

CITY COUNCIL MINUTES

City Council Chambers
Tuesday, August 11, 1970.

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

Present on roll call 7: Cvitanich, Finnigan, Herrmann, Jarstad, O'Leary, Kaskovich and Mayor Johnston. Absent 2: Mrs. Banfield and Mr. Dean, who were excused.

The Flag Salute was led by Dr. Herrmann.

Mayor Johnston asked if there were any omissions or corrections to the minutes submitted for July 14th.

Mayor Johnston suggested that on Page 12, 3rd paragraph, concerning the grand jury resolution, the word "each" in line 2 be corrected to read "some" members had requested a grand jury.

Mr. Cvitanich said he thought that over a period of time each member had requested a grand jury and that even though the Mayor himself had not requested a grand jury, the Council had not counted him as a member in that sense.

Mr. O'Leary moved that the minutes of July 14th be approved as submitted. Seconded by Mr. Cvitanich. Voice vote was taken. Motion carried.

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Mayor Johnston, with the permission of the Council, read a proclamation regarding the local Navy Mothers' Club which stated that all citizens of Tacoma, Pierce County and all of America are fully aware of the time and efforts made by the Navy Mothers' Clubs and proclaiming August 12th as National Navy Mothers' Club Day.

Mayor Johnston asked that Mrs. Ted Baker, Mrs. William Hill, Mrs. Virgil Taylor and Mrs. Lawrence Stratton step up to the podium and presented them with the proclamation and thanked them and the many Navy Mothers for their time and efforts.

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COMMUNICATIONS:

a. Communication from Stanley R. Fleming appealing the decision of the Tacoma Planning Commission of its approval of the site plan of the Bridge View Development Company for the R-5 PRD and R-3 PRD district lying north of Olympic Blvd. between No. 7th and No. 9th St. extended and west of Skyline Dr.

Mayor Johnston remarked that each member had been given a copy of this communication.

The communication was placed on file.

b. Communication from Clarence W. Clark, President-Manager, Yellow Cab Company requesting to speak before the Council relative to increase of ambulance rates.

Mr. O'Leary asked if this matter should not be presented under "Citizens Comments" later on the agenda.

Mayor Johnston agreed and asked that Mr. Clark reserve his comments until later in the meeting.

SOLUTIONS:

Resolution No. 20790

(Continued from July 14th)

Adopting the route of Bayside Drive Urban Arterial Street as Route B-2.

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

Mr. Schuster, Director of Public Works, explained since the meeting of July 14th, the staff held a Study Session on August 10th and additional information was passed out at the meeting. He added Robert Janopaul, vice president of Tudor Engineering Company, was present to answer any additional questions.

Mr. Finnigan said he presumes everyone realizes how disappointed he has been that this project was given such a priority. However, he added he has tried to vote for projects he thought that are beneficial to the growth of the City. He thought the Bayside Project will eventually develop into something worthwhile, and inasmuch as it would cost much more if constructed later, he feels the City should take advantage of the 90% State funds for the project now. He added he will vote for the project if he can be assured there will be no interference with traffic in and out of the tideflats area during the construction of the Bayside project.

Mr. Schuster remarked it is a matter of opinion as to what is traffic and what is not. He said there should be no interference during construction and during the interim period, he is sure there will be a connection from the south end of the project to the vicinity of 12th and A Streets for traffic. Therefore, such a connection would facilitate traffic to the industrial area and there should be no problem in the tideflats area.

Mr. Finnigan said that one of the Tudor Engineers had said they might make a temporary detour so that traffic could come from the Tacoma Spur east of A Street, around 12th and then onto A Street and connect to the 11th Street bridge. He thinks if that could be held back until the Bayside Drive project was completed, it would not interfere with the 11th Street traffic to the tideflats.

Mr. Schuster said he thought it would actually facilitate traffic if it could come off a ramp and keep turning right instead of coming down some other way and make left turns.

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

Ayes 5: Finnigan, Herrmann, Jarstad, Zatkovich and Mayor Johnston.

Nays 2: Cvitanich and O'Leary. Absent 2: Banfield and Dean.

The Resolution was declared passed by the Chairman.

Resolution No. 20834

Submitting to the electorate of the City of Tacoma at a special election to be held on Tuesday Sept. 15, 1970 a proposition providing for the recall or retention of Becky Banfield as a Councilman of the City of Tacoma.

Mayor Johnston moved that the resolution be adopted. Seconded by Dr. Herrmann.

VERBATIM -- REQUESTED BY MR. CVITANICH

Mr. Zatkovich: In view of the fact that Becky Banfield is away on vacation, I don't feel that I am in a position to vote one way or the other.

Mayor Johnston: Any further comments? Call for the roll.

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| Mrs. Melton: | Mr. Finnigan: | Aye |
| | Dr. Herrmann: | Aye |
| | Mr. Jarstad: | Aye |
| | Mr. O'Leary: | I abstain, on the advice of counsel. |
| | Mr. Zatkovich: | I also abstain |
| | Mr. Cvitanich: | Abstain |
| | Mayor Johnston: | Aye |

Mrs. Melton: We have 4 ayes, 3 abstaining and 2 absent.

Mayor Johnston: What is the legal opinion on that type of vote, Mr. Hamilton?

Mr. Cvitanich: I would ask that all the discussion on the recall resolutions be verbatim.

Mr. Jarstad: I would ask that our legal department advise us of any law we are breaking, and of the consequences of not voting for this at this time.

Mr. Hamilton: R.C.W. 29.82.100 provides as follows: If at the conclusion of the canvass and count it is found that a petition for recall has a requisite number of signatures of certified legal voters, the officer with whom the petition is filed shall certify the proposition to the proper authority which shall fix a date not less than 10, nor more than 15 days after the conclusion of the canvass calling for a special election to determine whether or not the officer charged shall be recalled and discharged from his office. On the date fixed for the election, a special election shall be held not less than 30, nor more than 40 days from the date of the call, and notice thereof shall be given as required by law for calling special elections in the State or a political subdivision, as the case may be.

Mr. Jarstad: What are the penalties for individual councilmen here who may not have a conflict of interest, or otherwise, if we do not abide by the law?

Mr. Hamilton: The statute in and of itself, provides that the Superior Court shall have original jurisdiction in mandamus proceedings to control performance of any act required of any public officer. Section 29.82.210 provides as follows: Every officer who wilfully violates any of the provisions of this chapter, for the violation of which no penalty is herein prescribed, or who wilfully fails to comply with the provisions of this chapter, shall be guilty of a gross misdemeanor. There are, of course, conceivably other remedies which persons interested in the proceeding may or may not take. The statute, of course, doesn't bear or cover the question as to whether or not individual councilmen have a conflict of interest, and that is up to each councilman to make up his own mind, and if he feels on the advice of his own individual attorney that there may be a conflict, he is going to let his conscience be his guide.

Mr. Jarstad: Mr. Hamilton, under the law, if we have no conflict of interest guilt for not voting for this, it could mean a year in jail and a \$1,000 fine, is that correct?

Mr. Hamilton: That's a maximum penalty prescribed by statute for gross misdemeanors. Whether the proper authorities would file anything like this or not is a matter of some speculation also.

- Mr. Jarstad: Yes -- I thought we should know, those of us who do not have a stated conflict of interest, what we are opening ourselves up for by not voting for the resolution at the time.
- Mr. Cvitanich: I would like to thank my colleague on the left for his great concern in pointing the various ramifications involved. I am sure that we five are well aware of what the situation is. Let's carry it a step farther. Councilman Jarstad I believe in June requested of Dr. Campbell at the Bureau of Governmental Research a legal opinion -- I just went into this several days ago -- and I wondered if Mr. McCormick had, in fact, prepared a legal opinion as Mr. O'Leary and I had requested regarding what happens to the City of Tacoma, if, and when, five members of the council are recalled. What a great deal of speculation might transpire -- we never really had a legal opinion, but I think as long as the councilman on my left raised these several legal points, we should carry it a little bit farther and determine this. And if Mr. McCormick is prepared to give some opinion, either written tonight or possibly an oral opinion, Mr. O'Leary and I would renew our formal opinion regarding this matter.
- Mr. McCormick: Mr. Cvitanich, as long as you are going to ask for a legal opinion, I think I would be stepping on the toes of my department (the legal department) by giving my opinion as City Manager.
- Mr. Cvitanich: I stand corrected - I have gotten so used to talking to you as City Attorney, I didn't mean to bypass Mr. Hamilton.
- Mr. McCormick: I might say this - that Mr. Hamilton and myself, when I was the City Attorney, several weeks or I would say probably a month -- when this matter, we could anticipate -- have given an awful lot of thought to it, and I am sure Mr. Hamilton can give you the opinion of the thinking of the Bureau and other attorneys, etc., and it is not just a cut and dried proposition. There may be a little grey area, but we haven't reached that point yet. We are speculating now.
- Mayor Johnston: Are you prepared to respond at all at this time, Mr. Hamilton?
- Mr. Hamilton: Mr. Mayor, I don't believe I am. As Mr. McCormick has indicated, we discussed it informally and I didn't know that a formal request had been made, and we will start the preparation of one and give a written opinion, hopefully by next week.
- Mayor Johnston: Mr. O'Leary.
- Mr. O'Leary: Mr. Hamilton, as long as you are on your feet, knowing that a quirk in conflict of interest would come up, have you sought a legal opinion from the Attorney General's office in the State of Washington?
- Mr. Hamilton: No, sir. The city is not entitled to opinions from the Attorney General's office -- State offices, members of legislature, prosecuting attorneys, boards and commissions of the State of Washington are.
- Mr. O'Leary: The word out of Slade Gorton's office as of yesterday to a state representative was that the City Attorney was the only one he would render a legal opinion on this matter. I sought one, through a state representative.

- Mr. Hamilton: Through a state representative, yes. But the opinion would go to the state representative. I cannot ask the attorney general directly for one.
- Mr. O'Leary: Oh. I asked the state representative to get an opinion from Slade Gorton for himself; he could not get one -- the only person who could get a legal opinion on this is Bob Hamilton or Marshall McCormick. That's the word from Slade Gorton's office. Would you check into that for me, please.
- Mr. Hamilton: It always has been for years and years -- that our office nor any other city were entitled to attorney general's opinions. That's all I can tell you.
- Mayor Johnston: Let's go on to the next resolution.

Resolution No. 20835

(Title same as on previous resolution, with exception of the name.
This resolution pertains to GEORGE CVITANICH.)

Mayor Johnston moved that the resolution be adopted. Seconded by Dr. Herrmann.

Mr. Cvitanich: On the advice of my counsel, I abstain from voting.

Mayor Johnston: Any further comments?

Mr. Zatkovich: I might add that also in this case, out of respect to Councilman Cvitanich, I will abstain from voting on this resolution.

Mayor Johnston: Any further comments? Mr. O'Leary

Mr. O'Leary: I will abstain from voting.

Mayor Johnston: Call for the roll.

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| Mrs. Melton: | Dr. Herrmann: | Aye |
| | Mr. Jarstad: | Aye |
| | Mr. Finnigan: | Aye |
| | Mayor Johnston: | Aye |

Mayor Johnston: The resolution fails.

Mr. Cvitanich: A parliamentary inquiry -- I don't think she called every name.

Mayor Johnston: Mrs. Melton, call the roll of all present, please.

Mrs. Melton: Call them all?

Mayor Johnston: Please.

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| Mrs. Melton: | Dr. Herrmann: | Aye |
| | Mr. Jarstad: | Aye |
| | Mr. O'Leary: | Abstain |
| | Mr. Zatkovich: | Abstain |
| | Mr. Cvitanich: | Abstain |
| | Mr. Finnigan: | Aye |
| | Mayor Johnston: | Aye |

Mr. Cvitanich: Mr. Mayor, a parliamentary inquiry -- in the prior resolution, she called each member's name and stated if they were absent or present. And I would ask that she continue the procedure on this resolution.

Mayor Johnston: Would you do that, Mrs. Melton?

Mrs. Melton: Shall I call the roll again?

Mayor Johnston: Let's do it as we did the first one.

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| Mrs. Melton: | Dr. Herrmann: | Aye |
| | Mr. Jarstad: | Aye |
| | Mr. O'Leary: | Abstain |
| | Mr. Zatkovich: | Abstain |
| | Mrs. Banfield: | Absent |
| | Mr. Cvitanich: | Abstain |
| | Mr. Dean: | Absent |
| | Mr. Finnigan: | If it's not illegal to vote three times on one resolution, I say yes. |
| | Mayor Johnston: | Aye. |

Mr. Cvitanich: Parliamentary inquiry: I believe Mr. Dean and Mrs. Banfield have been excused.

Mayor Johnston: (not audible) they have been excused, will you Mrs. Melton, rather than absence.

The motion fails. We will go on to the next resolution.

Resolution No. 20836

(Title same as on previous resolution, with exception of the name.
This resolution pertains to FRED DEAN.)

Mayor Johnston moved that the resolution be adopted. Seconded by Dr. Herrmann.

Mr. Zatkovich: Unless Mr. Dean calls me from somewhere and asks that I give an affirmative vote on this, I am going to abstain. I do not know what position he wishes to take at this moment.

Mayor Johnston: Thank you, Mr. Zatkovich. Call for the roll, please.

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| Mr. Melton: | Mr. Jarstad: | Aye |
| | Mr. O'Leary | Abstain |
| | Mr. Zatkovich: | Abstain |
| | Mrs. Banfield: | Excused |
| | Mr. Cvitanich: | Abstain |
| | Mr. Dean: | Excused |
| | Mr. Finnigan: | Aye |
| | Dr. Herrmann: | Aye |
| | Mayor Johnston: | Aye |

Mayor Johnston: The resolution fails. We will go on to the next resolution.

Resolution No. 20837

(Title same as resolutions above, with exception of name. This resolution pertains to JOHN E. O'LEARY.)

Mayor Johnston moved that the resolution be adopted. Seconded by Dr. Herrmann.

Mr. O'Leary: On the advice of counsel, I will abstain.

Mayor Johnston: Any further comment.

Mr. Cvitanich: I abstain.

Mr. Zatkovich: I also abstain, for the same reason given.

Mayor Johnston: Call the roll, please.

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| Mrs. Melton: | Mrs. Banfield: | Excused |
| | Mr. Cvitanich: | Abstain. |
| | Mr. Dean: | Excused |
| | Mr. Finnigan: | Aye |
| | Dr. Herrmann: | Aye |
| | Mr. Jarstad: | Aye |
| | Mr. O'Leary: | Abstain |
| | Mr. Zatkovich: | Abstain |
| | Mayor Johnston: | Aye |

Mayor Johnston: The resolution fails.

Resolution No. 20838

(Title same as resolutions above, with exception of name. This resolution pertains to A. M. ZATKOVICH.)

Mayor Johnston moved that the resolution be adopted. Seconded by Dr. Herrmann.

Mayor Johnston: Any comment on this, Mr. Zatkovich?

Mr. Zatkovich: Yes, Mr. Mayor, I wish to comment on this. I would like to ask the legal department whether or not there is a conflict of interest if I voted on this, and I am referring to recent cases -- the Texas case in particular.

Mr. Hamilton: As I indicated a little earlier, I said the question of whether or not there is a conflict of interest is something you should look to your own counsel for, to make the final decision as to whether you do or do not vote on these things. That is a personal matter to you. The Texas case to which you refer indicates that no man should vote if that case involved his own resignation. I frankly have not determined and cannot state categorically whether there is a conflict of interest or not. There are cases that go both ways. The meaning of the law is that no man should judge his own case; and that is the rationale upon which the Texas case is predicated.

There are cases out of New Jersey, however, that indicate the one and only exception to this is when a person refrains from acting, and it is the same as though no action is taken at all --- which is the situation under the recall statute. And whether our court would go along with the New Jersey case or follow the Texas case would be pure speculation on my part. I just don't know the answer.

Mr. Zatkovich: I believe this would involve probably more than just the personal matter -- this probably would have to be settled in court, depending upon the decision of this council, whether it be now or in the near future. I just wonder. I might feel one way and want to vote the other, but my action could possibly cause this to be thrown to the court to decide later on, wouldn't you think?

Mr. Hamilton: This is a possibility, but remember the Texas case to which you allude. In that, the question was whether or not the man was going to resign, or vote on the acceptance of his own resignation, he determined in his own mind what his course of action would be. Under the recall statute the council was given one task, and that is to fix a date for an election within a ten day period. And that is the only discretion you have -- whether the 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, or 10th day within that period. Other than that there is no discretion under the statute. So you have a little different situation in this case from what you have in the Texas authorities.

Mayor Johnston: Any further comment, Mr. Zatkovich?

- Mr. Zatkovich: Mr. Mayor, the way I feel about this --- the fact that we have bad law on the books --- we have two different decisions by two different judges is all silly and crazy --- the whole thing is. This is whether or not we can have a recall, or whether anybody can be recalled for any reason, or no reason at all, whatsoever. Now, the phoney charges with some of the phoney people backing it --- I am going to make it a little more confusing. I think I will make it just as silly as it was to start with --- and I'll probably vote to have myself recalled!
- Mr. Cvitanich: I would like to commend Mr. Zatkovich for his position. I know it tends to be a little exasperating. He wants to put it on the primary. I know that is his position, and so be it. I don't think he went far enough on the recall. I know in talking to my counsel, I can make a couple of limited statements and limit it to that. I would like to point out that we who stood the last election in November did it on a one-to-one basis. As the recall provisions are drafted, we are giving away four to one odds. 18,000 plus people voted against me. I am not deluding my thinking in terms of 11,000 signatures. I am glad to get 18,000 signatures against me, and I will be the first to put it on the ballot. But if they think I am going to give away four to one odds, to provide a bunch of greedy people with the opportunity to put their hand in the ballot box --- and that's all they are doing, pure and simple.
- Mayor Johnston: Any further comment? Call for the roll, please.
- Mrs. Melton:
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| Dr. Herrmann: | Aye |
| Mr. Jarstad: | Aye |
| Mr. O'Leary: | Abstain |
| Mr. Zatkovich: | Aye |
| Mrs. Banfield: | Excused |
| Mr. Cvitanich: | Abstain |
| Mr. Dean: | Excused |
| Mr. Finnigan: | Aye |
| Mayor Johnston: | Aye |
- Mayor Johnston: The resolution carries, with a vote of 5 ayes, 3 abstaining, and two excused.

END OF VERBATIM

Resolution No. 20839

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.

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

Police Chief Lyle Smith explained that Police Captain Major of the Identification & Records Bureau has endorsed the recommendation of the higher bid because of its longevity of use and provides twice the saving features than the other bid. It is also more convenient and faster to use and thus saves employee time and effort.

Mr. Finnigan asked if Chief Smith was aware of a letter received from Eastman Kodak.

Chief Smith said he had received a copy. They feel that the Eastman equipment is not desirable for their operation and in addition would require two rolls of film for every one of the 3-M product.

Mr. Finnigan said that Chief Smith said that two rolls would not be needed at the present time, but would at a later date in Phase II. He asked if they would later need equipment that has the capability of producing two rolls.

Chief Smith said they probably would not be using that type of equipment in the future.

Mr. Bergeson from Eastman Kodak Company explained that their equipment both the reader and the microfilmer can be used in Phase II thereby eliminating the purchase of new equipment for that phase and there is no expensive magazine needed to load the camera, which would cost \$2.40 a roll for the magazine. He said the saving in cost of \$1500 would offset the faster operation of the competing company's equipment.

Mr. Bergeson continued the two rolls would be a vital factor in implementing Phase II and provide security as one set could be stored off premises and the other in the department.

Mr. Major repeated they favored the time-saving Minnesota Mining equipment and that it would be used for 10 years and offset the savings in cost.

Mayor Johnston asked what microfilm equipment was being used at present and said he recognized the fact this is a critical decision as it pertains to an important phase of the City's police work.

Mr. Finnigan asked Mr. Major to explain more about the time-saving features.

Mr. Major explained the equipment would be in use 24 hours a day, 7 days a week. The operating personnel would not all be experienced in that line of microfilming and using the 3-M equipment would simplify the operation and accelerate searching for the finished product, thus saving time for all personnel.

Mr. Charles Barkley of the 3-M Company affirmed statements made by Mr. Major and said his company could have made a bid equal to that of the Eastman Company, but said their bid was based on equipment which would be more efficient from the standpoint of retrieving information when needed by the City.

Mr. Cvitanich said he would like to receive some brochures and specifications on the equipment before he voted tonight and asked that the resolution be postponed for one week.

Mr. Finnigan moved to postpone the matter for one week. Seconded by Mr. Cvitanich. Voice vote was taken. Motion carried.

The resolution was continued to August 18th.

Resolution No. 20840

Authorizing the proper officers to request of the Dept. of Housing & Urban Development to issue a 90-day letter to proceed with the Comprehensive City Demonstration Program.

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

Mr. Herman Walker, Director of the Model Cities Department, explained that this authorization is for cities that have not yet completed their programs within the given specified year. He said the 90-day letter for interim financing is being requested so that the City can be reimbursed for any expenditures given to the Model Cities Program after the end of its first planning year. Upon receipt of the letter, the department plans to submit a request for the operating budget. The answer to the letter would authorize any reimbursement that is given to Model Cities beyond the date of August 17, 1970.

Mr. Cvitanich asked what the City's obligation would be if the Dept. of Housing and Urban Development does not fund the program and in case the City of Tacoma does not have the money.

Mr. Walker explained the letter would authorize reimbursement for any funds beyond August 17 if the City enters into a contract for the first-action year.

Mr. Cvitanich asked the City Attorney if this resolution does, in fact, state that the City would not be liable in the event the funds were not authorized.

Mr. Hamilton said it is his understanding that the letter of request is predicated upon the assumption that a Grant Agreement will be executed, but if the Grant Agreement is not executed, then the City's general fund is responsible for that money. He said the resolution has been prepared, however, so as to include a provision whereby no sums will be expended until the City is assured it will receive a Grant which shall first have been approved by the City Council.

Mr. Finnigan asked how soon could an answer be expected.

Mr. Walker said an immediate response could be possible and he would like to hand deliver the letter to HUD in San Francisco, as they would like a response prior to August 17th.

Mr. Finnigan said he could see no reason to hand deliver it since the mail would get there in a day.

Mrs. Elizabeth Brown, a citizen, said she had read in the news where President Nixon had vetoed over \$1 billion in funds, among which was the program in question. She remarked she thought the City may not be appropriated the funds.

Mr. Finnigan said these funds have been set aside and the action taken by the government as reported by the papers would not have any effect on the Tacoma program.

Mr. Cvitanich asked if the last paragraph of the resolution could be strengthened by incorporating a part of the second paragraph of the explanatory note that was submitted by the legal department.

Mr. Hamilton stated that the resolution as written is merely an indication of what is to be in the letter itself, but the letter could be more explicit if the Council desired. He added that any appropriation or approval would have to come back to the Council and at that time, the City would know if the Grant Agreement had been approved. He said the legal department felt it should have been indicated to HUD that the City did want the assurance before any expenditures were actually made.

Mr. Cvitanich asked if that statement would be included in the letter of request.

Mr. Hamilton said it states in the resolution that it should be included.

Mr. Cvitanich moved that the letter be amended to have it in accord with the second paragraph of the explanatory note so there would be no misunderstanding at any future date as to the intent of the Council. Motion seconded by Mr. Jarstad. Voice vote was taken. Motion carried.

Mr. Finnigan felt the Council should be informed as soon as the office of the Model Cities receives an answer to the letter of request, before any expenditures are begun.

Mayor Johnston asked Mr. Walker if this was understood.

Mr. Walker acknowledged it was.

Mr. Finnigan said he did not think it was necessary to make a motion, but that they would work cooperatively, but if this request is not granted, it might jeopardize the future of the program. He said he is sure Mr. Walker will honor his request.

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

Ayes 5: Finnigan, Herrmann, Jarstad, Zatkovich and Mayor Johnston.

Nays 2: Cvitanich and O'Leary. Absent 2: Banfield and Dean.

The Resolution was declared passed by the Chairman.

Resolution No. 20841

Fixing Tuesday Sept. 8th at 7 P.M. as the date for hearing for vacation of So. 52nd between Alaska and the freeway and Wilkeson St. to 128 feet south of So. 52nd St. (Petition of Lewis L. Clark)

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

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

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

Nays 0: Absent 2: Banfield and Dean.

The Resolution was declared passed by the Chairman.

Resolution No. 20842

Fixing Tuesday Sept. 22nd at 7 P.M. as the date for hearing for vacation of the north and south 20 feet of Wright Avenue from East D west approximately 120 feet to State SR-7 freeway. (Petition of Shaw House Corp. etal)

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

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

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

Nays 0: Absent 2: Banfield and Dean.

The Resolution was declared passed by the Chairman.

Resolution No. 20843

Fixing Monday Sept. 14th at 4 P. M. as the date for hearing for L I D 4949 for paving on East 61st St. from M to N Street.

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

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

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

Nays 0. Absent 2: Banfield and Dean.

The Resolution was declared passed by the Chairman.

FIRST 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)

Mayor Johnston said a hearing had been held on this vacation of the roadway last week.

The ordinance was placed in order of final reading.

Ordinance No. 19181

Amending Chapter 1.30.570 relative to Service Retirement.

Mr. Clar Gaisford, Director of Finance, asked that one small amendment be made to the ordinance due to a typographical error. He said the 5th line from the bottom should read "January 1, 1971" instead of "1970".

He explained the Retirement Board called in actuaries the early part of July of this year to analyze the earnings and basic benefits for City employees, both active and retired, to see if the benefits could at no cost to the City, be increased. He added the rate has been 4½% and is being increased to 5½%. It will take approximately three months to analyze other changes in the retirement system. He said the actuaries in San Francisco would probably have the results submitted to the Retirement Board about October, 1970, and the Board at that time would request an ordinance to become effective approximately December 1, 1970.

These benefits would lower the retirement age and increase the escalation. There is 1½% escalation at the present time and it is hoped this can be raised to 2% for the employees already retired. The present formula is based on a factor of 30 years service at 60 years of age, which would provide a monthly income based on the three highest years' salary.

He said the request is being made to lower the retirement age to 58 with 30 years of service. What this will do is to set a moratorium on retirement. Those people who would become age 55 on July 1st will be held on moratorium not later than January 1, 1971.

Mr. Finnigan asked what increased cost to the City is projected.

Mr. Gaisford replied there will be no increase in cost. The change is proposed because of better economic conditions in the Retirement System's investment program. He said the assumption rate has gone from 2½% in 1941 up to 5.43% in 1969 and the present earnings are beyond that.

Motion was made by Mr. Zatkovich to amend the resolution to correct the date heretofore mentioned. Seconded by Dr. Herrmann. Voice vote was taken. Motion carried.

The ordinance was placed in order of final reading.

UNFINISHED BUSINESS:

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

LID 5464 installation of water mains and fire hydrants in the area bounded by South 80th., Pacific Ave., South 94th and Park Ave.

LID 6897 intersection street lights on Mullen St., South 56th to South 62nd Sts., So. 73rd St., Mullen to Mason, Mason Ave. from So. 73rd St. to 350 feet south.

LID 6904 for modern street lights on existing wood poles at intersections along Monroe St. from 6th Ave. to So. 12th St., Madison St. from 6th Ave. to So. 12th St., and other nearby streets.

Mr. Finnigan moved that the date of hearing be set for Monday, September 14th, at 4:00 P.M. Seconded by Mr. Cvitanich. Voice vote was taken. Motion unanimously carried.

UNFINISHED BUSINESS:

Mr. Cvitanich said he would like to again bring up Mr. Dean's Resolution No. 20836 relative to the recall.

He asked that all the discussion on this matter be prepared verbatim in the minutes.

Cvitanich: I would like to ask a question if I may. Who was on the prevailing side? For example, recalling one of the resolutions we worked on -- the prevailing side is whom? The three who abstained, or the four who were we are wondering so we can move for reconsideration on one. 84

Hamilton: My recollection is that an abstention is, in fact, a "no" vote; and the resolution did not carry. So those who abstained, by abstaining voted "no", and therefore are on the prevailing side.

Mayor Johnston: Does that open the door for any further action, then?

Zatkovich: In all fairness to Councilman Dean, then

Cvitanich: Point of order if he is going to move for reconsideration, he would have to make a motion.

Zatkovich: I wish to reconsider Resolution No. 20836 relative to the retention or recall of Councilman Dean.

Herrmann: Second.

Mayor Johnston: All those in favor will vote "aye."

Cvitanich: Some have abstained, Mr. Mayor.

Mayor Johnston: Let's call for the roll, please.

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| Mr. Melton: | Banfield: | excused |
| | Cvitanich: | abstain |
| | Dean: | excused |
| | Finnigan: | Aye |
| | Herrmann: | Aye |
| | Jarstad: | Aye |
| | O'Leary: | Abstain |
| | Zatkovich: | Aye |
| | Mayor Johnston: | Aye |

Mr. Melton: It carries by a vote of 5 to 2, with 2 abstentions.

Zatkovich: I did have some discussions with Councilman Dean, with respect to these resolutions, and we did agree at one point, in the event there was a conflict, that I would go along with putting his name on the ballot, and he would do the same for me. And I thought perhaps if he was in listening range he would have given me a phone call by now. I feel that I wish to put him in the same position I am in, because otherwise if he wanted to get on we would have to have a

special election in three days. So and yet I would honor his request if he did not want it on; so I feel it is much easier and less complicated to put him on at this time; and if he wishes to be reconsidered the next time I certainly will do it for him. As it is now I wish that he be on the same as I am.

Mr. Johnston: Mr. Cvitanich

Cvitanich: I would like to explore the point that Mr. Zatkovich brought up ---- that he can be removed next week if he desires. I wonder if we could have a clarification from the legal department regarding this.

Mr. Johnston: Is it proper for a man who is abstaining to raise questions, Mr. Hamilton?

Hamilton: To answer your question, Mr. Mayor, I think it is the prerogative of the Chair to make that ruling --- I think it is a procedural ruling rather than a legal one.

Mr. Johnston: I will rule my question out of order -- you don't need to answer that. Do you wish to make a motion on this resolution, Mr. Zatkovich?

Mr. Zatkovich: Yes, I wish to on Resolution No. 20836.

Cvitanich: A parliamentary inquiry --- on page 5 of the Council Rules, under (k) it states "no motion to reconsider a vote shall be in order, except at the following meeting, and by a member who voted with the prevailing side....." We did determine that Mr. Zatkovich was on the prevailing side, but with the Chair's permission I would like to have legal give me an interpretation if, in fact, we are in order to do what we are doing at this time.

Hamilton: I think Mr. Cvitanich read the rule accurately, and it says, "no motion to reconsider shall be in order, except at the following meeting, and by a member who voted on the prevailing side." And this, of course, comes at the same meeting. Therefore I would think the motion to reconsider might not be in order at this time.

Johnston: This is a very troublesome period we are in, Mr. Hamilton. And for this matter to be continued for one week would make any action to place Mr. Dean's name on the ballot illegal because that time would have run out. Now is that a special enough consideration to make it appropriate for us to consider this matter at this time?

Hamilton: The simple way to handle the matter to reconsider at this time would be to suspend the rules and then reconsider.

Zatkovich: I so move.

Herrmann: Second.

Johnston: Motion made and seconded to suspend the rules. Call the roll please.

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| Melton: | Mrs. Banfield: | excused |
| | Mr. Cvitanich: | abstain |
| | Mr. Dean: | excused |
| | Mr. Finnigan: | Aye |
| | Dr. Herrmann : | Aye |
| | Mr. Jarstad: | Aye |
| | Mr. O'Leary: | abstain |
| | Mr. Zatkovich: | Aye |
| | Mayor Johnston: | Aye. |

Johnston: The motion to suspend the rules carried.

Now, Mr. Zatkovich, did you care to make a motion?

Zatkovich: With respect to Resolution No. 20836 relating to submitting to the electorate of the City of Tacoma at a special election be held on Tuesday, September 15, 1970 a proposition providing for the recall or retention of Fred Dean as a councilman of the City of Tacoma --- I move for its adoption.

Herrmann: Second.

Johnston: Call the roll please. Are you abstaining on this, Mr. Cvitanich?

Cvitanich: A parliamentary inquiry --- I would like to inquire of legal if we are also precluded from commenting on the resolution, if I may.

Hamilton: The precise council rules don't cover that precise situation, nor does the Charter itself; it would be my inclination, however, that a councilman has a right to comment upon any matter in the council chambers, on any business going on, whether he should vote on it or not. For example, a councilman might take part in the discussion and then get up and walk out, or abstain, and that would accomplish the same thing. But I don't think the fact that I would say "abstain", which is in fact a "no" vote, should preclude me from discussing the thing.

Johnston: You have your answer, Mr. Cvitanich.

Cvitanich: What did you interpret from that?

Johnston: That you can speak if you like.

Cvitanich: I have no comment to make, thank you.

Johnston: You have before you the motion to adopt Resolution 20836, may we have the roll please.

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| Welton: | Mr. Dean: | Excused |
| | Mr. Finnigan: | Aye |
| | Dr. Herrmann: | Aye |
| | Mr. Jarstad: | Aye |
| | Mr. O'Leary : | Abstain |
| | Mr. Zatkovich: | Aye |
| | Mr. Cvitanich: | Abstain |
| | Mrs. Banfield: | Excused |
| | Mayor Johnston: | Aye |

Johnston: The motion carries, then, with five in favor, 2 abstentions, and 2 absent.

ZND OF VERBATIM

Mr. Cvitanich asked if Mr. Dean's name could be removed from Resolution No. 20836 next week if he so desires. He said, however, he thought it should be resolved tonight.

Mr. Hamilton said he did not know the answer for certain, but he would think not. He said the Council could rescind the resolution, but the time for fixing the date for the election would expire on Wednesday or Thursday and the outcome decided upon tonight would be definite, he thought.

Mr. Jarstad pointed out there could be a possibility of having any three members of the Council call for a special meeting and that would constitute a following meeting as required.

Mayor Johnston said a twelve hour notice would have to be given.

Mr. Hamilton said reconsideration can be given at a special meeting provided the procedures are complied with and it be within the 15 days from the prior meeting on July 28th. He said this time would expire on August 12th.

Mr. Buell explained there seemed to be no consideration for the planned send-off of the Tacoma Youth Symphony on their trip to Europe as one of the finest ambassadors of harmony and good will ever to be in Tacoma. He said he would make an exception to his statement, however, in that a salute had been given to the ladies of the Navy Mothers Club this evening. He hopes when the musicians return they will be given a more welcome recognition than on their departure.

Mr. Jarstad explained when Mrs. Thelma Coonan questioned her denial to speak a few weeks ago, he had asked for a clarification. He added apparently this was not clarified as some people would have liked. Therefore, he would like to have more clarification at this time.

Mr. Hamilton said he had anticipated this and had asked for a verbatim transcript of Mrs. Coonan's remarks. The question that had been asked of him was whether there was a State law saying that a person has a right to speak if there's an amendment to change the act or something at a public hearing and that his answer had been that to the best of his knowledge there is no State law.

Mayor Johnston asked if that cleared up the matter for Mr. Jarstad.

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COMMITTEE REPORTS:

Mr. Cvitanich said the Finance, Audit and Investigating Committee had held a meeting and had recommended the continuation of the Operation Mainstream and the Neighborhood Youth Corps. However, he added it should be made very clear that under no circumstances should these employees be used to make up a deficit with the regular City employees. He said this problem had transpired in the past.

Mr. McCormick said this is one of the HUD requirements and that they do not replace permanent City employees in such a way. This is not the purpose for spending that money and as far as the Council is concerned, with regard to Model Cities, this requirement will be observed. He said it would be a violation of the grant if the City did otherwise. ✓

Mr. Cvitanich said the City had been in violation in the past and it should be rectified right now and if a resolution is required, it should be requested.

Mr. McCormick said it could be passed in the form of a resolution or a motion, probably directing the City Manager to see that the administrators do not allow this to happen in their departments.

Mayor Johnston moved that the Council concur in the FA&I Committee's recommendation that the Operation Mainstream be continued. Seconded by Mr. O'Leary. Voice vote was taken. Motion carried unanimously.

Mayor Johnston also moved that the Council concur in the recommendation of the FA&I Committee to continue to sponsor the Neighborhood Youth Corps. Seconded by Mr. O'Leary. Voice vote was taken. Motion carried.

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Mr. O'Leary reported that the committee had met to discuss the Metermatic Parking System and had voted unanimously to disregard this type of system at this time and probably look into the possibility of removing all parking meters from the City of Tacoma. 80

Mr. O'Leary moved to concur in the recommendation of the Public Works Committee regarding the Metermatic meter situation and to take no action. Seconded by Mr. Matkovich. Voice vote was taken and carried unanimously.

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REPORTS BY CITY MANAGER:

Mr. McCormick said he had received a call from a salesman from the Metermatic Company in Seattle and Mr. McCormick advised him that the reception by the Council was not too enthusiastic relative to the Metermatics. He said that he would be welcome to come to speak before the Council if he wished. 80

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Mr. McCormick reported he had made a study of the Senior Citizens' bus passes for July 1969 as compared to July 1970 for the one month only, but inasmuch as the economic situation in the country has changed so much in the last year, he does not know if it is a very reliable comparison. ✓

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He added several City departments had asked for additional office space. He suggested it might be wise to have a member from the Council and one from the County to make a detailed study of the space the departments now use. He thought perhaps there is space not being utilized to the best advantage. He added he has no knowledge of any study such as this being made in the past, but the Council members should be thinking about this matter as there are areas of real concern in regard to shortage of space and also some hazardous conditions existing. 266/MEL 100

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Mr. McCormick reported that Gary Sullivan's father has passed away in New York.

A letter was sent to Mr. Sullivan regarding the Urban Renewal program requirement for tenancy. He explained the requirement is now one month for a tenant and two months for an owner-occupant, but has been changed to two months to coincide with the HUD recommendation which requires two months for each type. He said the City has actually been following the HUD Rules and that the City's Ordinance should be corrected to coincide with the HUD Rules.

Mayor Johnston inquired whether Mr. Sullivan plans to bring in a resolution on this matter.

Mr. McCormick said Mr. Sullivan had explained the matter in a long letter, copies of which had been made for the Council members. He said Mr. Sullivan recommended that a resolution be brought in.

Mayor Johnston suggested Mr. McCormick bring in a resolution to present to the Council.

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COMMENTS BY MEMBERS OF THE CITY COUNCIL:

Mr. Finnigan said regarding the comments on the parking meters and in view of the fact that many Tacoma stores have closed, there is still quite a parking problem. He asked if it were practical to make a quick survey and eliminate some of the yellow-striped zones which had heretofore been used for loading in front of the stores. If they are needed later, they can again be painted.

Mr. McCormick said he saw no reason why the Public Works Department could not make such a survey. He said he will have a survey made if it meets with the Council's approval.

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Mr. Cvitanich said several months ago the City Manager's office had been directed to explore the feasibility of moving the Tacoma-County Health Department out to Mountain View Sanitarium as there is one floor out there that is presently vacant. He recommended this be explored.

Mr. McCormick reported several conferences had been made on this matter, but it is understood that the building does not suit the needs of the Health Department. However, they do have a plan whereby they can obtain federal funds to provide for a new and modern health center on the property near the old County hospital. He said he would check into the matter further and advise the Council.

Mr. Cvitanich suggested the County-City Building Committee, on which Mr. Finnigan and the City Manager are members, could handle the matter.

Mr. Cvitanich moved to have the committee as now composed look into the matter of space. Seconded by Mr. Finnigan. Voice vote was taken. Motion carried.

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Mr. Clarence Clark, President-Manager of the Yellow Cab Company, speaking on behalf of the ambulance industry in Tacoma, said his industry had previously requested an increase in rates, but the resolution had failed. He said he has again submitted a cost analysis to the Council members and asked that his request be reconsidered.

Mr. Cvitanich said if some member of the Council wanted to sponsor a new resolution, this could be done.

Mr. Jarstad commented there was concern for service to all people, not only the calls placed by the Police Dept. He asked what would transpire if they continued to operate at a loss.

Mr. Clark replied if necessary the ambulance companies would have to close down and there would be no such services.

Mr. Cvitanich pointed out the Police Dept. could provide ambulance service, with approval by the Council, until such time as matters could be worked out.

Mr. Finnigan asked if the ambulance industry had any definite obligation to service the City for any specific time.

Mr. McCormick said it is his understanding there are certain service districts and it is their obligation to respond to those calls in their districts. He said he does not think there is any formal agreement, but if they do not furnish service their licenses could be taken away. He added he was not certain there was any definite written franchise or contract, but it is provided for in an Ordinance and it is their responsibility to comply with the Ordinance.

Mr. Cvitanich suggested conditions be checked in other cities to see how the services are handled. He said he thought some cities award contracts on a bid basis.

Mr. McCormick said he would have his assistant, Mr. Mork, check into this type of arrangement.

Mayor Johnston asked Mr. Clark to make an appointment the following day to discuss the matter with him.

Mr. Zatkovich pointed out it would be the elderly people who would suffer from lack of service. He wonders why the Council is involved in setting the charges if there is no franchise. He added he does not approve of certain fees being set by the City for Police Dept. calls and then as a result the rest of the community is burdened by high rates.

Mr. McCormick explained the Ordinance provides that the fees be fixed by a Resolution, however, the Ordinance could be amended.

Mr. Zatkovich mentioned there are many times when the ambulances are called out by the Police Dept. and then cancelled, so the ambulance companies have to make up the loss. He thinks this is one area where rates should be adjusted.

Mr. Clark said the Resolution was for the protection of the people who are at the mercy of an unknown situation. The present rates set are maximum rates for people who ride in ambulances ordered by the Police Dept. The Resolution would only control the rate so they would not be charged in excess of certain rates and that the Resolution pertains only to calls made at the request of the Police Dept.

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ITEMS FILED IN THE OFFICE OF THE CITY CLERK:

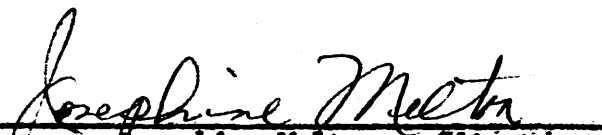
- a. Report of Tacoma Employees' Retirement System, July 31, 1970.
- b. Report of Tacoma City Planning Department, July, 1970.
- c. Selection & Evaluation Board Meeting Agenda of August 10, 1970, and Trainee Corps Activity Report of July, 1970.
- d. Minutes of Civil Service Board Meeting of July 20, 1970.
- e. Suggestion Systems - Joint Report, 1969, - Suggestion Award Board.

Placed on file.

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Council meeting was adjourned at 9:10 P. M.

Attest:


Josephine Melton - City Clerk


Gordon N. Johnston - Mayor