was previously submitted to Council.

Mrs. Goering said a word was inserted to make it conform with the Code which spells out the difference between "multiple family units" and "duplexes." This Ordinance, as it now stands, excludes "duplexes" and brings it into the area of "multiple family units," which means three or more and which would bring it into the area of public service, she added. She said that ordinarily the City of Tacoma legislates according to local needs, whenever it is permitted by State Laws. One of the arguments presented by one of the members of the Interim Committee against giving Cities more home rule was, that they do not use what they have now. So far as she knew this Ordinance, which is up for consideration, is not forbidden by State Law and she knew of no reason why this could not be passed. The Ordinance was then placed in order of final reading.

**Ordinance No. 16153:**

Amending the Official Code of the City of Tacoma in reference to taxing and regulating certain punchboards, spindle games and similar devices in the City.

Dr. Humiston asked the attorney for an opinion as to what Court decisions there are that have a bearing on the legal propriety of passing such an Ordinance.

Mr. Robert Comfort, Assistant City Attorney, said the State Supreme Court has ruled that pinballs and slot machines are illegal, and yet we have a State Law that taxes slot machines.

Dr. Humiston asked if there have been Court decisions as to whether a punchboard is or is not an illegal operation.

Mr. Comfort said that our State Constitution has a ban on lotteries, and there are decisions from other states that hold a punchboard to be a lottery, but there has been no case in Washington, that he knows of, that holds punchboards to be a lottery. However, he said, there are Washington State Supreme Court decisions that hold pinball and slot machines to be lotteries; punchboards are along the same line, therefore they are also lotteries. The fact that we all don't agree that punchboards are legal does not mean that the City can tax them.

Mr. Easterday explained that inasmuch as Tacoma has budget problems, he could see no reason why punchboards should not be taxed to bring in more revenue.

Mrs. Goering said that if Tacoma allows punchboards, she could see no reason why they should not be taxed.

The Ordinance was placed in order of final reading.

#### FINAL READING OF ORDINANCES:

##### Ordinance No. 16141:

Amending Chapter 6. 70 of the Official Code and adding two new sections known as Sections 6. 70. 030 and 6. 70. 040 relating to the Utilities Gross Earnings Tax.

261  
280

Mayor Hanson asked if any members of the Utility Board wished to speak on this Ordinance.

Mr. E. K. Murray, one of the members, said that it was questionable if the City has the right to impose a tax of this kind, as the law requires that the revenues be consigned separately. When the present City Charter was under consideration, and this particular authorization for tax was under consideration, the Freeholders obtained from the Public Service Commission and the State Tax Commission data showing what percentage the private companies actually were paying of their gross revenue for this particular tax. He thought the City Council and Utility Board should approach this problem from the standpoint

of what the utility would be paying if it were privately owned and on the tax roll. He suggested that Ordinance No. 16141 be passed and then the Council and Utility Board, in connection with the State Tax Commission, make a study of the tax on which the Utility would be paying if privately owned.

Dr. Humiston said he thought that this study suggested by Mr. Murray should be made periodically, as the picture changes frequently.

Mr. Barline suggested that on page two of the Ordinance, in item 12, that the words "on borrowed capital" be deleted.

It was then moved by Dr. Humiston that the words "on borrowed capital" be deleted from item No. 12. Seconded by Mr. Anderson. Roll call: Ayes 9; Nays 0; Absent 0.

Roll was then called on the Ordinance resulting as follows:

Roll call: Ayes 5; Nays 4; Price Porter, Easterday and Hanson; Absent 0.

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

a. Tacoma Employees' Retirement System - submitting report of purchases of investments during June, 1958.

Dr. Humiston asked in connection with the report from the Tacoma Employees' Retirement System regarding the Tacoma Progress Estimates Warrants, that the interest rates be reinvestigated through the same sources that were employed when the interest rates were last raised. He asked the Manager and Director of Finance to submit this information.

b. Report of the Director of Finance - June, 1958.

Mr. Troy Sheffield, proprietor of the Home Cafe, outlined a program for Council's approval to televise the Council meetings. He said that this plan would not cost the City any money. He and several other businessmen would sponsor this telecast and the contract would run for a year.

After some discussion it was moved by Mr. Anderson, seconded by Mr. Bratrud that Mr. Sheffield be given the opportunity to televise the Council sessions for one year.

The question was raised as to whether the Council meeting time would have to be changed.

Mr. Sheffield pointed out that it would be better to have the meetings set for 7 P. M. or later, as 4 P. M. most of the working people are on their way home and would not have an opportunity to see the program.

Mr. Bratrud said that until the 4 P. M. Council time has been given a fair trial, and until all of the details of the televising has been investigated, he would rather wait.

Mr. Anderson then said that he would withdraw his motion with the consent of Mr. Bratrud, who seconded the motion, to give Mr. Sheffield the opportunity to televise the Council sessions.

Mr. Bratrud withdrew his second.

Mr. Sheffield advised that he would attend the Council meeting next week and would answer any further questions that the Council might have.

There being no further business or comments from the audience, the meeting adjourned at 6:40 P. M.

*Gene Hanson*  
President of City Council

Attest: *Joseph Nelson*  
City Clerk

\* PETITIONS:

E. R. McKee: Submitting petition for rezoning the front 50' of that property known as 3413 No. Proctor from an R-2 District to a C-2 District. Referred to the City Planning Commission. <sup>373</sup> denied

Hot Drinks, Inc., Submitting petition for rezoning property on South 9th Street starting at the alley between Tacoma Avenue and G Streets, to the alley between I and J Streets, from an R-5-T District to a C-3 District. Referred to the City Planning Commission. X 433 denied