

CITY COUNCIL MINUTES

City Council Chambers
Tuesday, August 18, 1970

The meeting was called to order by Mayor Johnston at 7 P. M.

Present on roll call 9: Banfield, Cvitanich, Dean, Finnigan, Herrmann, Jarstad, O'Leary, Zatkovich and Mayor Johnston.

The Flag Salute was led by Mrs. Banfield.

Mayor Johnston announced before proceeding with the regular business of the evening, he would like to present some special awards for civic activities. He related that four young Tacoma youths had cleaned up some City lots and made them into a neighborhood area and on behalf of the City and the City Council, he wished to make presentations to Masters Kelly Kenyon, Don Bowie, Kevin Moser and Duke Caywood. He submitted a Citizenship Award to the boys for displaying the finest principles of citizenship and pride in his community, of which the City is justly proud.

Mrs. Banfield asked to be on record thanking these boys gratefully for their work and quoted, "this is the kind of citizens Tacoma needs".

Mayor Johnston asked if there were any omissions or corrections to the minutes of July 21st.

Mr. Jarstad said he would like a correction made on page 5 of the minutes regarding his remarks and asked that the minutes be set over until next meeting for corrections.

Dr. Herrmann moved that the minutes be set over to next week. Seconded by Mr. O'Leary. Voice vote was taken. Motion carried.

PETITIONS:

Ray Pochel requesting rezoning of the S. W. corner of So. 88th & Pacific Ave., from an "R-2" to an "R-4-L" & "C-1".

Referred to City Planning Commission.

RESOLUTIONS:

Resolution No. 20839 (Postponed from the meeting of August 11th)

Awarding contract to 3M Business Products Sales, Inc. for the furnishing of microfilm equipment on its bid of \$4,769.10 for the needs of the Identification & Records Division of the Tacoma Police Dept.

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Mrs. Banfield moved that this resolution be postponed another week to August 25th inasmuch as she does not think the Council has sufficient information to decide on this purchase as yet. Seconded by Mr. Cvitanich. Voice vote taken Motion carried.

The resolution was postponed to August 25th.

Resolution No. 20844

Awarding contracts to various bidders for the furnishing of refuse containers.

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

Mr. Schuster, Public Works Director, explained these containers would be used by the refuse department for taking refuse to the disposal area.

Mr. O'Leary asked about the use of this particular size containers inasmuch as the City had recently approved the purchase of a \$15,350 truck and will utilize a 20 yard container which is larger. He also asked if additional small ones were needed because of added City loads.

Mr. Schuster explained this was the case, due to increased popularity of apartments and that a few months ago it had been contemplated the larger truck would solve the problem, but found the need of additional containers for the regular trucks.

Mr. Jarstad said some of the previous equipment had been on order for six to eight months, but he hoped this order would not take that long as the department could put them into immediate use. New laws have been effected whereby refuse can no longer be burned, therefore, more containers will be needed.

Voice vote was taken on the resolution, resulting as follows:

Ayes 9: Banfield, Cvitanich, Dean, Finnigan, Herrmann, Jarstad, O'Leary, Zatkovich and Mayor Johnston.

Nays 0. Absent 0.

The Resolution was declared passed by the Chairman.

Resolution No. 20845

Awarding contract to Mark Hayfield Company for the furnishing of one Tilt-Frame Container Hoist on its bid of \$5,559.75.

Mr. Finnigan moved that the resolution be adopted. Seconded by Mr. O'Leary.

Voice vote was taken on the resolution, resulting as follows:

Ayes 9: Banfield, Cvitanich, Dean, Finnigan, Herrmann, Jarstad, O'Leary, Zatkovich and Mayor Johnston.

Nays 0. Absent 0.

The Resolution was declared passed by the Chairman.

Resolution No. 20846

Awarding contract to Lige Dickson Company on its bid of \$108,451.09 for paving of the Cedar-Alder Transition from So. 10th to No. 7th St. Improvement No. 4831 Unit C.

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

Mr. Schuster explained this is another arterial project and that they did have the combination of right-a-way on the transition from Cedar to Alder in the vicinity of So. 10th St. This will now be the paving of this section.

Voice vote was taken on the resolution, resulting as follows:

Ayes 9: Banfield, Cvitanich, Dean, Finnigan, Herrmann, Jarstad, O'Leary, Zatkovich and Mayor Johnston.

Nays 0. Absent 0.

The Resolution was declared passed by the Chairman.

Resolution No. 20847

Authorizing the continuation of the Neighborhood Youth Corps for a period of one year from the present date of August 30, 1970.

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

Mr. Cvitanich explained the Finance, Audit & Investigation Committee have considered this resolution and also the one on Operation Mainstream and funds are appropriated to continue the programs.

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

Ayes 7: Dean, Finnigan, Herrmann, Jarstad, O'Leary, Zatkovich and Mayor Johnston.

Nays 2: Banfield and Cvitanich.

The Resolution was declared passed by the Chairman.

Resolution No. 20848

Appropriating from the Cumulative Reserve Fund for Capital Outlay & Maintenance & Operation the sum of \$5,200.00 or so much thereof as may be necessary to continue the Operation Mainstream Work program.

Mr. Cvitanich moved that the resolution be adopted. Seconded by Mr. O'Leary.

Fred Van Camp, Civil Service League, asked for some clarification on Operation Mainstream which is under the federal Manpower Administration. He asked if the resolution passed in 1968 on this program superseded the resolution being proposed tonight.

Mr. Cvitanich said it was his understanding this resolution merely continues and reaffirms the prior appropriation.

Mr. Van Camp said he had presented some problems to the Mainstream staff and the 1968 resolution read "job categories which are of a nature not to displace or conflict with any civil service classification".

Mr. Cvitanich said this point had been discussed with Mr. McCormick and that a federal law states the civil service personnel cannot be utilized in the capacity of working for Mainstream projects and Mr. McCormick affirmed only a few weeks ago at the Council meeting that he would send written notice to department heads on this matter.

Mr. McCormick said that Mrs. Roberts from the program had assured that no Mainstream personnel would be hired to replace civil service personnel. He said if Mr. Van Camp would want to add a statement to that effect to the resolution, the Council would have no objection, but the federal provision is definitely understood by all concerned.

Mr. Cvitanich moved that in the "Be it resolved" section in the seventh line, after the words "shall cover some twenty-one positions in the City of Tacoma" a phrase could be added to read "these positions in no way to replace regular positions or employees". Seconded by Dr. Herrmann. Voice vote was taken and the motion to amend carried unanimously.

Roll call was taken to adopt the amended resolution, resulting as follows:

Ayes 7: Dean, Finnigan, Herrmann, Jarstad, O'Leary, Zatkovich and Mayor Johnston.
Nays 2: Banfield and Cvitanich.

The Resolution was declared passed by the Chairman.

Resolution No. 20849

Authorizing the release of an easement on a portion of the street and alley on So. 17th & I Sts. for construction of St. Joseph Health Care Center.

Mr. Finnigan moved that the resolution be adopted. Seconded by Mr. O'Leary.

Voice vote was taken on the resolution, resulting as follows:

Ayes 9: Banfield, Cvitanich, Dean, Finnigan, Herrmann, Jarstad, O'Leary, Zatkovich and Mayor Johnston.

Nays 0. Absent 0.

The Resolution was declared passed by the Chairman.

Resolution No. 20850

Fixing Tuesday September 1st at 7 P.M. as the date for a public meeting on the preliminary plat of Carl Laursen's First Addition on the north side of So. 76th St. and both sides of So. L St. extended. (Carl Laursen's First Addition)

Mr. Cvitanich moved that the resolution be adopted. Seconded by Mrs. Banfield.

Voice vote was taken on the resolution, resulting as follows:

Ayes 9: Banfield, Cvitanich, Dean, Finnigan, Herrmann, Jarstad, O'Leary, Zatkovich and Mayor Johnston.

Nays 0. Absent 0.

The Resolution was declared passed by the Chairman.

Resolution No. 20851

Fixing Monday Sept. 14th as the date for hearing for L I D 3705 for sanitary sewers in No. Baltimore St. from Perkins St. to No. 37th Street.

Mr. Cvitanich moved that the resolution be adopted. Seconded by Mrs. Banfield.

Voice vote was taken on the resolution, resulting as follows:

Ayes 9: Banfield, Cvitanich, Dean, Finnigan, Herrmann, Jarstad, O'Leary, Zatkovich and Mayor Johnston.

Nays 0. Absent 0.

The Resolution was declared passed by the Chairman.

Resolution No. 20852

Fixing Tuesday, Sept. 22nd at 7 P.M. as the date for hearing for the vacation of the easterly and westerly 10 feet of the alley lying between Yakima Ave. and I Street from So. 25th to a point 300 feet north. (Petition of Wm. B. Swensen.)

Mr. Cvitanich moved that the resolution be adopted. Seconded by Mrs. Banfield.

Voice vote was taken on the resolution, resulting as follows:

Ayes 9: Banfield, Cvitanich, Dean, Finnigan, Herrmann, Jarstad, O'Leary, Zatkovich and Mayor Johnston.

Nays 0. Absent 0.

The Resolution was declared passed by the Chairman.

Resolution No. 20853

Fixing Tuesday, Sept. 29th as the date for hearing for rezoning of the east side of Hosmer St. between So. 82nd & 84th Sts. from an "R-2" & "R-4-L" to a "CFP" District. (Petition of Silver Falcon, Inc.)

Mr. Cvitanich moved that the resolution be adopted. Seconded by Mrs. Banfield.

Voice vote was taken on the resolution, resulting as follows:

Ayes 9: Banfield, Cvitanich, Dean, Finnigan, Herrmann, Jarstad, O'Leary, Zatkovich and Mayor Johnston.

Nays 0. Absent 0.

The Resolution was declared passed by the Chairman.

Resolution No. 20854

Fixing Tuesday Sept. 29th at 7 P. M. as the date for hearing for the vacation of the streets and alleys in So. 16th to 18th from Union Ave. to Lawrence St. (First Assembly of God).

Mr. Cvitanich moved that the resolution be adopted. Seconded by Mrs. Banfield.

Voice vote was taken on the resolution, resulting as follows:

Ayes 9: Banfield, Cvitanich, Dean, Finnigan, Herrmann, Jarstad, O'Leary, Zatkovich and Mayor Johnston.

Nays 0. Absent 0.

The Resolution was declared passed by the Chairman.

Resolution No. 20855

Fixing Tuesday Sept. 29th at 7 P. M. as the date for hearing for rezoning of the area bounded by the center line of So. 16th St. west line of Lawrence and Warner and the centerline of So. 17th St. (Petition of First Assembly of God Church)

Mr. Cvitanich moved that the resolution be adopted. Seconded by Mrs. Banfield.

Voice vote was taken on the resolution, resulting as follows:

Ayes 9: Banfield, Cvitanich, Dean, Finnigan, Herrmann, Jarstad, O'Leary, Zatkovich and Mayor Johnston.

Nays 0. Absent 0.

The Resolution was declared passed by the Chairman.

FIRST READING OF ORDINANCES:

Ordinance No. 19178

Adopting the Plan and System for the Dept. of Public Utilities Light Division 1970 improvements.

Mr. Al Benedetti, Asst. Supt. of Water Department, explained that the Council had heretofore adopted an ordinance for improvements in the Centralia Project and this current ordinance would allow further improvements, for a total of \$21,650,000, \$5,000,000 of which would come from current funds. He explained the amounts included in this ordinance would cover improvements on the Centralia project as well as to the City's electric system, including a fund for payment on the principal and the interest on a three-year schedule. He further added that Ordinance 19179, the next ordinance, would provide the bonds to provide betterments and extensions to the existing generating plant and distribution system in the City and the Centralia project. He pointed out the City is an 8% participant in the Centralia Project, which is a \$111,000,000 project in total and Tacoma's share is needed by November 1, 1970. He said discussions had been held and schedules planned in an orderly fashion to accomplish the financial program required. He said there is a law covering joint participation and that necessary legal documents are now awaiting decision by the Supreme Court so that Tacoma may proceed in this program. He added that surrounding cities in this area are proceeding under similar programs.

The ordinance was placed in order of final reading.

Ordinance No. 19179

Providing for the issuance and sale of Light and Power Revenue Bonds for 1970 in the amount of \$25,000,000.

The ordinance was placed in order of final reading.

Ordinance No. 19185

Providing for the making of certain additions and betterments to the existing Water Works System.

Mr. Benedetti explained surveys have been made for Tacoma's water needs from now to the year 2000, allowing for expansion according to projected needs. He said Ordinance 19185 would allow for the scheduling and Ordinance 19186 would allow for acquisition of land to begin the projects, which would allow the present system to be doubled in size.

According to the present water supply available, our present gravity supply is 72 million gallons per day from the Green River and would be expanded to approximately 150 million gallons per day. The total estimated cost of construction is \$26,500,000, programmed over an 11 year period. He added this expansion does not require immediate implementation, but is being planned so as to insure future needs in the most economical way. The construction will be accomplished in five different segments, each one being put into use as it is completed. Therefore, only part of the total funds would need to be used according to the planned expenditure of the 150 million gallon capacity.

He further added Ordinance No. 19186 would allow acquisition of rights-of-way without disturbing the use of the property for scheduled expansion even beyond the 150 million gallon projected capacity.

Mr. O'Leary asked if this followed the plan to put pipe under the freeway in anticipation of the future needs and was advised that it is that plan.

Mr. Benedetti explained that the 320 foot section of the 30 mile line in the Kent-Auburn Valley is already installed under the freeway so as to save costs.

Mrs. Benfield asked if any alternate method of financing the planned additions and improvements had been studied.

Mr. Benedetti stated they have planned the priorities and future steps, but not any alternate plans. In last year's budget, there was a small amount appropriated for right-of-way acquisition that was approved by the Council, but even to proceed under that allocation as well as the future needs, the present ordinance approval is needed.

Mr. Jarstad asked if there are other areas that have been surveyed in addition to the acquisitions from which the City could get the 90 million gallons daily from the planned well.

Mr. Benedetti said many test wells had already been drilled over a wide area and the test pattern had been very successful and produced a clear water supply. He added the river water supply could be saved for a distant future as the cost of purifying would be more costly.

The ordinance was placed in order of final reading.

Ordinance No. 19186

Authorizing the condemnation of property in King and Pierce Counties for construction of a well supply system.

The ordinance was placed in order of final reading.

Ordinance No. 19187

Changing the name of a portion of Roosevelt Avenue to East 57th Street and a portion of Swan Creek Drive to East 59th Street.

Mr. Buehler, Director of Planning, explained this change would put the street names into conformance with the others as it has been inadvertently misnamed.

The ordinance was placed in order of final reading.

FINAL READING OF ORDINANCES:

Ordinance No. 19180

Vacating the roadway crossing private properties and extending from No. 51st northwesterly to the new Mildred St. alignment. (Petition of City Council)

Mrs. Banfield pointed out that a number of times, circuitous street routes have been acquired, such as the route to Point Defiance, and the City has paid for rights-of-way, and then later there is no need for that street and it is vacated. She suggested the City commence asking for fees for the vacation of streets, so that the City could receive a remuneration for the property vacated.

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

Ayes 7: Banfield, Dean, Finnigan, Herrmann, Jarstad, O'Leary and Mayor Johnston.
Nays 1: Cvitanich. Absent 1: Zatkovich (temporarily).

The Ordinance was declared passed by the Chairman.

Ordinance No. 19181

Amending Chapter 1.30.570 relative to Service Retirement.

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

Ayes 8: Banfield, Cvitanich, Dean, Finnigan, Herrmann, Jarstad, O'Leary and Mayor Johnston.
Nays 0. Absent 1: Zatkovich (temporarily).
The Ordinance was declared passed by the Chairman.

Ordinance No. 19182

Approving and confirming the assessment roll for L I D 4851 for paving on Bridgeview Drive from Narrows Drive to No. 27th and other nearby streets.

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

Ayes 8: Banfield, Cvitanich, Dean, Finnigan, Herrmann, Jarstad, O'Leary and Mayor Johnston.
Nays 0. Absent 1: Zatkovich (temporarily).
The Ordinance was declared passed by the Chairman.

Ordinance No. 19183

Approving and confirming the assessment roll for L I D 4869 for paving on Vistaview Drive from No. 23rd to No. 27th and other nearby streets.

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

Ayes 7: Banfield, Cvitanich, Finnigan, Herrmann, Jarstad, O'Leary and Mayor Johnston.
Nays 0. Absent 2: Dean and Zatkovich (temporarily).
The Ordinance was declared passed by the Chairman.

Ordinance No. 19184

Providing for the improvement of L I D 5505 for water mains in a utility easement from So. 48th & Gove to the vicinity of So. 40th & Huson Streets produced.

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

Ayes 7: Banfield, Cvitanich, Finnigan, Herrmann, Jarstad, O'Leary and Mayor Johnston.
Nays 0. Absent 2: Dean and Zatkovich (temporarily).
The Ordinance was declared passed by the Chairman.

UNFINISHED BUSINESS:

The Director of Public Works and Public Utilities present the assessment rolls for the following:

- a. LID 6906 modern street lights on wooden poles along No. Villard St. from No. 31st to No. 37th Sts. and other nearby streets.
- b. LID 6899 modern street lights on wooden poles at street intersections on Vassault St. from No. 23rd to No. 26th St.

c. LID 5496 water mains in Sheridan Ave. from So. 80th to So. 82nd Sts.

Mr. Finnigan moved that the date of hearing be set for Monday, September 28th at 4 P.M. Seconded by Mrs. Banfield. Voice vote was taken. Motion unanimously carried.

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Mayor Johnston said, in view of the action taken in court today on the recall resolutions, he thought they should be again considered under Unfinished Business.

Mr. Cvitanich stated he thought there should be a suspension of the rules to consider them as that category of the agenda was not before the Council at this time.

Mr. Hamilton said inasmuch as these five resolutions had been defeated at the meeting of August 17th and had been renumbered as new resolutions so as to reconsider them, there should be a suspension of the rules.

Mr. Dean moved for a ten-minute recess. Seconded by Mrs. Banfield. Motion carried. The meeting reconvened and was called to order by Mayor Johnston.

Mr. Cvitanich moved to suspend the rules so as to consider the recall resolutions. Seconded by Mr. O'Leary. Motion carried unanimously.

Mr. Cvitanich asked that the discussion on the resolutions be put in the minutes verbatim.

Mr. Cvitanich: Speaking in regard to all five resolutions, suffice it to say that we appeared in Superior Court before Judge Cochran this afternoon, at which time he directed the City Council to fix a date, preferably September 15, 1970, and if not by 1:30 tomorrow, we would be held in contempt of court. Three of us who campaigned in the last campaign have campaigned on the law and order platform, frankly, and I won, and I am sure the rest of them can speak for themselves -- it is not our intent to flaunt the law; and if the Superior Court judge rules in a particular way even though we have our own personal feelings, we as a legislative group, must comply with that request. This is why these particular resolutions are before you. I would also like to point out that, although each of us have particular points of view, I don't say I believe it is academic at this particular point in the over-all proceedings.

Mr. Hamilton, I might say, did an excellent job on behalf of Mrs. Melton -- and I might point out tonight, she is off the book, and for those of us that were there -- I don't know who did not have an opportunity to be there who is here tonight, but he did an excellent job. I would also like to point out that I, as one member of the Council voting to reconsider these resolutions here tonight, am certainly not forfeiting any of the particular positions I took in court today through my counsel.

Mayor Johnston: Do you care to read--or is the language of these resolutions the same as those we previously considered?

Mr. Cvitanich: Yes, Mr. Mayor, except the number and we listed them for Mr. Hamilton the last time we met and agreed that all these resolutions, allegations and charges are the same with the exception with the names on the resolutions. However, at this particular point, I do have an amendment to offer on Resolution 20859 and I would substitute--I mean 20864, I am sorry, Mrs. Banfield's resolution--in Section 1: Be It Resolved..... that a special election to be held on Wednesday, September 16, 1970, be substituted.

Mr. O'Leary: I second.

Mr. Cvitanich: Speaking to the motion, if I may, by doing this we are in fact complying with the request of the judge of the Superior Court that we set a date between the specified periods; secondly we are complying with the Recall Committee's request for a special election on the 16th day of September. I am sure if and when this matter appears in court, we, as the five who are being recalled, cannot be held in contempt of court by not complying with the specific instructions of the Superior Court judge today.

Secondly, Mr. Hamilton, a legal question: Has the official order been signed from Judge Cochran to the Recall Committee or to my counsel, to your knowledge.

Mr. Hamilton: Not to my knowledge.

Mr. Cvitanich: And when does this action become effective--after the signature has been put on the various forms, or when it is given verbally as he did in court today.

Mr. Hamilton: Order of the court is effective only when it is reduced to writing, signed and drawn.

Mr. Cvitanich: Secondly, how many days thereafter do we have to respond to that? Say it is signed tomorrow morning, is there any period of time or does it become effective at the time it is signed?

Mr. Hamilton: It becomes effective as of the date it is signed.

Mr. Cvitanich: And has it been signed?

Mr. Hamilton: Not to my knowledge--I have not been served a copy.

Mr. Finnigan: We have had considerable discussion concerning the date and the ability of the County Auditor to arrange for a special election so close to the primary date. This was made available to everybody. I am sure Mr. Cvitanich is aware of this and, in fact, Mr. Greco said that even a week prior to the primary date would be very awkward and almost impossible for him to activate. So I feel that Mr. Cvitanich, that this is not a practical or even reasonable date to set, although he is attempting to comply with the directive of the Superior Court judge. It is not a reasonable date to set and I think it would be contingent upon the ability of the County Auditor to have another election on the day following the primaries.

Mr. Jarstad: I would like to ask Mr. Hamilton, on my own behalf, if I vote for the election on September 16th, knowing full well that it is impossible for it to be held then, am I in any jeopardy, circumventing the law, as having charges brought against me?

Mr. Hamilton: As I recall the court's statement, between September 11 and September 21 were the dates available. He did recommend the 15th, but at the same time left a certain amount of leeway. So anyone that complies with the statement he made, any one of those ten days, is not in contempt of court in my judgment.

Mr. Jarstad: That's what I understood. Now, do you have any knowledge, Mr. Hamilton, how soon after the 16th, a special election would then be held, if it couldn't be held on the 16th?

Mr. Hamilton: That is something I am not well versed in--certainly the Auditor would have trouble clearing his machines and certifying the results. At the same time, he might decide he could use some alternate means, paper ballots or something of that nature, to conduct the special election, assuming you want another date.

Mayor Johnston: I think there is one point that should be considered here, and I appreciate the nature of Mr. Cvitanich's motion, but I can also recall Mr. Cvitanich's deep concern for the taxpayers' money and have heard him explain his deep concern about the austere conditions the City is in. But by placing this on the ballot on the 16th, it would cost the City about \$30,000, and I really don't think that is consistent with his expression in the past. I think if you are sincere, Mr. Cvitanich, you would move it up to the 15th, or leave it where it is, because the 16th--I have heard the figure \$30,000 or \$25,000, and I don't know where we are going to find that much to pay for a special election. Maybe you do--maybe you could explain it.

Mr. Cvitanich: Of course you used my name twice, and based upon Council policy, that will give me two rebuttals, but I will only exercise one. I am glad you brought up my concern for the taxpayers. That is one of the reasons the amendment was offered tonight. I don't want to get into a philosophical discussion about the over-all recall, or the people involved, and why they are involved.

Mayor Johnston: I am talking about the cost of a special election.

Mr. Cvitanich: If you would refer that to the appropriate committee, I am sure we can find the wherewithal to come up with, if and when that arises, but this is an assumption on your part and unwarranted at this particular point.

Mayor Johnston: I must say in passing, that that is a totally unsatisfactory answer.

Mr. Zatkovich: I would like to say something. First, prior to the decision by the court, I recall the judge saying that is not a hasty decision on his part; he is not being stampeded. I thought that was a rather strange remark, especially from one of the judges of the Superior Court, whom I have the highest regard for. It would appear to me something as important as this was--for the judge to try to digest and take a ten minute recess, and come back and make a decision. It would appear to me that he must have done some previous research on it, I am sure of that. So maybe his remark was not exactly the way he meant it. Now I am going to ask Mr. Hamilton, by this decision of the court today, whether or not he directed me to vote "yes" on this particular issue of setting a date.

Mr. Hamilton: As I recall the Court's statement this afternoon, I think, his words were "I command the members of the Council, collectively and individually, to fix a date for the recall election." And if my recollection is accurate, the direction of the court went to you as a body and to you individually.

Mr. Zatkovich: Mr. Hamilton, that does get us into another area. Where I was concerned--I am a member of a legislative body and feel that when I vote

on an issue, I am voting on that issue whether it is right or wrong, because I think this is the way it should be--my vote. And I feel I don't have to have a Superior Court judge tell me how to vote. This is just what it means. I feel in this particular case, a member of the judiciary has directed me, as a member of the legislative body, how I must vote. And because of that I am going to comply. This is rather strange, but again as Mr. Hamilton has stated, he did give an area from which to chose -- from the 11th to the 21st. But I have to, by his decision, feel that he did tell me how to vote. I still take the position that it is a conflict of interest, regardless of what he said. And again we are speaking of a conflict of powers between the judiciary and the legislative body. And I believe this is a violation of the Constitution. (Applause)

Mayor Johnston: This is probably the most serious business the City has faced in a number of years and I will not tolerate applauding and cheering.

Mr. Zatkovich: Thank you, Mr. Mayor. Again I have to refer to the court making this strange remark, and I still do not wish to deprive the citizens of Tacoma the right to vote on this issue. I have stated that many times publicly. And I was prepared to put my head on the block, so to speak, on the 15th. But with all this maneuvering, I am going to go along with the date of the 16th. After all, the court did give us these days and said we must pick. So we are still complying. You might call it legal maneuvering; I don't know if the Court is going to decide that is a waste of money because there is just a matter of a couple of weeks -- maybe a week one way or the other that is involved. But I think they would consider that maybe a little bit of maneuvering. But I think as long as we got in this deep I am going to stick along with the rest of them. And I still have the confidence in the people of the City. I don't care if it's a special; if you want to run for office, mister, you can get out there and get elected or defeated, or whatever you want. But I happen to have the floor and I know that you are very active in this campaign. I still have confidence in the people. After all, here we have it again--the majority being controlled by the minority group. This is pure and simple what it is; there is no question about that, and I am willing to go along with the rest of them with this 16th date. And this is the reason.

Mayor Johnston: Mr. O'Leary.

Mr. O'Leary: I find myself somewhat in the same position as Mr. Zatkovich, that the court has, indeed, directed me to vote; whereas I feel I am in direct conflict of interest. And basing this a lot on parliamentary law which states that no member of a legislative body shall vote on any matter relating to his own expulsion, I would state here, for the record, that any one of these charges relate to one another. And voting on any one of them would relate to my own expulsion, where I could lose the election. So that is where I would base my conflict of interest, and state for the record that the Superior Court judge has seen fit to direct me to vote in conflict of interest. But I will do so under his direction.

Mayor Johnston: Any further comment.

Mrs. Banfield: This, I will agree is very serious business and as you well know I have considered it such for quite some time. I think it is a pretty,

pretty sad day in America, and particularly in the City of Tacoma, when one can no longer vote his convictions, but must vote as directed by a court, for a silly recall, based upon nothing but a bunch of lies. Thank you.

Mr. Dean:

Mr. Mayor, I too was in court this afternoon and sat there during the time when the court ordered us this evening to vote on these petitions. You will remember back during the time when the court said, and only said, that these charges if true would warrant sufficient for a recall. We are to vote on our own knowledge, and based on our own knowledge we must vote the way we see. The court simply said, "the charges, if true". Those of us who are familiar with the charges, and also familiar with our own actions, cannot hold that these charges were true; therefore in voting, we must take into consideration we vote with knowledge of these charges. The charges against all of us stated that each one of us knowingly voted with the majority. In that respect each one of us became part of that majority, and therefore in the opinion of my counsel because of the wording "knowingly voted with the majority" each one of us was involved individually in each of the five petitions. Because the petitioners sought our law to recall each of us individually; but by some strange coincidence, all of the five petitions were identical with the exception of the name. This evening I will vote because the court has ordered me to vote. In no way do I want the people to feel there has been any change in my feeling of conflict of interest. I ran on a platform so that I would uphold the law; if this be the law, then this is the way I will vote. Thank you.

Mayor Johnston: Any further comment.

Mr. Jarstad:

I, too, intend to vote on this date as it is amended, because we have been told to do so by the judge, but I don't recall exactly how he worded it. But maybe Mr. Hamilton had it verbatim from Judge Cochran. But somehow I think I remember him mentioning the date of September 15. I think I remember him saying "between these dates" and something about September 15. I don't want to vote on it, if he did say that.

Mr. Hamilton:

My recollection again, and I didn't have time to write it down and get a transcript yet, but I think he said that we "shall fix a date between the 11th and the 21st". And I think he suggested the court would recommend the date of September 15; but I think he left it as a suggestion or recommendation. That is my best recollection on it.

Mayor Johnston: Mr. Finnigan.

Mr. Finnigan:

Well, Mr. Hamilton, I know it is difficult for you to answer, but what do you think would be the procedure if we voted for the date of the 16, knowing it is practically impossible, by the statements made by the County Auditor the last couple of weeks. Maybe I am putting you on the spot, but I am trying to decide in my own mind the justification for voting on this date, when it is purposely brought in the day after the Primary election, in view of the facts the County Auditor says it is nigh onto impossible to have this date for another election. There is probably no precedent you could rely upon to make any comments.

Mr. Hamilton:

The best I could do is to hazard a guess as to what might happen on it. I think the 16th, as a practical matter precludes the use of a machine type ballot, but whether or not the auditor is in any position to

utilize another type ballot for a special recall election, I don't know. It seems to me there must be some other means available. I suspect if he contends that he can't possibly hold it, and that's the date fixed, then the Auditor may well be in court --I don't know.

Mr. Finnigan: But the thing of it is, it is going to be so obvious to everybody that this is not the date to have, and what is going to be the reflection on us to vote in favor of this date. Granted the court ordered us to vote on a date between the 11th and the 21st and preferably the 15th he said, knowing that is the date the primaries are to be held. Maybe I am asking you something you can't answer. Don't bother.

Mr. Hamilton: All right. Thank you.

Mayor Johnston: I think Dr. Herrmann is the only one who has not addressed us.

Dr. Herrmann: Just a parliamentary inquiry -- what if one of the councilmen alluded to this legal maneuvering and amendments provided for each of the five resolutions, setting a different date for each of the elections? Could this be conceivable?

Mr. Hamilton: I am not sure, but I recall Mr. McCormick and I were engaging in some conversation in the meantime, but I gather you suggest the possibility of five different dates. Well, I can simply believe that could be done under the court's ruling. It's going to cost \$150,000 but it could be done.

Mayor Johnston: We are to vote a roll call on the amendment to the resolution, changing the date from September 15 to September 16.

Mr. Cvitanich: Mr. Mayor, I wonder if it would be proper, if instead of, on each resolution, this brief statement - if we could have it in all the resolutions as it comes up, rather than repeating it. Would that be proper?

Mr. Hamilton: Are you talking about the amendment, or your comments?

Mr. Cvitanich: Comments.

Mr. Hamilton: Oh, I think your comments could run to all of them. In fact, I think they have.

Mr. Cvitanich: No, I am talking about this:--we have been directed by the court to have a prepared statement to read. What I am trying to do is not belabor the point on each resolution. Could we have this inserted without reading into all the subsequent resolutions when we vote on it -- forget it. Never mind.

Mayor Johnston: The question has been called for to amend the resolutions to change the dates from the 15th of September to the 16th of September. Mrs. Melton, please.

Mrs. Melton: Mrs. Banfield: Aye
 Mr. Cvitanich: Aye
 Mr. Dean: Aye
 Mr. Finnigan: Aye
 Dr. Herrmann: No
 Mr. Jarstad: No
 Mr. O'Leary: Aye
 Mr. Zatkovich: Aye
 Mayor Johnston: No

Mayor Johnston: It carries 6 to 3. Now we will vote, unless there is further comment by the Council on the adoption--I will wait for a motion again.

Mr. Zatkovich: I move adoption.

Mr. O'Leary: I second it.

Mayor Johnston: The roll has been called for on the amended resolution and this is setting the 16th date.

Mrs. Melton: Mr. Cvitanich: I have been directed by the court to individually vote in favor of this resolution. I believe in obedience to the law, and for that reason alone I vote "Aye". I do so under compulsion of the court's order and for no other reason.

Mr. Dean: (Statement as above.)

Mr. Finnigan: Aye

Dr. Herrmann: Aye

Mr. Jarstad: Aye

Mr. O'Leary: (Statement as above.)

Mr. Zatkovich: I, for the same reason--I am going to short cut. I believe in obedience to the law. And I still feel there is a conflict. I do so under the compulsion of the court's order and for no other reason. Aye.

Mrs. Banfield: (Statement as above.)

Mayor Johnston: Aye.

Mayor Johnston: The vote is 9 to 0, in favor of the resolution.

Mr. Cvitanich: Did we take all those resolutions at one time, under suspension, or did--. I would move to suspend the rules to consider Resolution No. 20865, the one for Mr. Cvitanich.

Mr. Dean: Second.

Mayor Johnston: If we wish to vote on this, Mr. Hamilton, the date will be the 15th? Or should that be amended?

Mr. Hamilton: As I understand it, the resolution before you recites the date of September 15th.

Mayor Johnston: I wanted to make sure that it was clear in my mind that we hadn't.....

Mr. Hamilton: Incidentally, it was my understanding you had suspended the rules to consider all five resolutions.

Mr. Cvitanich: May I move that the "Be it Resolved" Section 1, that the day "Wednesday" be substituted for "Tuesday" and that the date "16th day of September" be substituted for "15th".

Mrs. Banfield: Second.

Mr. Cvitanich: And anywhere else it may appear on the resolution and that would be on all five of them. Or was there a different date on Mrs. Banfield's?

Mayor Johnston: Is that proper, Mr. Hamilton? Or would it apply to all five?

Mr. Hamilton: I think that would be understood, as far as the one that has been adopted. I suggest you amend each one separately as it comes before you. The thing I was concerned about, my recollection is that the dates set forth in the subsequent paragraph; so I would suggest the amendment be: "Wherever the word Tuesday appears, it be substituted by Wednesday and wherever the 15th, it be changed to 16th".

Mayor Johnston: Any comment by the Council? There being none, call the roll please. On the amendment. This is only on the date.

Mrs. Melton:	Mr. Cvitanich :	Aye
	Mr. Dean :	Aye
	Mr. Finnigan :	Aye
	Dr. Herrmann:	No
	Mr. Jarstad:	No
	Mr. O'Leary:	Aye
	Mr. Zatkovich	Aye
	Mrs. Banfield:	Aye
	Mayor Johnston:	No

Mayor Johnston: It carries, 6 to 3.

Mr. Dean: I move adoption of Resolution 20865.

Mr. Cvitanich: Second.

Mayor Johnston: Question. The roll has been called for.

Mrs. Melton: Mr. Dean: I have been directed by the court to individually vote in favor of this resolution. I believe in obedience to the Law, and for that reason alone I vote "Aye". I do so under direct compulsion of the court's order and for no other reason.

Mr. Finnigan:	Aye
Dr. Herrmann:	Aye
Mr. Jarstad:	Aye
Mr. O'Leary:	(Statement as above)
Mr. Zatkovich:	(Statement as above)
Mrs. Banfield:	(Statement as above)
Mr. Cvitanich:	(Statement as above)
Mayor Johnston:	Aye

Mayor Johnston: The resolution is carried, 9 to 0.

Mr. Finnigan: Mr. Hamilton, now I think Mr. Cvitanich's question on answer to roll call could become clear to you--is there a shortcut to the roll call

if we said to the aforementioned reason, we vote "aye", would that include this statement in all of the resolutions? This is what he was alluding to originally.

Mr. Hamilton: Yes, let the record show this, that it is incorporated.

Mayor Johnston: Is that understood, Mrs. Melton?

Mrs. Melton: Yes.

Mr. Cvitanich: I move to substitute Resolution No. 20866, the one pertaining to councilman Dean, that the word "Wednesday" be substituted for "Tuesday", that the "16th" be substituted for the "15th of September"; and that also wherever it may appear in this resolution.

Mrs. Banfield: Second.

Mayor Johnston: If there is no further word from the Council, we will call for the roll.

Mrs. Melton:	Mr. Finnigan:	Aye
	Dr. Herrmann:	No
	Mr. Jarstad	No
	Mr. O'Leary	Aye
	Mr. Zatkovich	Aye
	Mrs. Banfield	Aye
	Mr. Cvitanich	Aye
	Mr. Dean	For the previous mentioned reason - Aye.
	Mayor Johnston	No. (After mistakenly saying 'Aye', and the audience laughed.)

Mr. Finnigan: Mayor Johnston, I would suggest if there is any further outburst from the audience, we clear the room.

Mayor Johnston: Excellent idea, Mr. Finnigan.

Motion carried 6 to 3 .

Mr. O'Leary: I move we adopt Resolution No. 20866, referring to Mr. Dean.

Mrs. Banfield: Second.

Mayor Johnston: Hearing no further comment from the Council, I will call for the roll on the amended resolution No. 20866.

Mrs. Melton:	Dr. Herrmann:	Aye
	Mr. Jarstad:	Aye
	Mr. O'Leary:	For the aforementioned reason, I vote "aye".
	Mr. Zatkovich:	Aye, for the reason previously mentioned.
	Mrs. Banfield:	For the same reasons, I vote "aye".
	Mr. Cvitanich:	Aye, for the reason previously mentioned.
	Mr. Dean:	For the previously mentioned reason, "aye".
	Mr. Finnigan	Aye
	Mayor Johnston:	Aye

Mayor Johnston: The motion carries 9 to 0.

Mr. Zatkovich: I would move that on Mr. O'Leary's Resolution No. 20867, in Section 1 under "Be it Resolved" the day "Wednesday" be substituted for "Tuesday", and the date "September 16th" be substituted for the "15th" and wherever it may appear throughout the resolution.

Mr. O'Leary: Second

Mayor Johnston: Hearing no further comment, we will call for the roll for the amendment to the resolution on Mr. O'Leary.

Mrs. Melton:	Mr. Jarstad:	No.
	Mr. O'Leary:	Aye
	Mr. Zatkovich:	Aye
	Mrs. Banfield:	Aye
	Mr. Cvitanich:	Aye
	Mr. Dean:	Aye
	Mr. Finnigan:	Aye
	Dr. Herrmann:	No
	Mayor Johnston:	No

Carries 6 to 3 - passed.

Mr. O'Leary: I move we adopt the amended resolution on Mr. O'Leary No. 20867.

Mr. Cvitanich: Second.

Mrs. Melton:	Mr. O'Leary:	For the previous mentioned reason, I vote "aye".
	Mr. Zatkovich:	Also for the previously mentioned reason, I vote "aye".
	Mrs. Banfield:	For reasons stated, I vote "aye".
	Mr. Cvitanich:	For the previous mentioned reason, "aye".
	Mr. Dean:	For the previously mentioned reason, I vote "aye".
	Mr. Finnigan:	Aye
	Dr. Herrmann:	Aye
	Mr. Jarstad:	No. (Later changed to aye)
	Mayor Johnston:	Aye

Mayor Johnston: The motion carries, 8 to 1.

Mr. Jarstad: I change my vote -- I thought we were voting on the date.

Mayor Johnston: Mr. Cvitanich.

Mr. Cvitanich: I move that Resolution No. 20868 pertaining to councilman Zatkovich be amended in the "Be it Resolved" Section, that "Wednesday" be substituted for "Tuesday", and the date "16th" be substituted for "15th", and wherever else it may appear in the resolution.

Mrs. Banfield: Second.

Mayor Johnston: Call for the roll on the amendment to the Zatkovich resolution.

Mrs. Melton:	Mr. O'Leary:	Aye
	Mr. Zatkovich:	Aye
	Mrs. Banfield:	Aye
	Mr. Cvitanich:	Aye
	Mr. Dean:	Aye
	Mr. Finnigan:	Aye
	Dr. Herrmann:	No
	Mr. Jarstad:	No.
	Mayor Johnston:	No.

Mrs. Melton: It carries, 6 to 3.

Mr. O'Leary: I move we adopt amended Resolution 20868 on Mr. Zatkovich.

Mr. Cvitanich: Second.

Mr. Jarstad: In commenting earlier on the extra costs in holding an election, it was stated by one member of the Council that there could be only an assumption there would ever be an election, and I am voting tonight on these measure not assuming that there will not be an election.

Mr. Cvitanich: I don't think that should pass by without some type of comment in rebuttal; and I think the fact of the matter is that we five who are facing recall must approach it from that particular point of view-- now if you take the other point, that there will be an election, you have already formed your opinion before the total facts have had their airing in court.

Mr. Jarstad: I am just protecting myself from possible contempt of court by going into this voting, assuming that the thing would not occur.

Mr. Zatkovich: Mr. Mayor, just hypothetically, supposing we were in contempt of court, and refused to abide by the directive of the court, I would assume then that all the Council members would have to go to jail, or pay the \$1,000 fine, because it did say "the Council", and everyone up here is a member of the Council.

Mayor Johnston: Proceed, Mr. Cvitanich.

Mr. Cvitanich: Mr. Hamilton, you stated on several occasions that Judge Cochran stated that the Council members individually and collectively must set a date. These "no" votes then---does that particularly apply in this instance, to set the date?

Mr. Hamilton: (not audible)

Mayor Johnston: I think the point was we disagreed with the date you preferred. After this discussion, I must clear my mind -- the Zatkovich resolution has been amended, and we are voting on the amended resolution. Mrs. Melton, please.

Mrs. Melton:	Mr. Zatkovich:	For the previously mentioned statement, I vote "aye".
	Mrs. Banfield:	For the previously mentioned statement, I vote "aye".
	Mr. Cvitanich:	For the previously mentioned statement, I vote "aye".
	Mr. Dean:	For the previously mentioned statement, I vote "aye".
	Mr. Finnigan:	Aye
	Dr. Herrmann:	Aye
	Mr. Jarstad:	Aye
	Mr. O'Leary:	For the previously mentioned statement, I vote "aye".
	Mayor Johnston:	Aye

Carries by a vote of 9 to 0.

END OF VERBATIM.

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Mrs. Banfield brought up the procedure on processing a petition for a site approval for a highrise apartment building. She said the third from the last page of the minutes of the Board of Adjustment for July 9, 1970, had indicated that a temporary permit had been issued; whereas, there was still a question on the acreage and an appeal filed by Mr. Stanley Fleming, as indicated by a communication presented to the Council last week, even before the matter had been settled in Superior Court as it is still in litigation. She asked that Mr. McCormick look into this matter. ✓

Mr. Finnigan added that Mr. Chapin of the legal department had written an opinion that the appeal was invalid.

* * * * *

Mrs. Banfield also pointed out that in Seattle there is a group who is seeking a moratorium on any more government housing construction and government assistance in utilizing existing empty houses under federal subsidy leasing program. She said they are absolutely eliminating the individual apartment owners in this respect because they cannot comply with federal regulations and consequently, they are not being subsidized as the government projects are. ✓

She asked that a resolution be brought in seeking a moratorium on government construction of housing and subsidy leasing in the City of Tacoma, after which the Council can look into the matter and make some comment on the program.

Mr. McCormick said he would review the Seattle ordinance on this matter.

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COMMITTEE REPORTS:

Mr. Cvitanich announced there would be an important meeting of the AI&F Committee and he would contact each one as to the date. He added a communication from Mr. Tuell, representing the bowling firms, had been sent and that the committee had met and made recommendations, but that he desired additional comments from the Council as to their attitudes.

He also said Mr. Gaisford, Finance Director, had requested the first progress report for the audit, and the committee would take this up on Friday, August 21st.

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Mayor Johnston announced he had appointed the following members to the L.I.D. Committee for September, October and November of 1970: Councilman Banfield, Jarstad and Finnigan.

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Mayor Johnston named Mr. Dean as Chairman of the Youth Symphony reception committee to plan a homecoming for that group on September 3rd and suggested he appoint his own committee.

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REPORTS BY CITY MANAGER:

Mr. McCormick, acting City Manager, stated he had distributed a report on the Metropolitan Park Board festival.

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Mr. McCormick said he had been asked to announce there is an ordinance prohibiting the removal of campaign signs and that the people should be reminded they will be subjected to prosecution. * * * * *

COMMENTS BY MEMBERS OF THE CITY COUNCIL:

Mrs. Banfield asked how many bids were received on the Crystal Palace Market and what were the bids. She also asked for a report on Corey's and the Puget Sound Furniture buildings which had been leased.

She also asked that a check be made to see if the garage property being leased out by the City has been put on the tax rolls.

Mr. McCormick reported the property has been leased to the Downtown Parking Association and a study being made. The Diamond Company has been assigned to operate the garage and they will be taxed for the property underneath the garage, he said. He added he will make a further report at a later date.

Mr. Cvitanich also asked if the status of the Dean-Witter Building could be submitted.

Mr. Cvitanich mentioned there are still some housekeeping measures yet to be reviewed concerning the City Charter which need approval by the people.

Mr. McCormick said he had reviewed all the amendments made by the Council last week on the Charter changes and agreed that regardless of the whole Proposition No. 1 being passed, there are still some housekeeping measures that should be passed to conform with the State law. He said he will make up a report and explanations and furnish copies of his recommendations to the Council.

Mayor Johnston announced the Public Works Dept had requested a study session on SR 509, the A street Spur, within the next ten days and that in conjunction some items could be included which the Fire Chief asked to be put on the November ballot concerning improvements to keep the City's rating with the insurance underwriters.

Mr. Dean reported he had accompanied the Tacoma Youth Symphony to Seattle to see them off and commented that the Mayor had furnished several "keys to the City" to be given out in Europe. He said the group had been very happy to have a Council member see them off and thanked the Mayor for excusing him in order to perform this gesture.

Mr. Zatkovich said the Police Dept. is to be commended for their efficient action in preventing further disturbance at the Rock Festival held at Cheney Stadium under the sponsorship of Bellarmine Prep School a few days before and one at Pt. Defiance Park.

ITEMS FILED IN THE OFFICE OF THE CITY CLERK:

- a. Minutes of Tacoma Board of Adjustment Meeting, July 9, 1970.
- b. Minutes of Tacoma City Planning Commission Meeting, August 3, 1970.
- c. Municipal Court of Tacoma, Traffic Violations and Court Cases during the Month of July 1969 and 1970.
- d. Light Division, Monthly Financial Report, June 30, 1970.
- e. Belt Line Division, Monthly Financial Report, June 30, 1970.
- f. Tacoma Police Department Report, July, 1970.
- g. Monthly Financial Statements and Funds Requisition, July, 1970--Model Cities Program.
- h. Updated Cost Estimate for Urban Arterial Project No. 8-1-128(06) - Pine-Cedar-Alder ---Public Works Dept.
- i. Project cost Estimate and Financing Plan HUD-6200, Project Expenditures Budget HUD-6220, Wash. R-3 and Wash. R-14 & Wash. R-1 Special Report--Urban Renewal Dept.
- j. Personnel and Administrative Claim for July, 1970--Tacoma Civil Defense.

PLACED ON FILE.

Council Meeting adjourned at 10:25 P.M.

Attest: Josephine Melton
Josephine Melton - City Clerk

Gordon N. Johnston
Gordon N. Johnston - Mayor