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## CITY COUNCIL MINUTES

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

Council met in regular session. Present on roll call 7: Bott, Cvitanich, Easterday, Mur'land, Olson, Porter, and Price. Absent 2: Steele and Mayor Hanson. Mayor Hanson coming in at 8:10 P. M. In the absence of Mayor Hanson, Mr. Porter, Deputy Mayor, presided.

Mr. Porter announced that Mayor Hanson and Mr. Steele were in Olympia but they hoped to be back in time to attend part of the Council meeting.

Mr. Easterday moved that the minutes of February 21, 1961 be approved as submitted. Seconded by Mr. Cvitanich. Voice vote on the motion resulted as follows: Ayes 7; Nays 0; Absent 2, Steele and Mayor Hanson.

### HEARINGS & APPEALS:

This is the date at which the hearing has been postponed for the replacement and construction of sidewalks in various locations in the City. (S. C. F. #61)

Mr. Porter said this hearing was postponed to this date for the reason of several objections raised at the last hearing. He asked if the Public Works Staff had a report to make on whether or not these objections have been settled.

Mr. McFail of the Public Works Department said he had contacted all the people who objected to the improvement, with the exception of Mr. Gallagher as Mr. Easterday had indicated he wished to speak with Mr. Gallagher himself.

Mr. Easterday explained that he and Mr. Cvitanich stopped at Mr. Gallagher's Sunday morning on the way to Olympia. He said upon examining the sidewalk in question, they could see no dangerous condition existing. He added they also examined a section directly across the street on the north side, and it was very apparent that this fill is still settling. Therefore, he thought this section of sidewalk should be deleted from the improvement. He then moved that this entire block on South 38th Street between Park Avenue and G Street be deleted from the project. Seconded by Mr. Cvitanich.

Mr. McFail advised that the owner of the property, just to the north, has very definitely asked that his walk be included in the improvement in the event the rest of the walks are deleted. Mr. McFail added that last year Mr. Wickstrom of the Public Works Department took samples of the ground in this area, and found that while the existing asphalt on top has settled, the ground underneath is solid and could be compacted with mechanical tampers, making it suitable for a walk.

Mr. Cvitanich asked that before the Council approves the complete program, if there were any possibility that the sidewalk repair program could be presented to the Council a section at a time similar to the Local Improvement Districts. Therefore, the Council would have closer control on what condition the sidewalks are in and also in what area the work was being done.

Mr. Schuster, Public Works Director, said it could be possible to handle it in this manner. However, he added, these are usually rather minor portions for each individual property owner, and it would make a long drawn-out program for the City. One of the advantages of taking large areas is to get cheaper prices on the construction cost. If these are to be broken up into a number of small sections, then the costs would be higher.

Mr. Murtland asked if the Council could not depend on the objectors to bring this to the Council's attention. He said the Council themselves will not be able to consider all of these sidewalks, item for item.

Mr. Cvitanich said what he had in mind was to handle these hearings similar to the L I D Committee, as this will give the Council an opportunity to closer scrutinize a particular area rather than approving a large area such as this entails, when the Council has not had an opportunity to investigate all of the areas.

Mr. Porter said he thought this was a matter of general policy for the Council to decide. He said, inasmuch as there are only one or two property owners that have objected to the improvement, he suggested that the Council carry this hearing to a completion, and at a future date discuss changing the policy.

Mr. Bott said Mr. Gallagher's property is an asphalt sidewalk located in the 38th Street Business District and is ~~run~~ about four inches from the property level. He explained that this walk was put in about 7 years ago on a temporary basis and the understanding was that a permanent sidewalk would be installed when the ground was settled. He added that the adjoining property owners and the people across the street are in favor of their property being improved. The entire area is very uneven and extremely hazardous. Therefore, he did not feel that this section should be removed from the improvement.

Mrs. Price said since the other property owners in this block have requested their sidewalks improved, she thought it would be out of keeping with the Council's policy to delete this section.

Mr. Cvitanich asked what was the City's share of this improvement and how much the property owners will contribute toward this sidewalk repair.

Mr. Schuster said this is a \$51,000 program of which the City is contributing approximately \$15,500 and the property owners the remainder.

Mr. Murtland said inasmuch as the people in this block want the sidewalk improvement, he did not think the Council should delete their portion because Mr. Gallagher is objecting. Therefore, he did not think Mr. Easterday's motion is proper in that it deletes the entire block.

Voice vote was then taken on Mr. Easterday's motion to delete the portion of the sidewalk on the south side of the block on South 38th Street between Park and G Street, resulting as follows: Ayes 2; Nays 5, Bott, Murtland, Olson, Price, and Porter; Absent 2, Steele and Mayor Hanson. Motion lost.

Mr. Easterday then moved that the proper Ordinance be drafted creating this Sidewalk Improvement District. Seconded by Mrs. Olson.

Mrs. Price said if anyone else desires to speak on the improvement, they should be given an opportunity to talk before voting on the Ordinance.

Mrs. Waters of 1632 East 32nd asked if the City makes any provision for drainage problems as this is one reason the sidewalk in front of her property is in such bad condition.

Mr. Schuster said there would have to be some drain tile or some other method used under the walk so that it could drain. The Public Works Depart-

ment is aware of this condition and something will be done in the construction.

Mr. Porter asked Mr. Schuster if, in his opinion, the method of reconstruction would solve this drainage problem.

Mr. Schuster said he was certain it would.

Mr. Dick McDougal of 1031 No. Prospect, owner of the property at 625 So. Oakes, said he felt that the sidewalk in front of his property needed no replacement. He said he also had a tree in the sidewalk area which he did not want removed. Mr. Schuster advised that the property owners are given a choice if they wished the tree to remain it would be their responsibility of future replacement of the sidewalks.

Mr. Cvitanich moved at this time that this hearing be postponed for one week until March 21st so that a tour of the area can be arranged with the members of the Council and the Department of Public Works.

Mr. Porter suggested that the hearing be postponed for two weeks, until after the Legislature is out of session.

A property owner said she now understands that the Council has changed its policy whereby they are allowing persons to obtain their own bids on these improvements.

Mr. Porter said he would like to have a clarification on this statement. Mr. Schuster explained at the previous hearing it was asked if the work could be done by private contractors, and at that time they were informed that this was not the policy of the City. Mayor Hanson suggested that the policy of the Public Works Department be reviewed. This was done and we came up with the suggestion that whether it is done by our contractor or by a bonded contractor, the City will participate in 25% of the cost provided it does not cost the City more than it would under their own contractor.

Mr. Porter said it is then understood that a portion of this improvement could be done by a private contractor, if they so desire.

Mr. Schuster said that was correct. Anything involving less than \$100 City participation could be approved by the City Manager. Anything more than \$100 City participation would have to be approved by the City Council prior to the construction.

Mr. Porter said the correct procedure then to follow would be for any interested property owner to contact either the Public Works Department or the City Manager's office if they wish a private contractor to do their work.

Mr. Cvitanich then moved to amend his motion that the hearing be postponed for two weeks until March 21st and a tour be taken by the Public Works staff and the City Council members. Seconded by Mr. Easterday.

Mr. Murtland said he could see no purpose for continuing this for any length of time as there were only two property owners who are protesting the improvement.

Mrs. Olson said in line with this review of policy regarding the right of the people to go out and obtain bids of their own, she thought it might be well to have a postponement for that reason and resolve the policy on that particular problem before the action is taken.

Mr. Bott said the fact that persons can obtain bids on their own should not affect this in any way as the proviso is that the bid should not exceed the bid quoted to the City.

Mrs. Olson said the Council has not taken a position yet as to whether or not they think the City should participate on this basis if the person obtains bids on his own. She added if a number of property owners obtained bids of their own, it might affect the total bid received by the City.

Mr. Cvitanich asked, in the event this two weeks' postponement passes, would it be possible for the City Council and the Public Works Department staff to meet and work out some policy for the future regarding this situation.

Mrs. Price asked Mr. Schuster if from past experiences had he found many people who preferred having their own contractors.

Mr. Schuster said they have had very few requests for private work done on this type of project, one reason probably being that the payments can be spread over a period of time if it is done by the City.

Mr. Bott said he appreciated Mr. Cvitanich's desire to investigate all of these improvements, but at the present there are only two persons who are objecting to this improvement. He said it seems to him that the Council should rely upon the Department staff and the inspectors who have checked into the situation.

Mr. Cvitanich said his reference was made for tour a so that a general condition of the sidewalks could be observed. This, by no means, is any criticism against the Public Works Department, he added. He thought it was the Council's responsibility to see the condition of these streets, and confirm a policy in regard to a similar program for future reference.

Voice vote was then taken on the motion to postpone the hearing until March 21, 1961 resulting as follows: Ayes, 5; Nays 2, Bott and Murtland; Absent 2, Steele and Mayor Hanson. Motion carried.

#### RESOLUTIONS:

Resolution No. 16440: (postponed from the meeting of Feb. 28, 1961)

Awarding contract to Tucci & Sons, Inc. for the construction of Leach Creek holding basin in the amount of \$81,001.10 which was determined to be the lowest and best bid.

Mr. Cvitanich said since he had requested that the proposed meeting with Fircrest, the County Commissioners, and the Council, he moved that this Resolution be postponed until the next Council meeting on March 14th. Seconded by Mrs. Price.

Mr. Easterday said before voting on this, he would like to know when the deadline for awarding this contract expires.

Mr. Schuster said the 60 day deadline will be up the 24th of March.

Voice vote was then taken on the motion to postpone the Resolution until March 14th, resulting as follows: Ayes 7; Nays 0; Absent 2, Steele and Mayor Hanson.

Resolution No. 16469:

Fixing Monday, April 10, 1961 at 4:00 P. M. as the date for hearing on L I D 2324 for grading, surfacing and storm drainage on No. 9th from Villard to

Shirley; No. 9th to No. 10th; Bennett from No. 10th to Dahl Drive and west 80 ft. from Villard to Winnifred.

Mr. Bott moved that the Resolution be adopted. Seconded by Mr. Cvitanich.

Voice vote was taken on the Resolution resulting as follows:

Ayes 7; Nays 0; Absent 2, Steele and Mayor Hanson.  
The Resolution was declared adopted by the Chairman.

Resolution No. 16470:

Fixing Tuesday, April 4, 1961 at 7:00 P. M. as the date for hearing on the vacation of property in the general location of So. Oakes and the alley between Cushman and Sheridan from north line of So. Tacoma Way to the south line of Northern Pacific Railroad right-of-way.

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

Voice vote was taken on the Resolution resulting as follows:

Ayes 7; Nays 0; Absent 2, Steele and Mayor Hanson.  
The Resolution was declared adopted by the Chairman.

Resolution No. 16471:

Awarding contract to J. D. Shotwell Co. for L I D 4681 on their bid of \$24,921.24 and for the supplemental proposal in the amount of \$632.00 which was determined to be the lowest and best bid.

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

Voice vote was taken on the Resolution resulting as follows:

Ayes 7; Nays 0; Absent 2, Steele and Mayor Hanson.  
The Resolution was declared adopted by the Chairman.

Resolution No. 16472:

Awarding contract to Woodworth & Co. for asphalt concrete paving on the Cheney Field south parking area on their bid of \$33,280.75 which was determined to be the lowest and best bid.

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

Voice vote taken on the Resolution resulting as follows:

Ayes 7; Nays 0; Absent 2, Steele and Mayor Hanson.  
The Resolution was declared adopted by the Chairman.

Mayor Hanson coming in at this time and assuming the chair.

**Resolution No. 16743:**

Awarding contract to Coast Contractors for the demolition of the Center St. Urban Renewal area No. 11626 in the amount of \$5,520.00 plus sales tax which was determined to be the lowest and best bid.

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

Voice vote taken on the Resolution resulted as follows:

Ayes 8; Nays 0; Absent 1, Mr. Steele.

The Resolution was declared adopted by the Chairman.

**Resolution No. 16474:**

Accepting certain offers to sell real property situated within an Urban Renewal Project designated Project No. Wash. R-1.

Mr. Cvitanich moved that the Resolution be adopted. Seconded by Mrs. Olson.

Voice vote taken on the Resolution resulted as follows:

Ayes 8; Nays 0; Absent 1, Mr. Steele.

The Resolution was declared adopted by the Chairman.

**Resolution No. 16475:**

The City Council of the City of Tacoma favoring the adoption of legislation and administrative rules and regulations which will vest in Cities the same rights and privileges now vested in school districts and other nonprofit organizations, with respect to the acquisition of Federal surplus property.

Mr. Easterday moved that the Resolution be adopted. Seconded by Mr. Bott.

Mr. Cvitanich asked that an MC be submitted designating what privileges are extended to the School District in purchasing this material.

Voice vote was then taken on the Resolution resulting as follows:

Ayes 8; Nays 0; Absent 1, Mr. Steele.

The Resolution was then declared adopted by the Chairman.

**Resolution No. 16476:**

Accepting the Corrected Plat of Northern Pacific East D Street Industry Sites, located east of East D at East 18th and 19th Streets.

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

Mr. Buehler explained that this plat was recorded some years ago and certain errors have been discovered which have to be corrected.

Voice vote was then taken on the Resolution resulting as follows:

Ayes 8; Nays 0; Absent 1, Mr. Steele.

The Resolution was then declared adopted by the Chairman.

**FIRST READING OF ORDINANCES:**

**Ordinance No. 16753:**

Amending the Official Code of the City by adding a new Section 12.08.105 - Charges and rates for sewage disposal outside the City limits. Read by title.

Mayor Hanson said this matter has been the subject of numerous discussions and thought an explanation should be made on how this Ordinance would apply.

Mr. Schuster said it was the desire of persons living on streets bordering the City to hook up to the City's sanitary sewers which resulted in this action. He added, two streets in particular at the present time are involved - South 19th Street and South 96th Street. There is no Ordinance now which covers the conditions under which these persons can hook up to the City system. This Ordinance will now permit such connections and would also set rates that would be charged to these people for connecting to the line on a monthly rate.

The Ordinance was then placed in order of final reading.

**Ordinance No. 16754:**

Vacating Windom Street from So. 35th to Center Street and Bean from Center to Lawrence. (petition of Nalley's, Inc.) Read by title.

Mr. Buehler explained that there have been two hearings before the City Council on this vacation. The original hearing was last fall. He said when Nalley's, Inc. were unable to meet one of the conditions imposed upon the vacation, the petition was returned to the Planning Commission for further study, after which time it was heard again before the Council three or four weeks ago. There is some question relative to this Ordinance on the subject of retention of easements, but Mr. Joe Gordon, Attorney who is representing Nalley's, and the Staff will work on the clarification of these easements that are being obtained so that at the time of the final reading of the Ordinance next week, they will be executed.

The Ordinance was then placed in order of final reading.

**Ordinance No. 16755:**

Vacating property located in East I Street between East 25th and Puyallup Avenue. (petition of Lexington Co.) Read by title and placed in order of final reading.

Ordinance No. 16756:

Vacating the property at South 67th Street between Bell and "A" Streets.  
(petition of Walter Parkinson, et al) Read by title.

Mr. Murtland asked if South 67th Street between Pacific Avenue and "A" Street is cut through at this time.

Mr. Buehler explained that it is a dedicated right of way but it is not an open street. There have been L I D's submitted to open this street but they have been voted down every time, as the property owners feel that the circulation is only 400 feet up to 65th Street and 400 feet to 68th Street, which would make it only an 800 foot block if this were vacated, which would be a normal block.

Mr. Murtland said the map shows that if this were to be a through street, a job would be necessary on "A" Street.

Mr. Buehler said that was correct, and it would be dangerous to have an offset at this short a distance. He said there have been no objections from any of the City Departments or the abutting property owners to the vacation, provided the petitioner meets all of the conditions placed on the vacation, which is the placing of the sidewalk and the necessary transfer of wiring. Mr. Buehler said this has been accomplished by the petitioner.

Mr. Bott said although this street is not open to vehicular traffic, it has been used for years as a pedestrian walk. He asked if there were any individual rights in this connection.

Mr. McCormick said this is simply a matter of policy for the Council to determine whether or not the property should be vacated.

Mr. Bott said there was some talk during a previous discussion to provide some passage way for the pedestrians. He asked if this could not be made a condition.

Mr. McCormick said the Statute states that easements may be obtained for utilities and he did not think that foot traffic would come under that category. Therefore, if it is needed at all, the City should not vacate this property.

Mr. Bott asked if there are instances where rights of way are maintained for foot traffic.

Mr. McCormick said the only way this can be accomplished would be to vacate it, but obtain from the property owners in return a deed for sufficient land for a right of way.

Mr. Bott said he would like to explore the possibilities of having a passageway through here, and proposed that before the final reading consideration be given to this matter. Seconded by Mr. Cvitanich.

Mayor Hanson said he thought such a report could be made.

The Ordinance was then placed in order of final reading.

FINAL READING OF ORDINANCES:

Ordinance No. 16748: (postponed from the meeting of February 28, 1961)

Providing for the improvement of L I D 4680 for permanent paving in the area of No. 19th from Verde to Huson; No. 25th from Cheyenne to Huson; No. 27th from Mullen to Huson, and No. 28th from Cheyenne to Mullen. Read by title.



Mrs. Melton, City Clerk, reported that since the last meeting on this L I D, one additional protest has been filed against the area on North 27th Street which brings the percentage of protests up to 56.2%.

Mr. Cvitanich asked Mr. Schuster if this North 27th Street was not the same one under discussion in November of 1960 and was at that time deleted by the L I D Committee?

Mr. Schuster said North 27th Street was in an L I D from North Huson Street to Stevens Street. At that time there was a large majority of the property owners in the area between Mullen and Stevens who remonstrated against the improvement. The area from Mullen to Huson had approximately a 25% remonstrance at that time, so in setting up another improvement, inasmuch as 75% of the property owners were in favor of this street being improved, the Department included this section from Mullen to Huson. At this time there is a 56.2% remonstrance on that area which previously had a 25% remonstrance.

Mr. Cvitanich moved that the area on North 27th Street from Mullen to Huson be deleted from this L I D. Seconded by Mr. Easterday.

Mrs. Price said there was also a section in the L I D from Mullen to Cheyenne on North 28th Street on which there is 52% protests to date. Therefore, she would like to amend the former motion to include this portion on North 28th Street from Mullen to Cheyenne. Seconded by Mr. Bott. Voice vote on the motion resulted as follows: Ayes 8; Nays 0; Absent 1, Steele. Motion carried.

Voice vote was then taken on the motion as amended to delete the two areas of North 27th from Mullen to Huson and North 28th from Mullen to Cheyenne, which resulted as follows: Ayes 8; Nays 0; Absent 1, Steele. Motion carried.

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

Ayes 8; Nays 0; Absent 1, Steele.

The Ordinance was then declared passed by the Chairman.

**Ordinance No. 16749:**

Approving and confirming the assessment roll for the cost of L I D 4657 for grading and permanent paving and storm catch basins on South D from South 70th to 72nd Streets. Read by title and passed.

Roll call was taken on the Ordinance resulting as follows:

Ayes 8; Nays 0; Absent 1, Steele.

The Ordinance was then declared passed by the Chairman.

**Ordinance No. 16750:**

Approving and confirming the assessment roll for L I D 4661 for paving alleys between No. 14th to 15th from Cedar to Alder; No. 21st and 22nd from Warner to Puget Sound; No. 29th to 30th from Alder to Lawrence; also in the vicinity of So. 14th to 16th between Tacoma Ave. and So. G; So. 48th to 50th from Pacific Avenue to C Street. Read by title.

Mrs. Price said at the time of the hearing on the assessment roll Mr. Wissell of 3120 No. 15th filed a protest as he felt his property was not benefited

by this improvement. She asked Mr. McCormick if Mr. Wissell had contacted his office in this regard.

Mr. McCormick said his office was contacted. As he understands this, it involves a paving of an alley, and the property which is being assessed does not abut on this alley. There is property lying between the alley and this piece of property which does cut off access to the alley itself. However, he said, the property does lie within the zones set up by the staff, using the usual method of "zone termini" for assessing the property abutting an improvement such as this. The formula set up is first, 30 foot zones, then 60 foot zones, 90 foot zones, etc. The farther back the property is situated, the less cost per square foot they are assessed. For instance, a piece of property in the middle of a block may be assessed a certain percentage for a side street being paved, although the property does not directly abut.

Mr. McCormick said in their opinion Mr. Wissel's situation is similar to that. He said the State Legislatures have felt that this is a fair way to assess property because by putting this alleyway through and by upgrading the entire walk there is some value which accrues to this property. The exact amount can only be found by appraisal, and the City cannot possibly employ appraisers to appraise this entire block to find out how much the property has been benefited. For this reason the Legislatures have set up the formula which the City uses to base assessments; the burden of proof is then on the property owner to establish with proper evidence that his property is not benefited by the improvement.

Mr. McCormick said Mr. Wissel's property has been assessed according to State Law, not as much as a property owner whose land abuts the alley, but an assessment has been made. Mr. McCormick added if Mr. Wissel wishes to contest this matter he has the privilege to appeal.

Mr. Wissel said he has never questioned the legality of the assessment but the State must have realized there is inequity in this type of an assessment so they attached a provision where it could be taken care of according to the benefit derived. Mr. Wissel said there are two methods that could be used, and asked why they preferred this method?

Mayor Hanson said the method presented has been equitable and it would be a question of embarking on a series of appraisals if it were changed, which would render the entire system absolutely impossible to administer.

Mr. Wissel said every time an alley is paved there is a minority that has to suffer due to this easy way of applying the law. He said his assessment is \$100 and he has questioned three Real Estate Agents on how much his property is benefited, and he was told "not five cents worth."

Mr. Murtland asked Mr. McCormick to enlighten the Council on the other formula that Mr. Wissel mentioned.

Mr. McCormick said, to begin with, the method to be used in assessing an improvement must be set forth, if it is not the "zone termini" method in the original ordinance setting up the district. Therefore, the other method could not be used in this particular improvement.

Mr. McCormick said it is very, very seldom the other method is used in paving improvements. It is used quite often in sewer improvements where perhaps there is a lot of unplatted property and the "zone termini" method cannot be a fair formula. The Council may set up a district using any method they feel is fair to assess the property, but the burden is then on the Council to substantiate that it is a fair method and it is almost unworkable. No one uses this method

except, as he explained before, in sewer improvements occasionally, a swimming pool improvement, or a Park.

Mr. Murtland said as he understands it, having once determined upon this procedure the Council should not delete one or more persons.

Mr. McCormick said if the Council wants to make a determination that this property is not assessed correctly, they have a right to re-evaluate and re-assess this charge against all the other property in the district.

Mr. Easterday said he checked this property some time ago and he could not see that it was benefited. Therefore, he moved that the Ordinance be postponed for two weeks and that a study session be held so that the Council could review this improvement. Seconded by Mr. Cvitanich.

Mrs. Price said she was a member of the L I D Committee at the time this hearing was held on the Assessment Roll, and they recommended that the roll be approved as submitted. She said she felt this method of assessing for paving was a policy where "we share and share alike."

Mr. McCormick reminded the Council that if any change is considered, there are approximately a dozen other pieces of property that will have to be considered likewise, so that it will take a complete re-evaluation.

Roll call was then taken on the motion to continue the Ordinance for two weeks, resulting as follows: Ayes 3, Nays 5, Bott, Murtland, Olson, Porter, Price; Absent 1, Steels. Motion lost.

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

Ayes 6; Nays 2, Cvitanich and Easterday; Absent 1, Steels.  
The Ordinance was declared passed by the Chairman.

Ordinance No. 16751:

Providing for the improvement of L I D 4669 for paving on various streets between So. 56th and 70th and between So. Lawrence and Maniton Way. Read by title.

Mrs. Price said she also served on the Committee when this L I D was heard. At that time, she added, two areas were deleted from the improvement due to the high percentage of protests. However, since then protests have been filed against another area, on Lawrence Street from So. 68th to So. 70th, making a total of 59.1% protests. Mrs. Price then moved that Lawrence Street from So. 68th to So. 70th be deleted from the improvement. Seconded by Mr. Porter. Voice vote on the motion resulted as follows: Ayes 8; Nays 0; Absent 1, Steels. Motion carried.

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

Ayes 8; Nays 0; Absent 1, Steels.  
The Ordinance was declared passed by the Chairman.

Ordinance No. 16752:

Providing for the improvement of L I D 4689 for permanent paving on So. Fife from 8th to So. 11th and nearby streets. Read by title and passed.

Roll call taken on the Ordinance resulted as follows:

Ayes 8; Nays 0; Absent 1, Steels.

The Ordinance was declared passed by the Chairman.

UNFINISHED BUSINESS:

The Director of Public Works presents the following Assessment Rolls for the following assessments:

L I D 4667 for permanent type pavement on So. 73rd St. from Park Ave. to So. I Street.

L I D 3511 for sanitary sewers in the vicinity of So. 18th and Walters Road.

Mr. Easterday moved that Monday, April 24, 1961 at 4:00 P. M. be fixed as the date for hearing on L I D 4667 and L I D 3511. Seconded by Mr. Cvitanich. Voice vote on the motion resulted as follows: Ayes 8; Nays 0; Absent 1, Steele. Motion carried.

ITEMS FOR FILING IN THE OFFICE OF THE CITY CLERK:

- a. Personnel report for the months of December, 1960 and January, 1961.
- b. Report from the Tacoma Police Department - Traffic Division for 1960.

COMMENTS:

Mrs. Olson said she would like to comment relative to a legislative matter. She said she typed this up as a release so there will not be a misinterpretation, which has been signed by some members of the Council, and there are others with whom she has not had an opportunity to review this release, and who would want to sign also.

Mrs. Olson's statement verbatim as requested by Mr. Cvitanich:

"Upon reading Senate Bill No. 463 which is listed under the heading "Bills Favored - Very Important" on City of Tacoma letterhead, in the bulletin to the Legislators under date of March 3, 1961, we find certain provisions which we cannot endorse. A particular section, No. 6 specifically states that "No action taken by cities with respect to acquisition and disposition of off-street parking facilities is subject to either initiative or referendum proposition suggesting such action to review by such city's voters." Several hundred bills have been introduced to this legislature. All of the members of the Tacoma City Council have not read each bill. Time just does not permit. We have relied in large measure on the City Manager and his staff for an analysis of each bill. We feel that this particular item of proposed legislation was not properly and fully analyzed for us. We will not be a party to any action which would prohibit the voters of Tacoma the right of initiative and referendum. We wish to emphatically decline any support of Senate Bill No. 436. (Signed): James Porter, Ellen Price, George Cvitanich, Forrest Easterday, Dawn Olson."

Mr. Cvitanich said in keeping with Mrs. Olson's statement, he wanted to get back to the Airport subject and the signatures submitted on a petition to refer this proposition back to the people. He moved that this be placed on the ballot of the next general election so that the people will have the opportunity to vote on this Airport. Also for the record, he would like to note that Archie Blair, Port Commissioner, who was sent a telegram 2-1/2 weeks ago has not responded in any way. Seconded by Mrs. Olson.

Mr. Porter asked if Mr. Cvitanich's motion just specified the next general election or would it include the next general election or a special election?

Mr. Cvitanich said he believed our finances could not stand a special election; therefore, it would be the next general election.

Mr. Porter said he did not have in mind setting up a special election for this purpose but there might be a possibility for a special election to be held for some other reason and it would perhaps be more sensible to be able to combine the two than having to wait until the general election.

Mayor Hanson said once submitted, on a conditional basis, the City will lose Federal support, so time would make no great difference under these circumstances.

Mr. Murtland asked for Mr. Cvitanich to restate his motion.

Mayor Hanson said the motion could be taken in two stages. First, taking it on the basis of referring the matter back to the voters, and then, the matter of the date.

Mr. Cvitanich said the primary purpose of asking that this be placed on the ballot is merely to point out, once again, that the right of referendum is not being observed. In SB 436, which Councilman Easterday fortunately learned and pointed out, within those two sections that were added, it completely took away from the people of the City of Tacoma the right and the opportunity for referendum pertaining to off-street parking garages.

Mr. Easterday added along that line, that the Bill had passed with those provisions in the State Senate and was on the calendar in the House. The fact this took away the right to referend from the people, was brought to their attention, and the House removed those sections and passed the Bill.

Mayor Hanson said as a point of order he would set aside the motion on the Airport until the matter of SB 463 has been completed.

Mr. Murtland said he wished to state for the record that he has not as yet signed this particular press release suggested by Mrs. Olson mainly because he has not yet seen this letter to which she referred. He agreed with many of the points in the letter but there are certain parts therein he could not specifically indorse, and would like Mrs. Olson to know that he may later sign the letter but at this point he could not subscribe to it entirely, not having seen or known about it.

Mrs. Olson explained to Mr. Murtland that this was in a Legislative bulletin that she left at home.

Mr. Porter gave the bulletin to Mr. Murtland, who after reading it, said he would like to subscribe to this at this time.

Mrs. Olson said she would like to point out that this subject of the Parking Garages has nothing to do with the Airport. Her reason for objecting is that we have our legislative meetings to discuss the various bills that were being either opposed or endorsed by the legislative committee and therefore by the City of Tacoma. This SB 436 has been mentioned on several occasions, but it was men-

tioned only as it is listed on the bulletin as referring to off-street parking, and it was not until Mr. Cvitanich and Mr. Easterday brought it to her attention that she obtained a copy of the bill and realized that there was this section included which would prohibit the people from voting on off-street parking facilities, and she objects to that type of legislation and, personally, to being included as among those who favor this when she did not know what it was.

Mr. Cvitanich said the House of Representatives were very gracious in omitting Sections 6 and 7 from this Bill. Unfortunately, they did not look too carefully at the front page of the Bill, which contains the new addition "general funds and street parking revenues", and as this Bill is designed, in his opinion, it is nothing more than an answer to every obstacle presented to those who wanted to build downtown garages in the City of Tacoma.

Mr. Bott said he would take pleasure in subscribing to the release read by Mrs. Olson at this time.

Mr. Porter said he was not opposed to anyone who wants to build downtown parking garages, but he was certainly opposed to any legislation which would not allow the people the right to petition an initiative. He said, at times, on the Council he might vote against an action taken by the people in the same manner as the legislature has in overruling petitions, but the people should certainly have the right to petition.

Mr. Murtland said in endorsing this statement read by Mrs. Olson, he does not intend to infer that the Council should submit everything to a vote of the people. He believed the Council members have been elected to do a job and they have to assume a certain responsibility. His endorsement applies only to this particular instance.

Mayor Hanson said the Bill itself is of concern to many cities. He was sure the philosophy expressed in the Bill was the philosophy that has been followed in a great number of states. Assuming one point it is consistent with the philosophy expressed in this State. The only point assumed in other states that is not assumed in this State, is the fact that on-street parking revenues are a part of the parking utility operation. Once they become so, by legislative enactment, those revenues and the collecting of those revenues are not subject to referendum or recall. It appears here that the philosophy expressed by the Bill is completely repugnant to the democratic process and an entirely revolutionary thing. It is not. We do not have the right to initiative or referendum in matters that involve the fiscal affairs of a utility. Had that been the case, the Cowlitz Dam would never have been started. That right was given to the Legislative Body to determine the fiscal affairs of its utilities, which is the case in all States as far as he knows. There was an error, however, in drafting the Bill, and amidst the press of the heavy schedule in the Legislature there was a failure to detect the inclusion of words that should have been deleted, and those were "general funds." The intention was to include in the area of a utility operation, the areas of "on street parking" so that the "on street parking revenues" could be pledged to support additional parking.

Mayor Hanson continued, it was the intention of a number of Cities that this was proper within the province of a City Council and not a radical departure from the concept of an initiative and referendum. In making that explanation, he said, he does not for one minute disapprove of the action taken by some of the

Council Members. It is very fine the Council should express themselves. It is only unfortunate, he added that we do not have a full time Council and a full time Mayor. Perhaps it is well we call to task those who have been paid to study these matters and detect these errors. However, it is not an insidious effort to take away the democratic process from the people of the City of Tacoma. There has been an effort to create that impression and thought it was erroneous. However, he did certainly endorse the effort to clarify the position. Personally, he thought the Bill to include on street parking revenues so that they can support off street parking facilities is a progressive one.

Mr. Murtland explained the reason he approved it was on the fact in particular to this part, which he knows is not the feeling of the majority of the Council, and that is Section 6, and that it was sent to the Legislature saying we favored the Bill. As far as he is concerned, he is in favor of taking away from the people some of these rights of initiative and referendums, and that he will vote, perhaps yet tonight, indicating this. But when he knows the majority of the Council feels to the contrary, then he is opposed to this blank vote, which is the main reason for his opposition tonight.

Mrs. Price said she sat in on some of the legislative meetings and is not opposed to the pledging of the on street parking funds for off street parking. However, she added, the summary of the bill received did not make them aware of Sections 6 and 7 and these were the only two sections she is personally objecting to, and not the bill as a whole.

Mayor Hanson said perhaps this discussion will lead to better procedures in this type of matter. There is a responsibility, and he certainly will share in it, for failing to bring this to the Council's attention, but he did not feel that he can absolve himself by signing this.

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Mayor Hanson said the Council will now consider the motion made by Mr. Cvitanich and seconded by Mrs. Olson to place the Airport proposition as presented by the recent petition, on the March, 1962 ballot. This would, by its very nature, be recognizing the validity and legality of the petition.

Mrs. Price said she did not intend to vote for that motion because we have already submitted our application to the F. A. A. and also she understands that the manner in which the petition was drawn, that we could never, at any time, build an Airport only by General Obligation Bonds and we could not ask for any participation from the Government or private contributions. Therefore, she could not vote for the motion.

Mr. Murtland said he agrees with Mrs. Price on this matter and would like to amend the motion to provide that it would be at the first possible election in the event there should be one before March, 1962, still with the idea that he was opposed to the motion in general. Seconded by Mrs. Olson. Voice vote on the motion resulted as follows: Ayes 8; Nays 0; Absent 1, Steele. Motion carried.

Mr. Porter said he was quite sure that everyone is aware that he has always been opposed to the Peninsula Site and also not in favor of using the inside levy for that purpose. However, at the same time he ran for the office of Councilman, the Airport was put on the ballot by the previous Council and was carried by a majority vote of the people. The only difference now, it seems to him, is

that the cost has gone up and that the Council has pledged more revenue and has asked for a larger contribution from the government. It is true there has been a petition signed by a sufficient number of people to put this to a vote of the people. He has always wondered whether all the people who signed the petition were among those who unsuccessfully voted against the Airport when it was on the ballot. Inasmuch as we have gone this far and have submitted our application, and the people have already voted on the issue and approved it, he believed he would at this time vote against the motion.

Mr. Bott said he has always been an advocate that the people should vote on any important issues, but, inasmuch as the public has voted for the Airport previously and passed by a majority, and also that our Legal Department has declared this initiative illegal, and realizing the great financial loss to the City if this was thrown out of Court, he felt he was forced to oppose this motion.

Mr. Easterday said, as the Council will remember, the proposition submitted on the ballot in March, 1958, asked the people to approve of the issuance of \$350,000 worth of revenue bonds. By subsequent action, without the vote of the people, the amount of the bonds was increased from \$350,000 to \$550,000. Some people said the public would have voted for it anyway, which is debatable, as the proposition for \$350,000 received less than a 2,000 majority vote.

Mr. Cvitanich said he admires the position the various Council members have taken. One of the most important factors he feels that the Council should consider at this time is the financial condition of the City, and the economic condition of the Country as a whole. Conditions have changed; the unemployment picture has increased tremendously, he added. He did not wish to belabor the point, but these are two factors that he feels, as Council members, they should bear in mind.

Mr. Porter said he would like to point out that there are still two factors that may be regarded as safeguards: (1) If the Federal Government does not regard the Port Bonds as salable they will probably turn down the application; and (2) if the application is accepted, there is a question of selling the bonds.

Mr. Cvitanich said if he remembers correctly the City has \$75,000 invested in this plus \$100,000.

Mr. McCormick said the City has spent \$100,000 on the loan which will not have to be repaid should the Airport not be built. The additional \$75,000 is invested in property at the Peninsula Site.

Mr. McCormick said he would like to explain one or two points. In the event the Council does not act within the 30 day period after the petition is filed with the City, according to the City Charter it automatically goes on the next Municipal Election ballot. It is the right of the Council if they wish prior to that time to call a special election. Therefore, if the Council does nothing on this matter, it will automatically go on the next ballot.

Mr. McCormick further stated he would like to call the Council's attention, that in the condemnation proceedings, their office has received an answer in one of the cases a few days ago, which places at issue the validity of this petition and this question will be determined as soon as possible. He questioned whether or not it was proper to bring this matter up in this legal action, but nevertheless, they will try, he added.

Mrs. Olson asked Mr. McCormick to explain again how the petition affects the use of Federal Funds.



Mr. McCormick said it is his understanding when this loan was made that it was for engineering purposes and the hiring of appraisers, etc. in connection with the Airport's total construction. It is also his understanding that this loan was made to the City on an application signed by the City authorized by this Council. The loan was made on the good faith of the Council and to proceed in accordance with Federal specifications. If through some fault, other than the City Council itself, we were prohibited from going ahead, it is his understanding that the City would not have to pay that back. Now the only question is whether or not, if the Council at this time by its own action repudiates the basis upon which the loan was made, we may be in a position where the Government might want to be repaid the \$104,000 which was spent.

Mr. McCormick said there is one other point he would like to bring up regarding the motion before the Council. If the Initiative Petition is declared invalid, it cannot be put on the ballot anyway, regardless of what the Council decides. But, if it is valid, then by doing nothing, or refusing to put it on the ballot, according to the Charter it automatically goes on at the next election. However, if the Council votes for it now, they will have to repeal the Ordinance under which we are now operating.

Mrs. Olson asked if the Federal funds in the future would be affected by this?

Mayor Hanson said he was sure that should the Council vote against the Airport project now, it would have some effect on the determination of the additional steps in Washington.

Mrs. Olson said she seconded Mr. Cvitanich's motion because her inclination, sympathies, and feelings are with the people who circulated the petitions and did their best to express themselves. However, under the circumstances and in view of Mr. McCormick's explanation, she will vote against the motion.

Mr. Cvitanich said they were quite concerned about Senate Bill 436 and he believed the Council Members signed Mrs. Olson's objections unanimously in regard to the right of the people to an initiative or referendum. Once again the Council has before them an initiative on the Airport ballot. Of course, it is up to Mr. McCormick to determine the legality. He said, it certainly seems odd that on the other hand when the same situation is presented, we object to it.

Mr. Porter said in this case in voting against putting this on the ballot, we are not objecting to the people's right to petition. We are making our decision as to what action to take. Whereas, in the other instance, there was a law pending in the State Legislature to prohibit the right to petition.

Mr. Easterday moved the previous question. Seconded by Mr. Porter. Voice vote resulted as follows: Ayes 3; Nays 0; Absent 1, Steele. Motion carried.

Roll call was then taken on Mr. Cvitanich's motion to place the proposition presented to the Council by petition, on the next possible election, resulting as follows: Ayes 2; Nays 6, Bott, Murtland, Olson, Porter, Price, and Mayor Hanson; Absent 1, Steele. Motion lost. (Later in the meeting Mrs. Olson announced that she would like to change her vote to an affirmative vote.)

Mayor Hanson asked Mr. McCormick if there were any additional steps necessary that would aid him in this proposition?

Mr. McCormick said he could not think of any at the moment. However, he said he would like to read from the Charter, Section 2.19 - "Upon the filing of such petition, the City Clerk shall forthwith verify the sufficiency of the signatures," (which has been done) "Now the Council may enact or reject any initiative

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Ordinance, but shall not amend or modify the same. If it shall reject any such Ordinance, or shall within thirty days fail to take final action thereon, the same shall be submitted to the qualified electors for their approval or rejection at the next general election occurring not less than 50 days thereafter, under a ballot title prepared therefor by the City Attorney." It also provides that the Council may call a special election. The intervening matter is to determine the legality of the petition.

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Mr. Bott said inasmuch as all of the Council Members are in favor of the Naches Tunnel, he asked if there was anything they could do to bring it out of the situation it is in as far as the financing is concerned.

Mayor Hanson said it is too late to consider any matters along that line now. The Bill has the unanimous recommendation of the Advisory Committee appointed by the Governor, and also was accepted by the Governor. He said he could see no possibility of getting any further action on this at this session.

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Mr. Porter said the only possibility he could see now is to attach an amendment on one of several other bills. One is SB 506 wherein the priority of one-half cent of the one cent gasoline tax goes to straighten out the Hood's Canal Bill. It could be amended to have the next priority to take care of the approach roads or other parts of the Naches Tunnel. There are possibly a couple of other bills that could be amended also, he added.

\* \* \* \* \*

Mrs. Olson said at this time she would like to nominate Bud Bond as Public Relations Director. Seconded by Mr. Easterday.

Voice vote was then taken on the motion to nominate Bud Bond as Public Relations Director, resulting as follows: Ayes 8; Nays 0; Absent 1, Steele.

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Motion carried.

Mr. Cvitanich said he would like to request at this time that the present position of the Public Information Officer be reclassified so that the services of Mr. Bond can be utilized for all City purposes, instead of only for the Transit System, at the salary of \$660 per month.

Mayor Hanson said he felt this request would be in order.

Mayor Hanson congratulated Mr. Bond on his appointment and said the City was very fortunate to have him take on this challenging task.

Mr. Bond said he appreciated the confidence the Council has shown in selecting him and hopes that he can live up to their expectations.

\* \* \* \* \*

Mayor Hanson reminded the Council that there would be a joint meeting tomorrow at 10:00 A. M. with the officials of Fircrest and the County Commissioners on the matter of Leach Creek.

There being no further business to come before the Council, upon motion duly seconded and passed, the meeting adjourned at 10:40 P. M.

Attest:

*Josephine Melton*  
City Clerk

*Bruce Hanson*  
Mayor of the City Council