

CITY COUNCIL MINUTES

City Council Chambers, 4:00 P. M.
Tuesday, April 30, 1968

Council met in regular session. Present on roll call 3: Bonfield, Bott, Cvitanich, Finnigan, Herrmann, Johnson, Zatkovich and Mayor Rasmussen. Absent 1: Murtland Mr. Murtland arriving at 4:20 P. M.

Dr. Herrmann moved that the minutes of the meeting of April 16, 1968 be approved as submitted. Seconded by Mr. Cvitanich. Voice vote taken. Motion carried.

HEARINGS & APPEALS:

a. This is the date set for hearing for the vacation of a portion of the north side of So. 56th St. between Lawrence and Montgomery Sts. extended, submitted by Conifer Company.

Mr. Russell Buehler, Director of Planning, explained that it is the petitioners intent to utilize this proposed vacation to allow for the construction of a forty-seven unit apartment which will eliminate a section of unimproved right-of-way. The petitioner has agreed to all the conditions set forth by the Planning Commission in regard to the sidewalks and easements. He added, the efficiency of the street pattern would not be affected by the vacation.

Mr. James Berger, 1114 So. 61st St., explained that he operates the service station across the street from this proposed development. He said he is not opposing the vacation of the property but was very concerned about the parking problem as there is no available parking in the area at this time.

Mr. Buehler explained, this is an apartment to house the elderly and a waiver clause allows one parking stall for every three apartments. Normally these apartment tenants have very few cars, he added.

Mr. Curtis Peterson, representing the Conifer Co., explained they have recently acquired more land and it was felt that the parking situation would not create a problem.

Dr. Herrmann moved that the City Council concur with the recommendation of the Planning Commission to approve the vacation and that an ordinance be drafted approving same. Seconded by Mr. Finnigan. Voice vote taken. Motion carried.

b. This is the date set for hearing for the rezoning of the area between Mildred and MacArthur Sts. from So. 15th St. to So. 17th St. extended, from an "R-2" to an "RE" District, submitted by the City Planning Commission.

Mr. Buehler explained that the owners of this site, the Weyerhaeuser Properties, Inc., originally requested .0.3 acres for an "RP" Research Park zoning and 53.7 acres for an "R-3-PRD", Two-family Planned Residential Development District, which included this particular property, which was approved by the City Council. Then upon due consideration, the Planning Commission has now recommended that the "RP" zoning

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to a twenty-two acre tract which is presently under consideration, to be rezoned to an "RP District." This would meet the requirements for a research and experimental laboratories and office type employment centers in a landscaped, landscaped setting.

No protests being made, Dr. Herrmann moved that the City Council concur with the recommendation of the Planning Commission to approve the rezoning and that an ordinance be drafted approving same. Voice vote was taken. Ayes 7; Nays 2; Cvitanich and Banfield, Absent 0. Motion carried.

Mr. Zatkovich asked Mr. Buehler, Planning Director, what progress is being made on the drafting of an ordinance relative to charging fees for vacation of properties.

Mr. Buehler explained, this was before the Planning Commission on Monday, April 29th, 1968 but discussion was continued until May 20, 1968. He said that Mr. Cvitanich had indicated he would bring this matter directly to the City Council for a public hearing as it has been under discussion for approximately eight months.

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Mr. Cvitanich remarked that this would be on the agenda for next week.

RESOLUTIONS:

Resolution No. 19681

Fixing Monday, May 27, 1968 at 4 P. M. as the date for hearing for L I D 5457 for water mains in East B from East 88th to East 92nd Street.

Mrs. Banfield moved that the resolution be adopted. Seconded by Dr. Herrmann.

The Resolution was passed unanimously by voice vote. Ayes 9; Nays 0; Absent 0.

Resolution No. 19682

Fixing Monday, May 27, 1968 at 4 P. M. as the date for hearing for L I D 6891 for street lighting on East M from East 56th to 64th St. and other nearby streets.

Mrs. Banfield moved that the resolution be adopted. Seconded by Dr. Herrmann.

The Resolution was passed unanimously by voice vote. Ayes 9; Nays 0; Absent 0.

Resolution No. 19683

Fixing Tuesday, May 21, 1968 at 4 P. M. as the date for hearing for the rezoning of the N. E. corner of So. 84th & Hosmer from an "R-2" to a "C-F-V" District. (petition of Mobil Oil Corporation)

Mrs. Banfield moved that the resolution be adopted. Seconded by Dr. Herrmann.

The Resolution was passed unanimously by voice vote. Ayes 9; Nays 0; Absent 0.

Resolution No. 19684

Fixing Tuesday, May 28, 1968 at 4 P. M. as the date for hearing for the widening of the east 125 feet of the alley between So. 41st & 42nd from Union Ave. to Pugh Sound Ave. (petition of The Salvation Army)

Mrs. Banfield moved that the resolution be adopted. Seconded by Dr. Herrmann.

The Resolution was passed unanimously by voice vote.
Ayes 9; Nays 0; Absent 0.

Resolution No. 19685

Approving the final plat of Pamela Mayer's First Addition in the area between East 48th & 50th Sts. from K to the alley immediately west of L Street.

Dr. Herrmann moved that the resolution be adopted. Seconded by Mrs. Banfield.

The Resolution was passed unanimously by voice vote.
Ayes 9; Nays 0; Absent 0.

Resolution No. 19686

Authorizing the proper officers of the City to execute a quit claim deed to the State of Washington for access rights only to the south boundary of East 38th St.

Mr. Finnigan moved that the resolution be adopted. Seconded by Mr. Cvitanich.

The Resolution was passed unanimously by voice vote.
Ayes 9; Nays 0; Absent 0.

Resolution No. 19687

Authorizing the proper officers of the City to execute a release of easement for property between So. 37th & 38th Sts. and east of Pacific Avenue.

Mr. Finnigan moved that the resolution be adopted. Seconded by Mr. Cvitanich.

The Resolution was passed unanimously by voice vote.
Ayes 9; Nays 0; Absent 0.

Resolution No. 19688

Authorizing the proper officers of the City to release an easement to the National Bank of Washington on property at So. 12th & A Street which is no longer needed by the Light Division.

Mr. Finnigan moved that the resolution be adopted. Seconded by Mr. Murtland.

The Resolution was passed unanimously by voice vote.
Ayes 9; Nays 0; Absent 0.

Resolution No. 19689

Authorizing the proper officers of the City to release an easement to Hillcrest Properties, Inc. at So. 68th & Sprague St. which is no longer needed by the Light Division.

Mr. Finnigan moved that the resolution be adopted. Seconded by Mr. Cvitanich.

The Resolution was passed unanimously by voice vote.
Ayes 9; Nays 0; Absent 0.

Resolution No. 19690

Authorizing the sale of property to Dean Witter & Company over, above and under the escalades on So. 12th St. between Pacific Ave. & Commerce St. for the sum of \$5,000.

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Mr. Finnigan moved that the resolution be adopted. Seconded by Dr. Herrmann.

Mr. Bott asked how the price of \$5,000 was determined to be the value of the air rights in question.

Mr. James Wright, Acting Director of Urban Renewal, explained an appraisal was made following a study session of the City Council, approximately five week's ago. The question of Dean Witter & Co. purchasing the air rights or some other rights in the remaining property where the escalades are located was discussed. At the request of the Public Works Dept. through the Legal Dept. this appraisal was made.

Mr. Bott wondered if the appraisal was made according to the value of the property, location or other facts.

Mr. Wright stated, the actual estimate of \$5,000 is the figure that he understood the property is worth.

Mr. Rowlands, City Manager, stated there was a report substantiating the procedures upon which the \$5,000 was determined.

Mayor Rasmussen requested that this report be made available to the City Council.

Mr. Rowlands said he would be glad to submit the appraisal report to the Council.

Mayor Rasmussen moved that the resolution be postponed for one week, until May 7th, 1968 so the City Council can review the report. Seconded by Mrs. Banfield.

Mr. Murtland stated, it was reported at the study session Monday that this appraisal was made by Donald McGoldrick who is a competent and respected realtor and appraiser.

Dr. Herrmann noted that the Council has never made a practice of asking for appraisal reports but had depended on the judgment of the City Attorney.

Mr. Johnson felt the Council should not delay this resolution. He added, the Council has to rely on the City Attorney's judgment on many things, and this is certainly a technical matter.

Mr. McCormick, City Attorney, explained that Dean Witter & Co. proposes to purchase this property so that its projected six-story office building may be built over the escalade and include the facility as part of the structure. The City, however, would retain a perpetual easement for the operation of the escalade and use the escalade on the property sold.

Mr. McCormick further explained that Dean Witter & Co. was offering \$5,000 for the north 16 feet of the 50-foot tract owned by the City. He added, in this instance, actual real property is being sold which includes air rights, subject to a perpetual easement for the City. This property will be put on the tax rolls as real property. He noted that the architect could not proceed with building plans until the Council approved the sale.

Mr. McCormick added, air rights are real property. It is possible to divide

property vertically or horizontally. As far as the appraisal is concerned, his department knew that the Council would want an appraisal by a competent person. Mr. McGoldrick was asked to appraise the north 16 feet of the escalator site subject to the perpetual easements for escalade purposes. This would include all air rights. Mr. McGoldrick set forth in his report the various approaches; (1) Comparable sales, (2) Depreciated replacement costs, (3) Income approaches. The value was set at \$5,000 which included the air rights, which he felt was a reasonable price.

Mayor Rasmussen said he was not questioning McGoldrick's competence, however, the situation was one without precedent because it involved air rights. He felt the City should protect the taxpayers and lease the air rights at \$1,000 a year for 30 years, instead of selling them for \$5,000.

Roll call was taken on the motion to postpone the resolution for one week, until May 7th, 1968. Ayes 5; Nays 4; Finnigan, Herrmann, Johnson and Murtland. Absent 0. Motion carried.

The Resolution was postponed until Tuesday, May 7th, 1968.

Resolution No. 19691

Authorizing the proper officers of the City to execute and deliver all instruments necessary and proper to consummate the approval of a proposed six-story structure located on Parcel 17-B within the New Tacoma Urban Renewal area to Dean Witter & Company.

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Mayor Rasmussen moved that Resolution No. 19691 be postponed for one week, until May 7, 1968. Seconded by Mr. Cvitanich. Voice vote taken. Ayes 5; Nays 4; Finnigan, Herrmann, Johnson and Murtland. Absent 0. Motion carried.

Mayor Rasmussen asked Mr. McCormick, City Attorney, to have copies of the appraisal report available for the Council as well as a report on the bids that were received.

Mr. McCormick stated he would take care of the matter.

The Resolution was postponed until Tuesday, May 7th, 1968.

Resolution No. 19692

Authorizing the proper officers of the City to execute for and on behalf of the City of Tacoma a supplemental agreement for joint participation in the construction of a Limited Access Highway from State Route No. 5 to Sprague Ave. Interchange.

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

Mr. Schuster, Public Works Director, explained, this is an increase in the City's participation with the State and Federal Governments for construction of the Bantz Blvd. Freeway connection to run generally from Interstate 5 to Sprague Ave. north of Center St. In 1962 the City had agreed to pay \$811,000 for their portion, however, cost estimates have increased and plans have been changed to include six lanes instead of four lanes. The funds are available in the Arterial Street Fund, he added.

The Resolution was passed unanimously by voice vote. Ayes 9; Nays 0; Absent 0.

FIRST READING OF ORDINANCES:

Ordinance No. 18570

Appropriating the sum of \$39,242.50 or so much thereof as may be necessary from the General Fund of the City for the purpose of hiring additional personnel for the Police Department.

Charles Zittel, Chief of Police, explained this was a conservative request based on the needs of the Police Dept. The Department will be able to employ ten more police patrolmen and four more clerks. He noted these funds would cover the additional salaries for the balance of the year, however, all the patrolmen would not be on the payroll all at once.

The ordinance was placed in order of final reading.

Ordinance No. 18571

Appropriating the sum of \$18,720.23 or so much thereof as may be necessary from the General Fund of the City for the purpose of purchasing additional equipment for the Police Department.

Mr. Bott felt Chief Zittel had been too conservative with his request for equipment and asked him to reconsider the items which are the most important and, perhaps, request more of them.

Mr. Zatkovich felt this should be left up to the discretion of the Chief of Police.

Mr. Rowlands, City Manager, explained he had reviewed this request with Chief Zittel and he felt the increased personnel will help to establish a community relations unit in the Department.

The ordinance was placed in order of final reading.

Ordinance No. 18572

Amending Chapter 12.06 of the official code relating to the sale of electric energy and fixing rates.

Mr. Benedetti, Assistant Director of Utilities, explained, this ordinance permits large power and large lighting loads to be billed through one meter at one rate. At the present time the customer must request wiring for two meters and the City must provide two services. This scheduled would be particularly applicable to the newer office buildings and stores and to the older buildings in connection with modernization.

Mr. Benedetti, continued, the second portion of the ordinance would allow the City to provide for street lighting under provisions of the existing ordinance in areas outside the City where there is a development company who would be responsible for the operation and maintenance charges for the street lighting. These changes would be updating the ordinances which are in effect at the present time.

The ordinance was placed in order of final reading.

FINAL READING OF ORDINANCES.

Ordinance No. 18559 (postponed from the meeting of April 23, 1968)

Amending Section 1.12.430 of the official code by adding Subsection 1112 to establish a new position of Health Administrative Officer in the Health Dept.

Mr. Rowlands, City Manager, explained that circumstances have developed recently and Dr. Kredel, the Director of Health, is accepting a position in Panama. Also, the County Commissioners, after considerable discussion, still feel the position should be in the appointive category. Mr. Rowlands, therefore, recommended that the ordinance be voted down.

Dr. Herrmann moved that Ordinance No. 18559 be removed from the agenda. Seconded by Mr. Bott. Voice vote taken. Motion carried.

The Ordinance was removed from the agenda.

Mr. Cvitanich explained that the next ordinance on the agenda was postponed from the meeting of last week and it was thoroughly discussed by the Council members and also by the audience. He added, it has been customary in the past that during the first reading of an ordinance the audience has been given the opportunity to present their views pro and con on a given subject. Then on the final reading the comments have been confined to the Council members only and their determination has been reached. At the present time, particularly on this ordinance, the Council has determined how they will vote and he did not feel the audience needs to participate during the final reading.

Mr. Zatkovich agreed that this ordinance has been thoroughly discussed by the audience and the Council and he did not feel there was further need for discussion.

Mr. Cvitanich moved that the Council establish a policy that at the first reading of an ordinance the public will be allowed to present their arguments, but at the final reading, discussion will be confined to the Council only, except in the event a major revision of the ordinance has been made between the first and final reading. Seconded by Mr. Zatkovich.

Mr. Murtland felt it would be restricting the public participation, often times at the first reading of an ordinance the public knows nothing of the subject.

Mayor Rasmussen said he felt that different persons could speak on the final reading as long as they have not voiced their opinion at a previous meeting. He felt if an entirely new ordinance is substituted, members of the audience should be able to participate.

Mr. Bott felt a time limit should be set, rather than not allowing the audience to speak at the final reading.

Mr. Bott moved to amend Mr. Cvitanich's motion, that a person who has spoken at the first reading of an ordinance, not be allowed to speak during the final reading. LOST for the want of a Second.

Roll call was taken on Mr. Cvitanich's motion: Ayes 5; Nays 4: Bott, Finnigan, Murtland and Mayor Rasmussen. MOTION Carried.

Mayor Rasmussen stated, however, this new policy will not apply at this Council meeting.

Ordinance No. 18561 (postponed from the meeting of April 23, 1968)

Amending Title 8 of the official code of the City by adding a new Chapter 8.96 and twelve new sections 8.96.010 through 8.96.120, relative to the control of disturbances and riots.

Mr. Zatkovich moved that the substitute Ordinance be amended as follows:

In the title, delete the word "civil" from the first line. Substitute the word "emergency" for the word "riot" in the second line. Add a new Section No. (12) in the title.

Substitute the words "incendiary object" instead of "molotov cocktail" throughout the ordinance.

Under Section 8.96.030 under Subsection 6, strike the words "any or" in the first line and add the words "portions, or departments" after the word "establishments".

Amending Section 8.96.040 to provide "for the termination of such an emergency proclamation by the Mayor or, in the event of his inability to act, by the Deputy Mayor or any (3) members of the Council."

Amend Section 8.96.100 under Penalties, to insert the words "without the owner's consent" after the words "carrying away personal property".

Seconded by Mr. Cvitanich. Voice vote taken. Motion carried

Numerous speakers from the audience opposed the emergency control ordinance. Several felt there was no need of an emergency control ordinance at this time.

Dr. Herrmann explained the reason for the ordinance being considered at this time is in wake of the riots which occurred across the nation. He added, he intends to vote against the ordinance but it does not necessarily mean he is against law and order, but he does feel this type of ordinance is untimely.

Mr. Murtland and Mr. Johnson also felt this ordinance was not necessary in Tacoma.

Mr. Zatkovich asked that Mr. McCormick, City Attorney, interpret the ordinance.

Mr. McCormick said the most important part of the ordinance is the sections that cover areas in which the City does not have any legislation. He felt this ordinance does spell out powers to cope with civil and natural disasters.

Mr. Bott stated this ordinance is to be used only on immediate emergency in the Tacoma area.

Mayor Rasmussen said he felt this ordinance would do no harm to the community in the event it has to be enforced, and stated he would vote for the ordinance.

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

Ayes 5; Nays 4: Finnigan, Herrmann, Johnson and Murtland. Absent 0.
The Ordinance was declared passed by the Chairman.

Ordinance No. 18563

Vacating the area between So. 56th & 58th Streets and between Mullen and Orchard Street. (petition of Francoa Development Co.)

Roll call was taken on the ordinance, resulting as follows:

Ayes 9; Nays 0; Absent 0.
The Ordinance was declared passed by the Chairman.

Ordinance No. 18565

Amending Title 8 of the official code of the City by adding thereto a new Chapter 8.80 prohibiting discrimination in housing in the City of Tacoma because of race, creed, color or national origin and establishing an independent Open Housing Review Board and declaring an emergency making the ordinance effective immediately upon publication.

Mayor Rasmussen moved to accept the substitute Ordinance that was submitted with the agenda. Seconded by Mr. Bott. Voice vote taken. Motion carried.

Mr. Murtland moved that on Page 2 after No. (7), add Paragraph (3) entitled "Complainant". Seconded by Mr. Finnigan. Voice vote taken. Motion carried.

Mr. Murtland moved that on Page 4, under Section 8.30.040, the third paragraph be amended to change the resident requirement of a complainant, "that he is and has been a bona fide resident of the City of Tacoma for a period of at least thirty (30) days prior to the filing of the complaint." Also that the words applying to the "Aimed Services" be added to the ordinance. Seconded by Mr. Finnigan. Voice vote taken. Motion carried.

Mr. Bott then moved that the substitute amendment that sets up the Human Relations Commission and Review Board to investigate complaints under Sections 8.30.040 and 8.30.070 be approved. Seconded by Dr. Herrmann.

Mr. Murtland felt this amendment would provide a check and balance and in this instance, they would have one Commission already established. This would be a two step procedure instead of having one or the other board doing all the work.

Mayor Rasmussen felt that an impartial board would have the confidence of the community more than the Human Relations Commission.

Mayor Rasmussen also felt this open-housing ordinance is stronger than the new federal statute. He thought the Human Relations Commission should not be included as the review board as it would not be acceptable to the entire community unless it provided a fair and impartial board to handle complaints. He favored an independent review board.

Mr. Murtland asked for a vote on the previous question. Roll call was taken. Ayes 3; Nays 6; Banfield, Cvitanich, Finnigan, Johnson, Zatkovich and Mayor Rasmussen. Motion lost.

Mayor Rasmussen said he would now accept comments by the public.

Mrs. Betty Jane Heigel, 8009 So. Yakima, stated she was not in favor of the present Human Relations Board. She did not feel anyone on any board could represent the taxpayer.

Mayor Rasmussen explained that the Review Board to be created will consist of a Council member, Human Relations Commission member, NAACP member, Tacoma Board of Realtors' officer and three qualified voters of the City of Tacoma.

Mr. Harold Moss, 1270 Huson Drive, spoke against the amendment as he felt an independent Review Board would accomplish the purpose.

Mr. Cvitanich felt the amendment that is now presented was a compromise.

Roll call was taken on Mr. Bott's motion regarding the Review Board and Human Relations Commission to investigate complaints. Ayes 4; Nays 5; Banfield, Cvitanich, Finnigan, Zatkovich and Mayor Rasmussen. Motion lost.

Mr. Bott moved to delete the second paragraph on Page 10 of the ordinance which relates to the emergency clause. Seconded by Mr. Zatkovich.

Mr. Bott explained he did not believe the situation constituted an emergency. He felt he had to uphold the people's right to vote.

Mr. Zatkovich also felt the public should be given the right to vote.

Mr. Finnigan explained that the emergency clause would not prevent opponents from undertaking a drive to have the law referred to the voters as an initiative in a future election.

Numerous speakers from the audience asked that the emergency clause be retained. Several spoke against the emergency clause because they wished an opportunity to vote on the issue.

After some discussion roll call was taken on the adoption of the amendment to delete the emergency clause. Ayes 3; Nays 6; Cvitanich, Finnigan, Herrmann, Johnson, Murtland and Mayor Rasmussen. Motion lost.

Mayor Rasmussen explained he would now call for discussion on the ordinance, as amended.

Mrs. Banfield pointed out she was (100) percent for fair housing, however, she

could not vote for legislative forced open housing.

Mr. Cvitanich asked that the people not hold any animosity as each member of the City Council would be voting as his conscience dictates.

Mr. Earl Manlock, President of the Tacoma Board of Realtors, pointed out that his organization could not support the ordinance because it allowed owners of single-family and duplex dwellings to discriminate in sales and rentals if a real estate agent was not involved. He urged the Council to amend the ordinance to make it all encompassing, that all citizens should be affected.

Mr. Frank Russell, 1726 Kern Street, urged the Council to unanimously pass the ordinance. He also felt the independent review board would not prudently be processing any complaint.

Numerous persons spoke urging passage of a fair-housing law with an emergency clause.

After further discussion, roll call was taken on the ordinance as amended, resulting as follows:

Ayes 6; Nays 3, Banfield, Bott and Zatkovich. Absent 0.
The Ordinance was declared passed by the Chairman.

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Ordinance No. 18566

Providing for L I D 5462 for water mains in Cedar St. from So. 19th to So. 23rd Streets.

Roll call was taken on the ordinance, resulting as follows:

Ayes 9; Nays 0; Absent 0.
The Ordinance was declared passed by the Chairman.

Ordinance No. 18567

Providing for L I D 3668 for sanitary sewers in East C from East D to East 80th south approximately 400 feet and other nearby streets.

Roll call was taken on the ordinance, resulting as follows:

Ayes 9; Nays 0; Absent 0.
The Ordinance was declared passed by the Chairman.

Ordinance No. 18568

Providing for L I D 3670 for sanitary sewers in Madison St. from So. 69th to So. 72nd St., and other nearby streets.

Roll call was taken on the ordinance, resulting as follows:

Ayes 9; Nays 0; Absent 0.
The Ordinance was declared passed by the Chairman.

Ordinance No. 18569

Approving and confirming the assessment roll for L I D 3664 for sanitary sewers in No. 41st from Baltimore to Orchard and in Lexington from No. 49th to No. 51st St.

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Roll call was taken on the ordinance, resulting as follows:

Ayes 9; Nays 0; Absent 0.

The Ordinance was declared passed by the Chairman.

UNFINISHED BUSINESS:

The Director of Public Utilities presents the following assessment rolls for hearing:

- a. L I D 5438 for water mains in So. 8th from Stirley to Orchard St.
- b. L I D 5442 for water mains in Mullen St. from So. 62nd to So. 56th St.

Mr. Finnigan moved that Monday, May 27, 1968 at 4 P. M. be set as the date for hearing on the above assessment rolls. Seconded by Mr. Murland. Voice vote taken. Motion carried.

ITEMS FILED IN THE OFFICE OF THE CITY CLERK:

- a. Report from the Planning Dept. for the month of March 1968.
- b. Report from the Light & Water Divisions for the month of March 1968.

COMMENTS:

Mayor Rasmussen reminded the Council that a proposal has been submitted for changes in the Council Chambers. He asked that Mr. Bond, Public Relations Officer, explain the plan.

Mr. Bond explained that this is an attempt to modify the seating arrangements for the City Staff, Press, Radio and Television, and the need for improvement of the Council podium, public address system and acoustical effects. He noted, the estimated cost would be \$6900.00.

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Mr. Cvitanich felt this was an excellent proposal.

Mayor Rasmussen said there would be a study session later on this matter.

COMMENTS BY THE CITY MANAGER:

Mr. Rowlands, City Manager, requested that the study session next Monday Noon, May 6th, 1968, be held at the Tacoma Industrial Airport.

Mayor Rasmussen requested that on the way to the Airport that the Council tour the new Sewage Disposal Plant.

Mr. Rowlands said that could be arranged.

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COMMENTS BY THE CITY COUNCIL:

Mr. Cvitanich explained that last Saturday there was a great amount of pollution in the northend area coming from the Smelter. He asked when the monitoring units will be in the community as the Council has budgeted \$25,000 for a mobile unit.

Mayor Rasmussen explained he has a report from the local inspectors and they do not anticipate having a roving monitor station at least for six months. He noted the report from the inspectors indicated they had received twenty-four complaints of a bad sulphur odor and as of April 29th, 1968 no ground level condensation in excess of 1.0 per million has been recorded.

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Mr. Cvitanich felt that a stationary monitoring system will not do the job for the simple reason that the wind changes so frequently. That was the intent of the Council for budgeting \$25,000 so a mobile unit could be utilized.

Mr. Cvitanich then suggested that the Puget Sound Air Pollution Agency give serious consideration to placing a mobile monitoring station in the city.

Mayor Rasmussen stated he would take this matter up with the Air Pollution Agency.

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Mr. Cvitanich explained, at the Planning Commission hearing on Monday, April 29, 1968, they considered the petition that was submitted by the residents of Alaska Street and 72nd to barricade the street, for the reason of excessive traffic on Alaska Street. After investigation the Commission found that the problem was created by the residents themselves. He added, a recommendation and report will be submitted to the City Council next week.

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There being no further business to come before the Council, upon motion duly seconded and passed the meeting adjourned at 10:20 P. M.

A. L. Rasmussen
MAYOR

Attest: *Josephine Melton*
City Clerk

THIS VERBATIM IS OFFICIALLY ADDED TO THE MINUTES OF THE MEETING OF APRIL 30, 1968 BY MOTION OF THE CITY COUNCIL AT THE MEETING OF JUNE 11, 1968.

VERBATIM EXCERPT FROM MINUTES OF REGULAR MEETING OF THE TACOMA CITY COUNCIL ON APRIL 30, 1968:

MAYOR RASMUSSEN:

Mr. McCormick, City Attorney.

MR. McCORMICK:

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Mr. Mayor and members of the Council. I'll try to explain what we have involved here in as brief a time as I can. What we have done, as the Council knows, in the past when we put in the escalators, there was a theater on the 50-foot building site on 12th Street between Commerce and Pacific Avenue. We bought the 50 feet and we put the escalators on the north 16 feet of that 50-foot strip. When we entered into this agreement, insofar as the Commonwealth Title Company is concerned and the Todd property on the garage site between 11th and 9th Street, one of the conditions of that was that we would not take over the Commonwealth or the Todd property necessary to raze the site for the garages until they could purchase and construct buildings on other property that they could move into. Dean Witter was the tenant of the Todd company. They bid on public sale the Commonwealth property 75 feet next to the garage--the Publix Garage--and the 50 feet between the escalator property and the Commonwealth property was purchased on open competitive bids by Dean Witter. The architect is now in the process of drawing the plans for that building, and you have a resolution, which is the next resolution after this, which probably should be discussed in connection with this because they go hand in hand. They determined to and felt that it was more economical if they could acquire the north 16 feet, which is where the escalator is located, that they would then go up, instead of the 2-story building, to the 6-story building and build over the top of the escalator and underneath the escalator. As you know, the escalator is a solid tube of concrete in which is encased the machinery and so forth for the moving sidewalks.

Now, I think when you are talking about air rights, air rights are property. You have a piece of property and you can divide it vertically if you want to, and you can divide it any way that you want to. When you do that, you go down as far as possible and you go up as high as possible. Now, when we talk about air rights, we talk about cutting that same piece of property on a horizontal basis and you can go up above 20 feet or higher if you want to, but it is nevertheless a property right. Now, what we did when we went through Commerce Street and Broadway through Weisfield-Goldberg's place, we took perpetual easements through that, which is just as good as property rights because they are property rights.

Now, what we propose to do here and what this proposes to do is to sell to the Dean Witter Company the north 16 feet of this 50-foot tract which we own subject to all rights of maintenance, reconstruction in perpetuity--whatever we may need for the continuance of that escalator. That way, it gives them the right to use the space under for store

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purposes and over and above, and that is what we have before us today.

Until this Council determines whether they can have that 16 feet, the architect's hands are tied. They are unable to proceed with the plans, as they now want to proceed, and which now have been approved by the Architectural Board--a letter is attached to the next resolution in connection with that where the Architectural Board has approved the design; because there is no use going to the Council unless that design was approved by the Architectural Board as provided by ordinance.

So now, as far as the appraisal is concerned, we knew, and properly so, that the Council would want an appraisal by a competent person as to the value of the north 16 feet, subject to all rights for the purpose of the escalades, so we have Donald McGoldrick, who has qualified many times, and, of course, we have used him, our opponents have used him, and I don't think there is any question but what he is competent. Now, his report is dated April 17th, but actually we don't always get copies on the same day that they date them. That is when they complete it and they start making their report. Sometimes it takes them several days to gather material. I am not sure but I believe we just got this last week--I will have to check on that--however, in the future, if the Council desires, we will have whoever we have on these appraisals make up 15 copies for the benefit of the Council.

He sets forth in this, Mr. Bott, the various approaches and states this on page, I think it is 2 or 4, the three fundamental approaches to value, which are (1) comparable sales, (2) depreciated replacement cost, and (3) income approaches. This is a peculiar piece of property that is being sold. There are no comparable sales which we can go to. There are no replacement values of such a structure as this. So, the only thing left is the income approach, and that is what he has used. He sets it out in detail in several pages. He has pictures of it and so on, and I will give it to the Council if they want and they can check it. He sets the value for the north 16 feet of that, which includes all the air rights and everything, as \$5,000.00. He felt that was a reasonable price and that is the price which Dean Witter has copied to this and the architectural Board--I don't know whether they had copies of this or not, but at least they did approve . . .

MR. BOTT:

Are there subterranean rights as well?

MR. McCORMICK:

No there is not. Well, the only rights there is for that footage and so forth.

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MR. BOTT:

Then he can build other stuff?

MR. McCORMICK:

Well, if they did, they would have to replace their complete structure, which undoubtedly would be too costly and so on. But they do have rights of footing, and we have deep footings. If you will remember, historically, there were two basements under this particular fill--one was a swimming pool which they ran into along with the rest, so we had to go down with our plans and so on and everything that we have in there, and all our rights are fully protected in perpetuity.

MR. BOTT:

When you said before they could go above or underneath, I just didn't know your plans for that thing.

MR. McCORMICK:

Go Underneath these 16 feet, -- Weisfield & Goldberg had part of their storage under some of the escalator.

MR. BOTT:

In this particular case, that's what I thought you had reference to.

MR. McCORMICK:

If there are any other questions that I can answer, I will be glad to answer them if I can.

MRS. BANFIELD:

Mr. McCormick, what should happen in the future if we, say, desire to change where the escalades are or what have you, then the City of Tacoma actually loses its ground at that point. Right?

MR. McCORMICK:

Yes. If we change the escalator, we would still have the right there. Now, what they might amount to I don't know whether they would be worth anything. I assume that they would be worth something to Dean Witter at that time, but regardless of that, it's the same as any other property designed for a certain purpose or certain rights or roads or anything, if we change them later, of course, we have that property as surplus property on our hands for whatever it may be worth.

MR. MURLAND:

Mr. McCormick, isn't it true that we are selling to them the 16 feet of property subject to an easement back to us?

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MR. McCORMICK:

That is correct.

MR. MURLAND:

This is not just selling air rights. The air rights are a part and parcel . . .

MR. McCORMICK:

I am trying to explain that air rights are property just as much as the ground.

MR. MURLAND:

But I mean--but the ground is what we are actually selling. I mean you can in some instances sell air rights without selling the property.

MR. McCORMICK:

That's right.

MR. MURLAND:

But, in this instance, we're selling the actual footage of this property subject to an easement back for the right of the escalade.

MR. McCORMICK:

That's right. Because they have to put footings in and all that.

MR. MURLAND:

Yes, but I meant, I think there was some confusion that maybe only the air rights were being sold. But, no, there is actual real property being sold.

MR. McCORMICK:

That's correct.

MAYOR RASMUSSEN:

Are there other questions of Council?

MR. BOTT:

Mr. Mayor, I don't want to complicate this thing. Everytime I ask a question it takes all the men to answer it. You say we are actually selling 16 feet of the property?

MR. McCORMICK:

The north 16 feet of that 50-foot property?

MR. BOTT:

Then that property itself would go on the taxrolls, will it?

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MR. McCORMICK:

Yes. Certainly.

MR. BOTT:

All right, and then in some future date of these escalades, we decide that they are too expensive to keep up and that we should abandon them, and then would all that property then go to this Dean Witter, or will we retain passage rights through it.

MR. McCORMICK:

Passage rights at all times.

MR. BOTT:

If you want to put a street through there , . .

MR. McCORMICK:

Whether you have an escalator or whether you have a pedestrian way.

MR. BOTT:

However, if we agree to, we can release these. . .
Excuse me, Mr. Mayor, yes.

MAYOR RASMUSSEN:

Are you through Mr. Bott?

MR. BOTT:

Yes.

MAYOR RASMUSSEN:

All right, Mr. Murtland.

MR. MURLAND:

However, I was just saying, like we did tonight, we release these easement

MAYOR RASMUSSEN:

Speaking to the motions so we won't be delayed, I appreciate very much your explanation, Mr. McCormick, in a field that's rather new. I would myself like to study that report and I refreshed, even as you do Mr. Bott, in regards to how they arrive at this figure. The statement was made that there is no comparable sales been made. It's something that you pull out of thin air, and I fail to see, and this is not questioning Mr. McGoldrick's ability as an appraiser, as a real estate appraiser of long standing in Tacoma. I recognize that this field is entirely new to him also, but it goes farther than just this one

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sale. You recall at the time we were discussing the garages, that the garages will be owned by a local development corporation and deeded back to the City, so they will become tax free. The property underneath will be held by the local development corporation for sale or rentals, but in stating the contract they also are holding the air rights over these garages and this was the question I raise, why should this local development corporation be holding the air rights over the garages, and the answer was, they have absolutely no value. Why, this is the biggest joke on earth. But if we have no determination as to how you arrive at the value of air rights, obviously, there is one firm here who is willing to pay \$5,000.00 for 16 feet of air rights. We should probably review our contracts for the garages because we've got valuable property that's going into private hands with the air rights. But I would like to say, and this is the reason I made the motion and I doubt very much that it clears up any development as far as the building is concerned, and I would think that the Council themselves would like to take a look at this approach for their own information to find out whether they are satisfied. It has been my personal feeling that we should, instead of selling these air rights, lease the air rights, and I'm thinking of several railroad companies that refused to sell air rights but they will lease them, and you have several multimillion dollar buildings built on the air rights over railroad yards and they are receiving quite a lucrative return from these air rights. I think we, as business people representing the City, should protect the taxpayers of the City in the same manner. Necessarily, I would like to study the report. I would ask the Council to go along with the motion for one week's delay.

MR. BOTT:

Mr. Mayor.

MAYOR:

Mr. Bott.

MR. BOTT:

Mr. Wright, can you tell me how much a front foot that property was sold for?