

COUNCIL CHAMBER, 7:30 P.M.
Monday, May 5, 1958

Council met in regular session. Present on roll call 6; Battin, Goering, Hanson, Perdue, Stojack, and Mayor Anderson. Absent 3, Bratrud, Humiston and Tollefson. Mr. Tollefson arrived at 7:45 P.M.

Moved by Mr. Stojack, seconded by Mr. Perdue to approve the minutes of the previous meeting held April 28, 1958. The reading thereof dispensed with. Motion carried on roll call: Ayes 6; Nays 0; Absent 3, Bratrud, Humiston and Tollefson.

PETITIONS:

Edwin R. & Viola E. Farrington, For rezoning property located in the 6600 Block on South Sprague Street from A Residential District to A "C-2" District. Referred to the City Planning Commission.

Chicago, Milwaukee St. Paul and Pacific Railroad and Brenden Millwork Company, For rezoning the N.W. corner of East 72nd and McKinley Avenue from a C-1 District to a C-2 District. Referred to the City Planning Commission.

RESOLUTIONS:

Resolution No. 15326:

By PERDUE:

Awarding contract to Jensen's Toggery on their bid of \$3,370.67 for furnishing clothing for the Fire Department.

Adopted on Roll Call May 5, 1958
Ayes 6 Nays 0 Absent 3, Bratrud, Tollefson and Humiston

Resolution No. 15327:

By BATTIN:

Awarding contract to A. H. Cox & Co. on their bid of \$5,760.00 for furnishing one self-propelled pneumatic tired roller.

Adopted on Roll Call May 5, 1958
Ayes 6, Nays 0, Absent 3, Bratrud, Tollefson and Humiston

Resolution No. 15328:

By ANDERSON:

Awarding contract to Concrete Construction Company on their bid of \$40,371.84 for cement concrete pavement and storm drainage on North 8th Street from Lawrence to Warner, North 8th Street from Union to Proctor, North 13th from Lawrence to Alder and Vista Drive from Jackson Avenue to Jackson Avenue (LID 4631).

Adopted on Roll Call May 5, 1958
Ayes 6, Nays 0, Absent 3, Bratrud, Tollefson and Humiston

MAY 5 1958

Resolution No. 15329:By BRATRUD:

Approving proposed grade elevations designated as Sheets 2 and 3 of nine sheets of the plans entitled "South 56th Street Undercrossing in Tacoma" which were approved by the Director of Highways, on April 4, 1958.

Adopted on Roll Call May 5, 1958
Ayes 6, Nays 0, Absent 3, Bratrud, Humiston and Tollefson

Resolution No. 15330:By ANDERSON:

Authorizing a temporary loan in the sum of \$11,000.00 from the General Fund to the General Obligation Public Buildings Fund of 1958.

Adopted on Roll Call May 5, 1958
Ayes 7, Nays 0, Absent 2, Bratrud and Humiston

Resolution No. 15331:By GOERING:

Authorizing the City Attorney to settle the lawsuit instituted by Glenn and Christine Collins against the City for the sum of \$900.00 and appropriating said sum from the Sundry Injuries and Damages Fund.

Adopted on Roll Call May 5, 1958
Ayes 7, Nays 0, Absent 2, Bratrud and Humiston

Resolution No. 15332:By STOJACK:

Authorizing the proper officers of the City to execute and deliver a local improvement assessment deed to Foss Launch and Tug Company, for property located east of Lincoln Avenue and north of Hylebos Waterway.

Adopted on Roll Call May 5, 1958
Ayes 7, Nays 0, Absent 2, Bratrud and Humiston

Resolution No. 15333:By HUMISTON:

Authorizing the proper officers of the City to execute an agreement to retain Lyle Swedberg and LeRoy D. Anderson as architects to design and perform professional services in connection with the alteration of Fire Station #3 located at North 13th and "J" Street. Mr. Rowlands advised that the Building Inspector felt that the architects chosen were well qualified to do the work.

Adopted on Roll Call May 5, 1958
Ayes 7, Nays 0, Absent 2, Bratrud and Humiston

FIRST READING OF ORDINANCES:

Ordinance No. 16097:

HUMISTON:

Vacating a portion of the alley between Sixth Avenue and South 7th Street from the west line of South Orchard Street to the east line of South Shirley Street. Read by title.

City Manager Mr. Rowlands advised that the ordinance for this vacation had been held up for several months until the easements, which had been held in escrow, were presented. The easements were for Public Works Utilities, as well as the Light Division. The ordinance was then placed in order of final reading.

Ordinance No. 16098:TOLLEFSON:

Amending Section 2.02.070 of the Official Code relating to buildings (Appointment of Buildings Board of Appeals). Read by title.

City Manager Mr. Rowlands said that under the old Ordinance the appointment of the member of the Builders Board of Appeals was made by the Commissioner of Public Works and under this ordinance he is appointed by the Mayor with the approval of the City Council. A vacancy has existed since the death of Mr. Early who passed away in 1957.

Mr. Tollefson asked why this particular Board should be appointed by the Mayor and hold office at his pleasure. "If a new Mayor is elected then he can dismiss all of these Boards." He felt that there should be some time limit set.

Mayor Anderson asked that the City Attorney be instructed to amend this ordinance to provide that members of Builders Board of Appeals be appointed by the Mayor, confirmed by the Council, and to serve for fixed terms such as exist for other administrative Boards, for next weeks meeting. The ordinance was then placed in order of final reading.

FINAL READING OF ORDINANCES:Ordinance No. 16093:TOLLEFSON:

An Ordinance amending the Official Code of the City, relating to steam boilers--engineers and firement.

Mr. Staman advised that the only change in the Ordinance is to eliminate certain exemption in the Ordinance which reads, "Boilers Operated Under Federal Regulations", which has been eliminated under exemptions, "otherwise the Ordinance remains the same" he said.

All call Ayes 7, Nays 0, Absent 2, Bratrud and Humiston

Ordinance No. 16094:BATTIN:

An Ordinance amending the Official Code of the City relating to public safety and morals and to suspension of sentences of persons convicted of crimes

against the City.

Roll Call, Ayes 7, Nays 0, Absent 2, Bratrud and Humiston

Ordinance No. 16095:

By GOERING:

An Ordinance appropriating the sum of \$21,100.00, or so much thereof as may be necessary, from the City Street Fund for the purpose of paying the City participation in Local Improvement District No. 4626.

Roll Call, Ayes 7, Nays 0, Absent 2, Bratrud and Humiston

Ordinance No. 16096:

By BRATRUD:

An Ordinance appropriating the sum of \$3,803.99 or so much thereof as may be necessary, from the Cumulative Reserve Fund "A" for the purpose of paying a portion of the cost of remodeling Fire Station No. 3.

Roll Call, Ayes 7, Nays 0, Absent 2, Bratrud and Humiston

UNFINISHED BUSINESS:

Hearing on Business and Occupation Tax.

Item 1. Consumer Central Heating Company.

City Manager, Mr. Rowlands, gave a brief explanation on MC-Q which was distributed to the Council members concerning certain business activities. He said under Item No. 1, in reference to the Consumer Central Heating Company, the staff who administered this tax for the City felt that the Consumer Central Heating Company should be in the same category as the Washington Natural Gas Company. Mr. Rowland said that prior to the adoption of the 1958 budget, the Council assessed the Gas Company a 2% Business and Occupational tax on their gross, as well as continuing their franchise tax, which will be up for consideration early next year. He said the Railroad Companies pay both taxes. It was understood that this same tax could be passed on to the Consumer Central Heating Company, which would bring in approximately \$1,200.00 a year.

Mr. Farlin Nye representing the Consumer Central Heating Company said their company pays about 2.8% of their gross revenue to the City for franchise, and said they objected, not particularly to the amount, but to the principle of being taxed twice on the same revenue. Mr. Hilton Gardner Attorney for the Company said they have a valid franchise for two more years and felt the time to take this up would be at the expiration of the franchise.

Mrs. Goering asked how the Washington Gas Company's tax compared with the Consumer Company.

Mr. Rowlands explained that the Washington Gas Company pays a total of 4%.

Mr. Tollefson said he knew the taxes from time to time can be raised or lowered, depending upon the tax authority. He felt that no change should be made until the franchise expires, but if a change is made before the franchise expires then they should put it on a different basis other than the B&O Tax.

Dr. Battin said he wanted to bring up the matter which concerns the similarity, or the lack of similarity between this proposed tax and the tax on the Gas Company or Telephone Company, or other services of that nature. He felt if they are similar then there will be a discrimination, if they are not similar there will not be a discrimination.

Mr. Rowlands said that in comparison, the Washington Gas Company are paying 4%. At the present time, the Consumers Central Heating Co., under this proposal will be paying an additional 1/4 of 1% over and above their franchise tax. The Telephone Company is paying 8%, he added.

Mr. Nye asked if this hearing could be set over for one week.

Moved by Mr. Tollefson, seconded by Mrs. Goering that this be set over for one week, until May 12, 1958.

Yeas 7, Nays 0, Absent 2, Bratrud and Humiston

Item 2. Loan Companies, Mortgages and Finance Companies

Mr. Earl Mann, Attorney for some of the small loan companies said he would like to have this item deferred until July 7, 1958.

It was then moved by Mr. Hanson, seconded by Mr. Stojack that the matter be set over until July 7, 1958.

Yeas 6, Nays 1 - Battin, Absent 2, Bratrud, and Humiston

Item 3. Hotels and Motels

Item 3 was discussed. Mr. A. H. Hanson, representing the Olympic Hotel asked if this Ordinance No. 16076 which MC-Q refers to is a reclassification of the previous Ordinance or a new Ordinance.

Mr. Rowlands explained it was a clarification of service classification of the former Ordinance.

Mr. Hanson said they are now requested to report under the retail classification to the State now, and feels that there should be some kind of standardization of classification. He could not see why they should be under the service classification at all.

Mr. Dave McLennan, Assistant Finance Director, said originally all the hotels are reported under the service classification. As the result of the 1951 Legislature, through the means of the State increasing their revenue, legislatures reclassified transient rentals to retail. Actually, Mr. McLennan said, transient rentals do not come under the category of retail sales.

Mr. Rowlands said the original Ordinance placed this income under the service classification. Nothing is being changed other than notifying these lodging places that the City is ^{not} going along with the State.

Mr. Hanson said he would like to have this matter laid over to give them an opportunity, and also the members of the Hotel industry an opportunity, to organize an effort to change this classification.

It was moved by Mr. Stojack to set this over until July 7, 1958. Seconded by Mr. Hanson.

Yeas 7, Nays 0, Absent 2, Bratrud and Humiston

Item 4. Hospitals.

No one appeared to protest the tax imposed on the Hospitals.

Mr. Rowlands explained that some of the Hospital Managers would like this set over for further consideration.

It was then moved by Mr. Tollefson, seconded by Mr. Hanson that this be set over until July 7, 1958

Ayes 7, Nays 0, Absent 2, Bratrud and Humiston.

Item 5. Wholesale Functions.

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Mr. Dave/Lennan explained the purpose of this wholesale function on the tax structure, is based on large retail concerns buying large quantities for use of two or more of their own stores, and making transfers of merchandise from one outlet to another. They will be charged a transaction tax, even though no change of title or ownership occurs. He said they were unable to obtain all of the names of those who might be engaged in wholesale functioning. Mayor Anderson asked Mr. McLennan if he could have this information if more time were given. Mr. McLennan said he would like to have more time.

It was then moved by Mr. Stojack, seconded by Mr. Tollefson that this be postponed until July 7, 1958.

Ayes 7, Nays 0, Absent 2, Bratrud and Humiston.

Mr. Rowlands explained that the Library Board is still negotiating for the acquisition of additional property for the site of the Library. He said that \$116,000 of the \$148,000, which was appropriated by the voters for the new Libraries and the rehabilitation of the two older ones, has been allocated for this branch. The Library Board is not willing to commit themselves at this time for the construction of the Fire Station until the preliminary report from the Architect has been submitted, and at that time they will know what funds are required for the new building. If additional moneys will be available, he said they will be happy to apply it towards the acquisition of two and one-half more lots at the rear of the building on which the Fire station can be located, plus additional space. He added, by combining the two facilities approximately \$300 to \$400 could be saved in operation costs annually. He said the Library Board said it would be possibly six weeks before the preliminary estimate will be received from the architect.

Mr. Rowlands asked Mr. McCormick to give a brief report on the Cowlitz Dam hearing which was held before the U.S. Supreme Court.

Mr. McCormick said as far as his own personal opinion was concerned, the questions asked by the various members of the U. S. Supreme Court, indicated that they had a very good knowledge of the fundamental issues which were involved. He believed that from the questions brought out they were seriously concerned of any ruling of any court which would in effect bar the development of any navigable stream, by the U. S. through its Federal Power Commission under the Commerce clause. It was the consensus of the Federal Power Commission Attorneys, and of Mr. Ely, the City's special Counsel, that they would give a favorable decision. He said he is of the opinion that a decision will be reached before they adjourn for the summer in June.

Dr. Battin advised he was quite concerned over the bonds that were issued September 3, 1921 and were due September 3, 1928, and which since have been declared uncollectable. He said there are two questions which he would like to have answered. One was a moral issue, and he personally feels that a debt is a debt, and asked if there was an actual legal obligation to the City in making provisions in the 1959 budget or some other means to pick up these bonds. He asked if this exused the City from the moral obligation even though it does not provide the money.

Mr. McCormick explained that these LID Bonds that Dr. Battin is referring to are specifically payable out of a separate, distinct and designated fund, and when there is an obligation, or a bond, payable out of a certain fund that is the only fund out of which they can be legally paid. Secondly, he said the bonds were payable in 1928 and the Statutes of limitations have expired. He said he does not believe the City could legally budget money to pay for those bonds, which were payable out of a definite fund to begin with, and said the City would not legally have to pay the bonds.

Mr. Tollefson asked Mr. McCormick if the charter as it existed at the time the bonds were issued would determine the validity of the contract rather than the present charter.

Mr. McCormick advised that it would, but he said there was no question as to whether the contract, that was originally entered into was valid, but the question now is whether thirty years later they can collect against the City and be bound by the existing charter.

A letter was presented from Henry K. Carlbon requesting information as to LID 1243. The names of persons holding the bonds also the names and addresses of the persons who did not pay their assessments.

Mr. Tollefson said he did not believe any taxpayer had the right to know who holds bonds and in what amounts. There is quite a distinction he said, between a person who has his own bonds, and one seeking to gain information, at the time and expense of the City, so that they may contact the person and see about acquiring them or something of that nature.

Mayor Anderson then asked Mr. McCormick to check Mr. Carlbons' letter to see whatever information that can be legally obtained for him.

Mrs. Goering advised that the airport committee met and the only new item brought up was that Mr. Drew advised that they could expect a letter from the Air Space Sub-committee in a week, advising of some suggestions that might be helpful toward pursuing our problem of where to put an airport.

A letter was read from S. C. Eastvold, President of the Pacific Lutheran Co llege requesting the City to give consideration to other airport sites which are both better and more economical.

Dr. Battin said he wished to comment on MC 194 regarding the "Audit Studies for 1958". He wanted to call attention to the fact that the running audit and the auditing firm as envisioned in the Charter, was to

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make running checks on the business operations of the City for the Council. In other words the work of this auditing group is that of making the Council aware of the effectiveness or ineffectiveness of the administrative operations. At the time this provision was written in the new charter he did not think of it as a tool or a device for the use of the Administrative Personnel. He said it could be very valuable, and knew that some cities which have independent audits have very specifically stated in their charter, and have very definitely followed the practice, of having the independent audit at the service of the Manager and his staff for helping him to do a better job. He felt this has merits. He said he wanted to call attention to the fact at this particular point, that this was not the thing that was anticipated by the persons who were responsible for having that particular section in the charter. He said he had no objection of this being used that way, provided that it is not used exclusively in the manner so they will not have other means of checking. When this checking first began on functions of the City Government those checks were asked for by the Council and the reports were made to the Council, now they are moving over into the other category, which perhaps is inevitable or maybe the proper thing, he added. He said he wanted to make this comment to inform the Council where he stood.

Mr. Rowlands said this MC was discussed at the 4:00 O'clock session and said it was pointed out to the Council members present, that these were merely suggestions. He said it is the Council's prerogative and responsibility to designate what items they wish to have checked.

Meeting adjourned at 9:50 P.M.

John W. Adams

 President of the City Council

Attest: *Josephine Nelson*

 City Clerk

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

- x a. Tacoma Employees' Retirement System - submitting report of purchases and sales of investments during April, 1958.
- x b. Tacoma Employees' Retirement System - submitting report on acceptance of unassigned space on the 7th floor of the new County-City Building for future quarters for Retirement System office.
- ✓ c. Tacoma Transit System - report for March, 1958 and 1957 and 3 months of 1958 and 1957.
- ✓ d. Tacoma Police Department - Annual Report - 1957 - Traffic Division.
- x e. Tacoma Police Department - Annual Report for 1957.