

NOV 15 1960

City Council Chambers, 7:00 P.M.
Tuesday, November 15, 1960

Council met in regular session. Present on roll call 9: Bott, Cvitanich, Easterday, Murtland, Olson, Porter, Price, Steele and Mayor Hanson.

Mrs. Price moved that the minutes of November 1, 1960 be approved as submitted. Seconded by Mr. Porter.

Mr. Bott asked that his statement on page 7 of the minutes, fourth line from the top of the page, be corrected so as to read "upper Broadway" in place of "lower Broadway."

Voice vote was then taken on the minutes as corrected, resulting as follows: Ayes 9; Nays 0; Absent 0.

HEARINGS AND APPEALS:

This the date set for hearing on the appeal submitted by H.M. Tollefson, attorney for the petitioners, in reference to the rezoning of property located at 9201 Pacific Avenue, from an "R-2" District to a "C-1" District. 46
514

Mr. Rowlands said the communication from the Planning Commission outlining the reasons for refusal of this rezoning and also a letter from Mr. Tollefson, Attorney for the petitioners, was sent to all members of the Council.

Mr. Benson, Senior Planner, pointed out on the map the area generally bounded by Pacific Avenue, South 91st Street extended, "A" Street and South 93rd Street extended, and also pointed out the surrounding areas and the types of zoning present in the vicinity.

Mr. Feist and Mr. Garen, both of the Planning Commission, spoke on the reasons the Planning Commission recommended denial of this area. It was explained that it was the recommendation of the Planning Commission that no public need for this change in zoning has been demonstrated. The potential damage to the general welfare of the community which such rezoning could cause, far outweighs any benefit which may accrue to the applicant. The Planning Commission recognizes that the community will best be served by integrated shopping developments at specific, well-spaced locations rather than by scattered, strip developments.

A well developed shopping district now exists at So. 84th Street and Pacific Avenue. There is considerable vacant land on its periphery which could be utilized for a logical expansion when needed. Permitting the establishment of a new shopping district only a few blocks away on Pacific Avenue would lead to the traffic congestion generated by uncontrolled strip development. At the same time the excellent residential properties in the vicinity of the proposed commercial zoning would be adversely affected.

While the development pattern along Pacific Avenue within the City Limits is not perfect, its great superiority over the indiscriminate commercial development, which is the result of unrestricted "strip" development, to the south in the County is obvious. The Planning Commission strongly reaffirms its recommendation that the property in question be retained in a residential zoning classification.

Mr. Tollefson, Attorney for the petitioner, said the property in question is located at the site of the Puget Sound Nursery, at 9201 Pacific Avenue. It is bounded on the north by a C-1 Commercial zone and to the south by an unimproved residential tract, except for the existence of a small house entirely to the rear of the tract. Other tracts of land to the south consist of two in number with like residences thereon; next exists a relatively large C-2 Commercial zone to South 96th Street, the city limits. He said the owners of the property sought to have it rezoned in order that there might be erected, thereon, a supermarket. Such proposed zoning would be the highest and best use for the land under the existing circumstances and facts. If this were primarily a residential area, then there might be

NOV 15 1960

some justification for the refusal to rezone for the erection of a supermarket. However, the Planning Commission is apparently attempting to protect a residential area which does not in fact exist. No one is going to build homes next to the C-2 Commercial zone used car lot on the South nor adjacent to the C-1 - C-2 Commercial zone on the north, he added.

Under the common law, under the case decisions of the Supreme Court of the State of Washington and under the decisions of the United States Supreme Court, it is well established that every person has the right to use his property in his own way and for his own purposes, subject only to the restraints necessary to secure the common welfare. There is very little, if any, benefit to the public by restricting the property owners to the residential use of the present ordinance, while, on the other hand, there would be serious injury or loss to the property owner.

He said the comprehensive plan of the City of Tacoma could not conceivably be materially affected by permitting the desired zoning and the building of the supermarket at this point.

Mr. Easterday asked for clarification on the area involved. He asked if the petitioners requested that the entire tract be rezoned to C-1 or just the westerly portion.

Mr. Tollefson explained that the petitioners orally amended their petition at the time of the hearing before the Planning Commission so that only the westerly 300 foot portion of said tract abutting on Pacific Avenue be rezoned to C-1 Commercial. He said the northerly one-half of said tract is already occupied with substantial buildings in which the principal business of the nursery and gift shop is conducted.

Mrs. Price asked if there had been any rezoning of that general area since 1922.

Mr. Buehler said there has been zoning changes since that time.

Mr. Murtland said there was no commercial zoning in 1922, however.

Mr. Buehler answered that the first comprehensive zoning plan was in 1945.

Mrs. Price said, what she was trying to get straight in her mind was, since several of the areas which have been operating as a C-1 or C-2 District have been permitted to be rezoned to conform, "why was this area in question not rezoned so that it could be in a conforming use rather than in a non-conforming use." She said she felt this was being unfair to a few people. She could not see why these people were being denied the privilege of being rezoned to a C-1 District when their property is non-conforming while so many others were allowed this privilege.

Mr. Buehler said that an opinion of the City Attorney has been obtained that the large majority of this property does not have any rights as a non-conforming use since it is used as a horticultural nursery which is a "permitted use" in an "R-1" Family Residential District.

Mayor Hanson said, as he understands it then, it would be inconsistent with planning generally, to follow a policy of automatically granting rezoning to conform to the non-conforming use.

Mr. Tollefson said his clients ask that their non-conforming use property be zoned "C-1 Commercial" inasmuch as there are substantial buildings and the existing use is not to be changed. He said the reason they asked for the westerly half to be included in the rezoning, was to have a continuous use for the next portion which was to be used for building a market. The condition of Pacific Avenue is to be considered, he added, Mr. Tollefson asked, "is the City going to try to force this into 'residential' or is common sense going to be used, and more businesses allowed."

Mrs. Price said it seems a little late to try to salvage this for residential use. The damage has already been done, she added.

Mr. Garen said the residential recommendation doesn't necessarily mean single-family residential. A low-density apartment development is being constructed across the street from the property and this might be more desirable from the developers view point as well as the City's.

Mr. Cvitanich remarked that there seems to be a great deal of disagreement on the matter and felt that further investigation should be made by the Council. Therefore, Mr. Cvitanich moved that action be postponed for one week until November 22nd, for further study on the matter. Seconded by Mr. Porter. Voice vote: Ayes 8; Nays 1, Olson; Absent 0. Motion carried.

Communication from Mr. Robert Evans, president of Allied Arts of Tacoma, Inc. wishes to discuss the advisability of creating a Tacoma Art Commission.

Mayor Hanson that Mr. Evans has requested that he be allowed to appear on this matter at some later date.

RESOLUTIONS:

Resolution No. 16340:

Fixing Monday, December 12, 1960 at 4:00 P.M. as the date for hearing on L I D 4674 for permanent type paving in the area of No. 12th to So. 17th from Proctor to Sprague Streets. 490

It was moved by Mr. Easterday that the Resolution be adopted. Seconded by Mrs. Olsen.

Voice vote was taken on the Resolutions resulting as follows:

Ayes 9; Nays 0; Absent 0.

The Resolution was then declared adopted by the Chairman.

Resolution No. 16341:

Awarding contract to Lige Dickson Co., for L I D 3510 and Imp. 3008-B in the amount of \$107,380.60 and for the supplemental proposal of \$11,117.60 plus sales tax which was determined to be the lowest and best bid.

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

Voice vote was taken on the Resolution resulting as follows:

Ayes 9; Nays 0; Absent 0.

The Resolution was then declared adopted by the Chairman.

Resolution No. 16342:

Accepting certain offers to sell Real property situated within an Urban Renewal Project designated Project No. Wash. R-1. (Center Street Project.)

It was moved by Mr. Cvitanich that the Resolution be adopted. Seconded by Mr. Murtland.

Voice vote was taken on the Resolution resulting as follows:

Ayes 9; Nays 0; Absent 0.

The Resolution was then declared adopted by the Chairman.

NOV 15 1960

Resolution No. 16343:

Amending the City Council Rules to provide that the regular Council meetings be held at 8:00 P.M. on Tuesday of each week, except when a holiday falls on a Tuesday, then the regular meeting of that week shall be held at 8:00 P.M. on the first business day following, and rescinding Resolution No. 16095.

Mr. Rowlands explained that according to the Council rules this Resolution must be held over one week for final action.

FIRST READING OF ORDINANCES:Ordinance No. 16670:

Amending certain sections of the Official Code of the City relating to the Pay and Compensation Plan for the year 1961. (Salary Ordinance) Read by title.

Mr. Rowlands said this particular plan merely reflects the action taken by the City Council during the Budget preparation period. He distributed copies of a Summary of Amendments in the Compensation Ordinance, which, he said, points out the changes being made.

Mr. Ketter, Business Representative of the Civil Service League, said that at the Budget Hearings, the policy of the City towards craft employee wages was discussed. At that time he asked that the City's policy be altered so that those persons being hired for temporary work would be paid union hall scales for temporary work, which is higher than what they are now being paid. It was suggested by the Council that he meet with Mr. Bixel and other staff members in order to give the Council some concrete material to act upon, and that it would again be discussed at the time of the adoption of the compensation plan. While this is first reading of the Ordinance, he would like the Council to consider the matter before final action.

Mr. Rowlands said a meeting could be arranged before the next Council meeting in an attempt to arrive at some decision.

The Ordinance was then placed in order of final reading.

FINAL READING OF ORDINANCES:Ordinance No. 16660:

Granting to the State-Wide Advertising Company the right, privilege and permission to place, construct and maintain benches with advertising thereon at designated locations on the streets and sidewalks in the City of Tacoma. Read by title.

Mr. Porter said there is one amendment he felt should be made and also insertions made in two blank spaces.

Mr. Porter then moved to amend Section 5 of the Ordinance by striking the second sentence beginning with the words "No advertising". Seconded by Mrs. Olson.

Mr. Porter explained the reason for his amendment was that he feels it conflicts with Section 8 inasmuch as the latter section sets up the ratio of benches in commercial and residential areas. Also the approval of the owners of abutting property is required in another section of the Ordinance.

Mr. Bott said when this Ordinance was last discussed he inquired as to who this company was and he understood that this information was to be provided.

Up to the present time no further information has been given, he added.

Voice vote on the amendment was then taken, resulting as follows: Ayes 8; Nays 1; Murtland; Absent 0. Motion carried.

Mr. Murtland spoke against the amendment as he felt the restriction was well pointed out. He thought that control over this type of advertising is very important.

Mrs. Price said that the Section also provides that "No advertising matter or sign whatever shall be placed or maintained on said benches which does not meet with the approval of the City Manager or his representative." That should take care of controlling the advertising to be used, she added.

Mr. Porter moved that Sec. 8 be amended on the 2nd line by inserting the number (20) in the blank space and on the third line inserting the number (1). Seconded by Mr. Cvitanich.

Mr. Porter said speaking on the motion, in the Modesto, California Ordinance their figure is (7) for the commercial areas and (1) for the residential areas. However, he added, in that State they have the right to give an exclusive franchise whereas Tacoma does not have that right. Therefore, he felt there should be a different ratio, which is the reason for his motion.

Mr. Murtland asked for what purpose is this Ordinance being presented. Is the City trying to promote something or are we merely trying to accommodate the people at the bus stops.

Mayor Hanson said the only approach the City can consider, is providing benches for the public.

Mr. Porter said he felt this will accomplish two purposes. The benches will provide a service to the citizens and also revenue for the City.

Voice vote was then taken on the motion to amend resulting as follows: Ayes 8; Nays 1; Murtland; Absent 0. Motion Carried.

Mr. Wilfred Brown, Chairman of the City's Beautification Committee, said they are very much opposed to having these benches with advertising placed on the City's Streets. He said the benches will create a "mardi gras or carnival atmosphere" and will detract from beautification gains being made.

Mr. Porter remarked that in this Ordinance the controls are so stringent that if the benches are not kept up properly they can be removed. In fact it can get to the point where the benches would become the property of the City if they are not maintained in a proper manner.

Mr. Rowlands said that several letters have been sent to Cities asking for information as to revenue and their experience with this type of advertising. This information has not been received as yet but it is hoped it will be available by the next Council meeting, he added.

Mr. Bott moved that this Ordinance be continued indefinitely so that further information can be obtained. He said he was not satisfied with the fact that it might make the City look like a "mardi gras" as pointed out by Mr. Brown. Seconded by Mr. Murtland.

Mr. McCormick explained that postponing the Ordinance indefinitely would automatically kill it. Since the reason for postponing this Ordinance is for further investigation, he would suggest that the Ordinance be postponed for one or two weeks instead of indefinitely.

Mayor Hanson asked if this would be acceptable to Mr. Bott and his second.

Mr. Bott said a postponement of 3 weeks would be acceptable. He then moved that the Ordinance be postponed for 3 weeks. Seconded by Mr. Murtland.

Mr. Bott said in the meantime he would like to have the information he requested previously as to the names of the principals of the firm requesting these benches.

Roll call was then taken on the motion to postpone the Ordinance for 3 weeks resulting as follows: Ayes 3, Nays 6, Cvitanich, Easterday, Olson, Porter, Price and Mayor Hanson; Absent 0. Motion lost.

Mr. Overland, Attorney for the company, said he was in Southern California this summer and noted that these benches are very much appreciated by the citizens. He did not receive the impression that the advertising on these benches adversely affected the beauty of the Cities in any respect. He said he felt that the safeguards in the Ordinance providing for the approval of the City Manager would prevent the "circus" atmosphere mentioned previously. The advertising would be in good taste, he added.

Mr. Cvitanich, speaking on behalf of the Ordinance, mentioned that on page 2 Section 6 it states that "Such persons can veto the placing of the bench by a written request to the City Manager." He said this gives quite a bit of control to the Manager.

Mayor Hanson said he also would like to have more information on this Ordinance before passage. He said he thought it would be very convenient for people waiting for buses to have these benches. However, if this will tend to defeat the purpose of the Beautification Committee, as has been mentioned, he would hesitate to vote for the Ordinance. If the effects are known in other cities perhaps that fear could be alleviated.

Mr. Porter said he felt that this was being magnified into great proportions. The size of the benches are limited to 42 inches height, 30 inches wide and no more than 8 feet long. The Ordinance also says that the space for advertising shall not exceed 75%. He said he cannot see where a small bench will make much difference in appearances when most stores, etc., display signs of all sizes.

Mr. Murtland said he cannot particularly see the Council adopting such an Ordinance. He feels the small advantage that would be realized would be offset by the harm it will do to the appearance of the City.

Mr. Overland then explained that the Company who is seeking this advertising is comprised of two Tacoma Businessmen at present, who are Eugene Reardon and Julio Grassi.

Mr. Bott said there is at present an Ordinance prohibiting merchants from placing signs on the sidewalks, advertising their own business. Here, by the same token, he added, it seems as if the Council is giving some other group a franchise to do that very thing. Who would have precedent over one corner or the other if someone else wants to get into the same business, he asked.

Mr. Porter said he thought that would be up to the City Council to decide, the same as if they would have to decide if someone else wanted to sell gas to the people of Tacoma or any other franchise.

Mr. Steele said he would like to mention that the compensation to be paid to the City as provided for in Section 2 is \$1.25 per bench installed. It would take 500 benches in the City to bring in \$3,000 revenue. He did not think that the \$3,000 would begin to pay for the supervision and cost of maintaining these benches. He thought that more respect and regard should be given to the Beautification Committee.

Mr. Steele said he thought Mr. Bott's motion to continue this for a time was a good suggestion and that more information should be gathered before final action is taken.

Mr. Porter said in answer to Mr. Steele's statements in reference to the cost of maintaining the benches. He said it is not the responsibility of the City. The benches will have to be maintained by the State Wide Advertising Co. subject to the approval of the City Manager or his representative. Also, he said, the City receives the \$1.25 quarterly payment per bench, in addition to the 1% on the gross receipts.

At this time, Mr. Murtland moved that this Ordinance be postponed for one week in order that more information can be obtained. Seconded by Mrs. Price. Voice vote: Ayes 9; Nays 0; Absent 0. Motion carried.

Ordinance No. 16652:

Specifying and adopting a plan for the acquisition, construction and

installation by the City of Off-Street parking facilities and the financing thereof. Read by title and passed.

Roll call was taken on the Ordinance resulting as follows:

Ayes 5; Nays 4, Bott Cvitanich, Easterday and Olson; Absent 0.
The Ordinance was then declared passed by the Chairman.

Ordinance No. 16663:

Amending Section 2.04.1030 of the Official Code of the City relating to electricity and repealing Sec. 2.04.010. Read by title.

Mr. McCormick said on page 1, Section 1, in the third line, the words "effective January 1, 1961" should be inserted. Also, on page 3, Section 2.04.090 on the second line, the words "January 1, 1961" should be inserted.

Mr. Murtland moved to amend the Ordinance by inserting the words "effective January 1, 1960" in Section 1 on page 1 after the word "repealed" and in Section 2.04.090 on page 3 by inserting the words "January 1, 1961" after the word "effective."

Seconded by Mr. Cvitanich. Voice vote : Ayes 9; Nays 0; Absent 0.

Mr. Cvitanich asked if there was anything in the Ordinance in reference to increase in light rates, as he did not have an opportunity to read it in full.

Mr. Ferguson, Light Superintendent, said there was none.

Mr. Bott said this Ordinance had been continued previously for the purpose of allowing an opportunity for anyone desiring to object to points in the Ordinance. He asked if there had been any objections raised.

Mr. Ferguson said there had been one question raised but was certain this had been settled satisfactorily.

Mr. Murtland asked if there had been any publicity given this Ordinance.

Mr. Ferguson said this has been quite extensively advertised.

Mr. Cvitanich asked if it would be at all possible on major issues as this, if more of a program could be planned as to advertising so that everyone would have adequate knowledge of the Ordinance.

Mr. Rowlands said usually the items on the agenda are covered in the local newspaper on Saturday or Sunday before the Council meeting. Occasionally the City does advertise when there is a major issue coming up.

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

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

Ordinance No. 16665:

Amending Sec. 2.15.330 of the Official Code of the City in reference to delivery tickets for Fuel, Oil both liquid and solid. Read by title and passed.

Roll call was taken on the Ordinance resulting as follows:

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

Ordinance No. 16667:

Amending the Official Code of the City relating to zoning by adding a new section known as Sec. 13.06.065 (7) to include property located in the west side of Pearl between the Drive-in-Theater at No. 11th south to the right-of-way

NOV 15 1960

for the future Tacoma Narrows Freeway, in an "R-L-L" Low Density Multiple Family Dwelling District. (Petition of Martin Miller, Jr.) Read by title and passed.

Roll call was taken on the Ordinance resulting as follows:

Ayes 9; Nays 0; Absent 0.

The Ordinance was then declared passed by the Chairman.

Ordinance No. 16668:

Providing for the improvement of L I D 4668 for permanent paving on So. "D" Street from So. 55th to So. 60th and from So. 63rd to So. 64th Street. Read by title.

Mr. Murland asked if there was any reason for the delay of this Ordinance. He noticed the hearing had been held in April.

Mr. Schuster explained that a certain amount of money is set up in the budget for participating in L I D's and sometimes an L I D is set up a few months ahead of time for which there is no participation funds available. Therefore, the Ordinance is not requested until it is certain these funds are available.

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

Ayes 9; Nays 0; Absent 0.

The Ordinance was then declared passed by the Chairman.

Ordinance No. 16669:

Providing for the improvement of L I D 4673 for alley paving in the vicinity of Puget Sound Avenue and No. 21st Street and in the vicinity of 6th Avenue and Ainsworth. Read by title and passed.

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

Ayes 9; Nays 0; Absent 0.

The Ordinance was then declared passed by the Chairman.

UNFINISHED BUSINESS:

The Director of Utilities and Director of Public Works submit the following L I D's for hearing.

L I D 4490 - paving on No. 12th to 15th from Verde to Cheyenne.

L I D 5322 - water mains in No Bennett and Highland from No. 14th to No. 18th Sts.

Mr. Easterday moved that Monday, December 12, 1960 be fixed as the date for hearing on the assessment rolls for L I D 4490 and L I D 5322. Seconded by Mr. Cvitanich. Voice vote on the motion resulted as follows: Ayes 9; Nays 0; Absent 0.

COMMENTS:

Mr. Rowlands said there were some items he wished to discuss with the Council at a Study Session after the meeting.

Mr. Cvitanich asked Mr. Schuster how the Plans were coming along for the Leach Creek Project.

NOV 15 1960

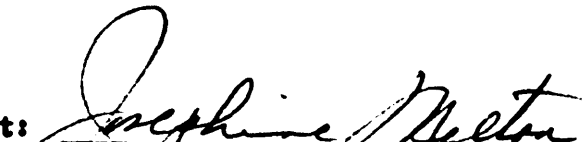
513

Mr. Rowlands said this is one of the items they had planned to discuss with the Council after the regular meeting.

There being no further business to come before the Council, upon motion duly seconded and passed, the meeting adjourned at 9:30 P.M.


Mayor of the City Council

Attest:


City Clerk