

CITY COUNCIL MINUTES

City Council Chambers
Tuesday, March 11, 1969

The meeting was called to order by Mayor Rasmussen at 4 P. M.

Present on roll call 9: Banfield, Bott, Cvitanich, Finnigan, Herrmann, Johnson, Murtland, Zatkovich and Mayor Rasmussen. Absent 0.

The Flag Salute was led by Cvitanich.

No minutes were submitted for approval.

Mr. Alfred N. Anderson, Jr. explained, this was the 50th Anniversary of the American Legion. The State Championship of the American Legion High School Oratorical Contest is to be held on March 12 at Mt. Tahoma High School at 1:15 P. M. He invited the Council and citizens of Tacoma to attend.

Mr. Anderson pointed out that the young people speak a number of times regarding some phase of the Constitution of the United States of America. Mr. Anderson introduced Mr. Robert Chestnut from Lakes High School who is the area champion for this district.

Mr. Chestnut made his presentation to the Council relative to Democratic reform through the Constitution and its law.

Mayor Rasmussen thanked Mr. Chestnut for his fine speech and wished him luck in the coming Contest.

HEARINGS & APPEALS:

a. This is the date set over for hearing on the request of J. F. Crocker for rezoning of the S. W. corner of No. 45th & Pearl St. from an "R-2" to an "R-2-T" District.

Mr. Buehler, Director of Planning, explained that originally the Public Works Dept. had authorized two possible ways for off street parking at the site of this requested rezone. Mr. Crocker had agreed to pave the adjacent alley to the west for access. On March 7th a letter was received from Mr. Crocker, explaining that due to engineering problems and the expense involved, his choice had been made too hastily. He therefore has requested that he be allowed to use the existing driveway with parking stalls facing a curb on the west or alley side. Mr. Buehler said he felt there would be too close a proximity that would be made off of the alley if this were approved.

Mr. Crocker, 3717 No. Frace, petitioner, explained that since the property directly across the street is zoned "C-1" it made his property less than desirable for a residence and he had therefore moved. The property in question is ideally suited for the requested use with interior remodeling, and would provide an attractive 'buffer' zone between the adjacent residential property and the commercial property to the north and the arterial to the east.

Mr. Crocker continued, he would prefer to come in through the existing driveway and the existing slab that is already there onto a parking area. However, if this

were not permissible, he would be required to come in through the alley and he would have to request a postponement until he could arrange to take care of financing that particular area.

Mr. Zatkovich felt this rezone should not be granted because of the buffer aspect as there are residents on the other two corners.

Mr. Cvitanich felt, if a criteria is to be applied to measure these rezones, then it should be applied consistently and equally. He felt this would not be good zoning.

Berniece Lambert, 4325 No. Visscher, property owner, presented a petition and explained that neighboring residents felt if this property is rezoned it would make the area less desirable for residential use.

Mr. Frank Peters, 4338 No. Pearl, felt such a rezone would be against the best interests of the block residents and that a commercial business could very well grow beyond the scope and intent of the City Planning Commission by way of rental office space. He also mentioned that the traffic problems in this area are acute at the present time and would be enhanced by such an establishment.

Mr. Peters wondered if a special-use permit could be obtained to accomplish the petitioner's goal, instead of a rezone.

Dr. Herrmann felt, since the exterior of the house is not to be changed, it would not alter the character of the residential neighborhood. The office will be built in a residence. The Planning Commission had voted unanimously to approve the change, he added.

Mr. Buehler explained, if the Council approves the petitioner's request, he felt that any restrictions must be agreed to before an ordinance is brought to the Council for its final approval, including a performance bond for the construction of the alley before any building permit is issued.

Mr. Johnson moved to concur in the recommendation of the Planning Commission to approve the rezone with specific restrictions, and that an ordinance be drafted approving same. Seconded by Mr. Finnigan. Roll call was taken, resulting as follows: Ayes 5: Banfield, Finnigan, Herrmann, Johnson and Murtland. Nays 4: Bott, Cvitanich, Zatkovich and Mayor Rasmussen. Motion carried.

b. This is the date set for hearing on the request of Wapato Lake Park Development Company for rezoning of the N. E. corner of So. 72nd & Freeway Interstate #5 from an "R-2" to an "R-4-L" PRD District.

A petition with 80 signatures including husband and wives protesting the rezoning and 5 letters in favor of the rezoning was submitted.

Mr. Buehler pointed out on the map the location of the proposed development. He explained that a recommendation had been made to construct this development in two stages. A number of hearings were held on this request and additional stipulations set forth, particularly regarding access streets. The Public Works Dept. had reviewed the program and it was their opinion that the development have only one access road to the property and that it be the southerly location. It was also felt that the traffic volume on Alaska, north of 72nd Street is minimal and it would appear unnecessary to perform any reconstruction of Alaska St.

Mr. Buehler further stated, the site is comprised of several large parcels of vacant land under separate ownerships that have been assembled into a single ownership to provide a reasonable low density development.

Mr. Thomas Healy, 3836 Center St., a partner in the Wapato Lake Development Co. stated they had agreed with the Planning Commission restrictions. They do plan to retain as many of the trees as possible and design the project to compliment the terrain so it will be an asset to the area.

Mr. Johnson asked Mr. Healy if his firm had explored the possibility of a high-rise apartment building which would not require as much property.

Mr. Healy stated such a possibility had been explored and they had found in the Tacoma area with the present cost level and the present rent level, that high rises in this area were not feasible economically.

Mr. Ed Constantini, 418 East 112th St., property owner, explained he had investigated the area in question and felt this plan would not be detrimental to the residential area and it would be a more attractive area than it is in its present state of brush, and would act as a buffer zone between the Freeway and the homes that overlook Alaska St. and Wapato Lake. He recommended that the Council approve the plan to rezone the NE corner of So. 72nd and Freeway Interstate #5.

Mayor Rasmussen asked Mr. Anderson, City Engineer, if the cloverleaf project at 72nd had been decided at the State level.

Mr. Anderson explained that this project is in all probability in hearing or soon will be.

Mr. Cvitanich felt, since the area is composed of strictly single-family dwellings, it should remain an "R-2" District, and the structure should be the Council's primary concern.

Mr. Finnigan felt if children were to be permitted in this development, the traffic problem should be carefully studied.

Mr. Murtland said, if the proposed cloverleaf project is developed by the State of Washington, then the second stage of the plan could not be consummated and the number of apartment units would have to be restricted.

Dr. Joseph Boles, 6855 So. Alaska, spokesman for a number of residents who had submitted a petition against such a rental development in this area, explained they felt it would de-valuate their properties and many problems would be created because the traffic problem would be tripled. The facilities such as schools, playgrounds, etc. are over-crowded now without such a development in the area. He requested that the City Council deny this rezone.

A number of other property owners spoke in opposition to the rezone. They stated they would not object to new single-family dwellings which would be comparable to their dwellings.

Mr. Gordon Johnston, Planning Commission Chairman, explained the commission had voted unanimously for rezoning of the property because they felt it questionable if single-family homes would ever be built on a site next to the Freeway. He reminded the Council that the Commission faces problems such as these on purely a basis of land use. The developer had agreed to strict conditions including postponing the second phase of the project until the State determines the design of the 72nd Street Freeway cloverleaf.

After further discussion, Mr. Johnson moved that the Council overrule the recommendation of the Planning Commission and deny this rezone request. Seconded by Mr. Finnigan. Voice vote was taken, resulting as follows: Ayes 8: Banfield, Bott, Cvitanich, Finnigan, Johnson, Murtland, Zatkovich and Mayor Rasmussen. Nays 1: Herrmann. Absent 0. Motion carried.

c. The City Planning Commission recommending denial of the petition submitted by Fred and Stan Sepic for rezoning of the S. W. corner of So. 48th & Oakes Sts.

The last day to file an appeal was March 3rd and no appeal was filed.

Dr. Herrmann moved to concur in the recommendation of the Planning Commission to deny the above rezone. Seconded by Mr. Cvitanich. Voice vote taken. Motion was unanimously carried.

City Council Minutes - Page 4 - March 11, 1969

PETITIONS:

a. Forrester Realty & Mortgage Co., requesting rezoning of the N. E. corner of East 36th & B Sts. from an "R-3" to an "R-4-L" PRD District.

b. The Conifer Company requesting rezoning of the N. E. corner of So. 19th and Tyler from an "R-2" to an "R-4-PRD" District.

Referred to the Planning Commission.

Mr. Cvitanich stated that Mr. Buehler, Planning Director, had stated that the staff is continuing to evaluate information relative to "R-4-L-PRD" Districts. He asked that Mr. Buehler submit a report, so the Council would know the real need in the community for this type of development.

COMMUNICATIONS:

a. Reverend J. A. Boles, Co-Chairman, Steering Committee of the Tacoma Urban Coalition extending a special invitation to the Mayor and Council members to attend a luncheon at noon, Monday, March 17th in the Crystal Room of the Winthrop Hotel.

Mayor Rasmussen asked if the Council wished this meeting to constitute the study session for next Monday.

Mayor Rasmussen stated, since a number of Councilmen have stated they would be attending this luncheon, the study session would be cancelled.

b. Jay R. Hendler, Program Chairman of the Department of Architecture, Washington State University, inviting the City Council to attend their conference this Spring to be held at Lake Couer d'Alene, Idaho at the North Shore Motor Hotel and Convention Center.

Placed on file.

c. Nels B. Nelson, Jr. requesting information concerning the property at 9th and A Sts. where the fire station stands, whether the property can be acquired and also the appraised value of the property.

Mayor Rasmussen explained this request is the fourth application that has been forwarded to him in regard to purchasing the old fire station.

Mrs. Banfield asked that a report be made relative to the ownership of this property.

Mayor Rasmussen asked that the Legal Dept. submit an opinion relative to the ownership of the property.

Mr. Hamilton, Acting City Attorney, explained that sometime ago a title report was ordered and the determination of the Title Company was that until such time title action was brought into court, it could not be determined who owned the property.

Mr. Cvitanich requested that a resolution be drafted for next week, leasing the property to the Arts Commission on a month to month basis.

Mr. Rowlands, City Manager, urged that the City retain control of the property until the question is resolved as to whether a projected downtown expressway will be routed through this area. He also suggested that parking meters could be installed for six months.

Mayor Rasmussen asked that Mr. Hamilton submit the letter from the Title Company to the Council with the resolution.

d. Lyle Lemley former City Treasurer & former City Controller advising of the City Commissioner's and City Council's policy relative to Charitable Institutions when the B & O tax and license Ordinance went into effect.

Mayor Rasmussen requested that Mr. Lemley's letter be read by the City Clerk which explained his position when the B & O tax ordinance was passed a number of years ago.

Mr. Clay Patterson, 629 St. Helen, spoke to the Council regarding Mr. Lemley's letter and noted he had again checked the 1951 Council minutes and found no reference to the Council's making any recommendations regarding the exemption of the B & O tax for the Salvation Army, Goodwill Industries, Y. M. C. A. and Society of St. Vincent DePaul. Mr. Patterson asked that the letter received by him from James R. Stanford, Assistant Director of the State of Wash., Dept. of Revenue including the General Administrative Provisions, 82.32.050, deficient and delinquent payment-penalties and interest, be read for the record.

Mayor Rasmussen requested the letter and accompanying copy of Section 82.32.050 be read, which is hereto attached to the minutes.

Mr. Patterson further explained, it was not the policy of the City Council to exempt the B & O tax and felt that someone else had done so without the Council's recommendation. He also mentioned that Mr. Rowlands had never notified the Council relative to these taxes until Mr. McLennan, Director of Tax & License, through diligent effort brought the offenders before this City Council for a hearing. He felt some changes should be made in this regard.

Mr. Bott informed Mr. Patterson that the Council knew of this policy which was being carried out and he felt that law must be tempered with justice and justice tempered with mercy.

Mayor Rasmussen asked that Mr. Lemley's letter be placed on file.

RESOLUTIONS:

VERBATIM REQUESTED BY MAYOR RASMUSSEN

Resolution No. 20085 (postponed from the meeting of March 4, 1969)

Setting forth the business & occupational tax liability for the Salvation Army, Goodwill Industries, Y. M. C. A. and Society of St. Vincent DePaul commencing with the date of the passage of the taxing ordinance or the date any of said organizations commenced doing business within the City of Tacoma.

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

Mrs. Banfield: Mr. Mayor, I would like at this time to amend this particular resolution to comply with the State code RCW 82.32.050 which also complies with RCW 6.68 which is the City code. Is that not right, Mr. Hamilton.

Mr. Cvitanich: Second.

Mayor Rasmussen: The amendment has been moved and seconded, Mrs. Banfield is asking if this can be amended; that would in effect put the four-year statute of limitations in.

Mr. Hamilton: I presume that is what you have in mind, Mrs. Banfield, and that may be done pursuant to 6.68.370 of the Official Code of the City of Tacoma, where in the wording of the statute of limitations is identical with that contained in the State statute. I would suggest that the reference be to the City Code, however, rather than the State statute because the ordinance of the City is the thing that governs this particular problem.

City Council Minutes - Page 6 - March 11, 1969

Mayor Rasmussen: Is that agreeable, Mrs. Banfield.

Mrs. Banfield: That's fine, Mr. Hamilton.

Mayor Rasmussen: The City ordinance is identical with---

Mrs. Banfield: I would like to do a little more talking, if I may.

Mr. Cvitanich: Well, if I may, on page 18 of the opinion that Mr. Hamilton gave us last week, the fourth paragraph down, covers the four-year statute of limitation, which is a reference point for the Council.

Mayor Rasmussen: Mrs. Banfield has the floor.

Mrs. Banfield: Mr. Mayor, after reading this, it was my determination for making an amendment to my resolution.

Mayor Rasmussen: What are you referring to, Mrs. Banfield. The City Attorney's legal opinion.

Mrs. Banfield: Yes, page 18. I would like to say also, Mr. Mayor, I received a note from a senior citizen; a citizen who is retired; one whose husband was in the Army, I believe; retired on a pension. She has been dunned for a matter of taxes in the City of Tacoma and I would, at this time, like to read her letter; also the letter that the City of Tacoma sent her, if I may, please.

"Dear Mrs. Banfield: I am sending you this dun from the City Attorney's office because I feel that if they can demand payment from a man who has served thirty years defending his country, then surely this same law should apply to everyone. I do mean all institutions and businesses that have been avoiding paying their just dues and taxes. As you know, citizens residing in Tacoma Housing Authority homes are exempt from bus tax, so although we are buying our home on approximately the same amount of income, we are still getting billed. Isn't this some form of discrimination. Besides I have written on each and every money order, that this transit tax would be paid when the City of Tacoma has a true audit. I'm not writing this for you to plead my case, but I do most definitely say that there are more than four cases of discrimination in paying back taxes"

And this was the note that was sent to her for the amount of \$16.50. "Dear Sir: It has been called to my attention by the Customer Service Manager of the Dept. of Public Utilities of the City of Tacoma, that you are delinquent in the payment of your transit tax in the sum of \$16.50. I am sure your failure to pay this tax is due to an inadvertent oversight on your part. State law requires the cities to collect all taxes. Failure to collect taxes would be a violation of a City official's duty which he has to both the City and the State. I therefore, must respectfully request that you make complete and full payment of the above mentioned amount to the City of Tacoma. Failure to so pay this will result in litigation being commenced to collect this amount, and if you have any questions feel free to contact me at PU 3-3311, Ext. 305."

Now, this is only a matter of \$16.50, it isn't B & O tax, that's true, but it would seem to me that if we are sending this out to citizens in the City of Tacoma, that have to pay their taxes or they go after the, then, it would seem to me, that these business men are liable and should pay accordingly. Thank you.

Mr. Murtland: Mr. Mayor, I demand the previous question.

Mayor Rasmussen: Mr. Murtland, you don't have the floor for that motion, Mr. Murtland; Mr. Cvitanich yielded it to you and he has the right to claim the floor back.

City Council Minutes - Page 7 - March 11, 1969

Mr. Murtland: After Mr. Cvitanich, then.

Mr. Cvitanich: Mr. Mayor, I would also like to draw the Council's attention to paragraph one on Page 19 of the City Attorney's opinion. Mrs. Melton would you read paragraph one, thank you.

Mrs. Melton: Page 19, first paragraph: We are further of the opinion, for what it is worth, that the alternative resting on the soundest legal principles would be the alternative imposing tax liability up to the time authorized by the four-year statute of limitations contained in our ordinance.

Mr. Cvitanich: Mr. Mayor, continuing that, the reason I also had that read was that it would substantiate Mrs. Banfield's amendment and I thought, perhaps, we could concur unanimously on this.

Mayor Rasmussen: The Mayor would like to speak to the amendment. Page 19, that the City Clerk just read from is the considered judgment of our legal staff. When they say, for what it is worth, that the alternative resting on the soundest legal principles would be the alternative imposing tax liability up to the time authorized by the four-year statute of limitations; and further, quoting from our City Attorney's opinion; "Were the Council to adopt such a position, we are of the opinion that any court which may review its decision would be hard-pressed to find that its determination was arbitrary, capricious or wholly without a sound and just basis.

Now, I would like to point out that we are not taxing any charitable effort. If the Council imposes the tax, members of the present Council have never voted for this tax measure. The tax measure was voted and passed by previous Councils, and this Council has no right to say, we will not enforce a law that was passed by a previous Council. This is, of course, within the determination of the courts if any taxpayer wishes to challenge it. But the tax is not being imposed on the charitable portion of any organization. I have had two or three letters come in when the people say, well, what are you going to do, tax my donation or a charitable organization. The answer is no, the tax is only imposed on that portion of the organization that is engaged in business; and it is a very nominal tax rate, one-tenth of one percent and is applied equally across the board. Some Councilmen have said, well, we are going to exempt certain charitable organizations, but the Internal Revenue Service and the State Tax Commission, all other cities that have the tax, same law, and its pretty uniform all over, have found that you just cannot exempt some organizations and tax others. That you have to tax them very lightly, across the board, equally.

So, that's why I want it made clear, that any tax that is imposed by this Council would not be on the charitable, that's separate; any donations that are received, any donations that are given away, there is not a tax.

There is a tax in the Value Store in South Tacoma that's run for, I think, the Dyslin's Boys Ranch--what is the name of that store.

Mr. Bott: Value Village.

Mayor Rasmussen: Value Village in South Tacoma which sells; people make donations and they sell the merchandise. There they impose the B & O tax and the sales tax which is collectible and has to be paid to the State, and we have nothing to say about it. And the Salvation Army, the sales tax is imposed when you buy anything from the Salvation Army, and the same with the B & O tax. And it all goes on the same form. We have the Goodwill which sells products and they collect the sales tax and would be collecting the B & O tax.

The unfortunate part is, that the past administrations have never listened to their City Attorney's opinion. I would call your attention to the following resolutions, and I would not have supported the first resolution of Mrs. Banfield's,

which would say that we would go back for the full number of years to 1951 because this would be a burden that would not be fair. They have, it is true, not paid the tax, but it is also true that our department have not made any attempt to collect the tax, so we were equally deficient and delinquent in our efforts. And, I don't think we should burden the organizations with our own deficiency.

But I call your attention to the two following resolutions. We have one here by Mr. Johnson where he indicates that the tax liability for the Salvation Army should be \$17.94; he indicates for the Goodwill the tax should be \$269.74; he indicates for the Young Men's Christian Association that the tax should be \$110.80; and he indicates for the St. Vincent DePaul, the tax should be \$14.53. I don't know how he arrived at that determination and I'm sure he can explain it.

But, we have another resolution, which is proposed by Bott and Herrmann, and in this it proposes the liability for the Salvation Army shall be \$10.00, the liability for the Goodwill Industries shall be \$10.00; the liability for the Young Men's Christian Association shall be \$77.53 and the liability for the Society of St. Vincent DePaul shall be \$10.00. Directly contradictory to the figures in the following resolution. So it is very difficult to see how they arrived at that.

Mr. Bott: I suppose there was collusion, too.

Mayor Rasmussen: No, I didn't say there was collusion, but what I think, is this. That if this Council---

Mr. Murtland: Question, Mr. Mayor. One is on the taxes and the other is on the licenses, I believe, it is not, Sir. These are two different ordinances, one is on taxes and one is on the licenses.

Mayor Rasmussen: That's right, they are two different ordinances proposed for different people.

Mr. Murtland: But different amounts. That's the reason the amounts are different, Mr. Mayor.

Mayor Rasmussen: Mr. Murtland, I didn't think I had given you the floor.

Mr. Murtland: I thought you might want to make a correction.

Mayor Rasmussen: Under the Murtland rules you should have requested from the Chair, permission to speak. Thank you, Mr. Murtland.

Mayor Rasmussen: But, what I am suggesting to the members of the Council and what the Mayor is going to do; not in any effort to curry favor with anybody, but only in an effort to be fair; is that vote for this amendment as proposed in the ordinance by Mrs. Banfield and set the statute of limitations at only four years; the collection of the taxes will not go back to 1951 and then we'll leave it up to the department which has all the experts and the knowledge and they may make the determination of the tax in the proper manner; and I would remind this Council that the law has been in effect and should be enforced for a reasonable period of time. And, it will not be a burden; I think that the amount under the four year statute of limitations would be a very nominal amount. I'd like to ask Mr. McLennan; this would be a very small amount, using the four-year statute of limitations, Mr. McLennan.

Mr. McLennan: Mr. Mayor and members of the Council, I have broken this thing up

City Council Minutes - Page 9 - March 11, 1969

on a summary schedule only, involving the four years plus the current year. And so we will be talking about the years 1964 through 1968. And the amount of money as far as the, if this is to be broken up this way, the tax would amount, including penalties would amount to almost \$6,000; and the general licenses, including penalties would amount to about \$4500. The total would amount to about \$10,500.00 on a four year-plus the current year basis.

Mayor Rasmussen: On all four organizations.

Mr. McLennan: On all four organizations, Yes, Sir.

Mayor Rasmussen: This is the position that is recommended by our City Attorney who is responsible to give us the best legal advise. I'll repeat again, were the Council to adopt such a position, we are of the opinion that any court which may review its decision would be hard-pressed to find that its determination was arbitrary, capricious or wholly without a sound and just basis. So, this would be my recommendation to the Council, and that we adopt this amendment.

Mr. Bott: Mr. Mayor, I'm glad to hear you say that you have consideration for these organizations and you think that they should be treated fairly, because this is the very reason that we go back to this short period of time, because this is the time after which they were notified officially from the City that they were subjected to these penalties as to these considered classifications.

Before that, according to our City Attorney, the rule of estoppel, is that correct Mr. Hamilton, that you speak of, there was reasonable cause to believe they weren't subjected to this, then they were at no time asked for payment on it, and necessarily, if you weren't billed for anything you wouldn't think you had to pay for it. And so, our resolution No. 20083 goes back to the time they were notified, not back to four years. And you also quoted the fact that the court could find no reasonable excuse to think that we were acting capriciously if we went back to four years; but, if by the same token it doesn't say that the court would find that we were acting capriciously if we only went back to the time they were notified of their obligation. That's the reason for the difference. I'm glad that you want to play fair.

Mayor Rasmussen: Mr. Bott, I might say that you were the one that said you knew of this since 1959, and you also quoted--

Mr. Bott: Not 1959, but the time I have been on the Council.

Mayor Rasmussen: Your statement was that you knew of it in 1959.

Mr. Bott: It was not, I did not say that.

Mayor Rasmussen: You also, Mr. Bott, voted for the law that was passed in 1965, that shows on the roll call.

Mr. Bott: I said, I was aware of the policy and I assume and I am under the impression that other Councilmen were too. And I said, that Mr. Rowlands had not kept that information from us. That's a fact.

Mr. Cvitanich: Mr. Bott can speak for himself, when he refers to other members of the Council. As far as I'm concerned, my liability rests with 1965 when the ordinance was amended; prior to that time, what transpired, I do not know. I assumed that it was progressing like it should have been, but my only responsibility is from 1965 to date.

Mr. Bott: You didn't know anything about it.

Mr. Cvitanich: No, I did not.

Mr. Murtland: Mr. Mayor, I was just going to ask for the question on the amendment so that it can be voted on.

Mr. Zatkovich: Well, from the time this first came before the Council, my feeling was that I didn't want to create any hardship on these organizations even though they have been getting away with something for years, so to speak. And that's the reason why I asked at one point, what the statute of limitations was. I'm still going to stand by that. The very fact that these organizations have been getting away with this, there is no reason why they shouldn't pay. In other words, in a sense, ignorance is no excuse. To go a little further, during the arguments, some attorneys said that if they had to pay, they would probably take it to court. This was my understanding, they would probably take it to court if they had to pay from now on.

So, if we were to excuse them all at this point, would they still go to court or would they be satisfied. If they're satisfied, then in a sense, they are admitting they had to pay all along; and I might also refresh your memory, one of these organizations knew all along they were subjected to this tax, and were willing to pay, however, they did not want to go all the way back. In other words, they pleaded for perhaps, a little bit of their pleading for their organization as they would for the others. So I feel we are not out of line at all by referring to the City Attorney's staff for their recommendation of the statute of limitations. And they take a pretty strong stand in their feeling; they also explain why, if it was taken to court. So I'm going to go along with that, the statute of limitations of four years and I think that should be equitable enough to everyone.

Mr. Murtland: Call for the question, Mr. Mayor.

Mayor Rasmussen: Do you wish to address the Council on the amendment or on the resolution, as amended.

Mr. Don Nicholson: I would like to address the Council, both the amendment and resolution.

Mayor Rasmussen: All right, you have the floor.

Mr. Nicholson: My name is Don Nicholson. I reside at 6735 So. Mason. Your Honor, you have before you a resolution and amendment thereto. Now, we have to recognize in this present situation that the Council is sitting in a quasi judicial capacity and position. Now, you heard me a while ago challenge two of the Councilmen for a conflict of interest. To continue with this resolution and amendment before you and permit these two men, under the present conditions where they definitely have an established conflict of interest, would seem to me that it is entirely out of order, its not good ethics--and I have the evidence in my pocket to prove---

Dr. Herrmann: Point of order.

Mayor Rasmussen: State your point of order, Dr. Herrmann.

Dr. Herrmann: Well, I don't know who he is referring to, but the matter of conflict of interest isn't before us. The resolution and the amendment to the resolution are the things we're concerned with. We have a ruling and we've accepted the ruling

City Council Minutes - Page 11 - March 11, 1969

and you've accepted the ruling from our Legal Department with reference to the four years and this can't be questioned and so on. We had a ruling two weeks ago, may be it was before that, about whether a conflict of interest didn't in fact exist, and I think if Mr. Hamilton's authority is good in one instance, we should accept it in the other. And, I'm certain he's more qualified to discuss the conflict of interest than the present speaker. In any event, this is not the matter that is before the Council at this time.

Mr. Nicholson: May I answer that, Mr. Mayor.

Mayor Rasmussen: No, I would rule, Dr. Herrmann that your point of order is not well taken for these reasons; any citizen has the right to challenge the City Council on their conflict of interest, and at the time that that challenge is made, we will ask an opinion from our City Attorney. You had before you an opinion from the City Attorney, that was in your file there, relating to conflict of interest. He's well prepared to answer the question.

Mr. Nicholson: May I proceed, Mayor.

Mayor Rasmussen: Shorten it up then. State the Councilmen you feel do not have the right to vote.

Mr. Nicholson: I would guess that the City Attorney, as much as I admire him, and he is an able, astute attorney, but you have to remember that the capacity in which this Council is presently setting. Any decision that you may arrive at in this matter, the City Attorney is going to be duty bound to defend that Council's decision, and as a consequence as far as a conflict of interest is concerned, I do not believe the City Attorney is capable of taking an objective viewpoint on this matter.

Mayor Rasmussen: Mr. Nicholson, did you name the Councilmen that have a conflict of interest.

Mr. Nicholson: I did not Sir, but I would be glad to do so.

Mayor Rasmussen: Let me ask, do you have information the Council should have. Mr. Murtland is a member of the Board of the Goodwill Industries, he's admitted it.

Mr. Nicholson: That is right. Mr. Murtland is, not only a member of the Board of the Directors of Goodwill Industries, but he is a constitutional member, which seems to be a special honor that he is picked out for. I have the evidence right here in my pocket if you want to look at it. Further, I would be delighted to ask a few questions of Mr. Murtland. If he doesn't want to be questioned, if he wants to take the fifth amendment, before I would start, why you'll ---

Mayor Rasmussen: Mr. Murtland is a member, a constitutional member according to the--

Mr. Nicholson: He apparently made one statement here why, he was rather hazy in his memory as to whether he had ever did say legal work for Goodwill Industries and his memory on that was not too good, the time he was asked that question. But further, in the investigation, he probably owns some kind of a share in Goodwill industries, and he has---

Mr. Murtland: I don't know, tell me about it.

Mr. Nicholson: Well, this comes from a filing that was made at , in the office of

the Secretary of State which, you made the filing by the way, because it is on your stationery.

Mayor Rasmussen: What other Councilman is involved in a conflict of interest.

Mr. Nicholson: Councilman Bott.

Mr. Bott: Well.

Mr. Nicholson: Councilman Bott is a member of the Dyslin's Boys Ranch, and he apparently, while on the Board made a contract with a private, profit making corporation who is now in business in South Tacoma; I have also all of the details from the Secretary of State that concerns them. Now, he undoubtedly at the time the contract was made with these people, he was present and must have concurred in it.

Mr. Bott: You are assuring something, there now.

Mr. Nicholson: I'm not assuming anything; I've got the evidence right in there and it was all checked out. I'm not assuming anything.

Mayor Rasmussen: Have you concluded, Mr. Nicholson.

Mr. Nicholson: I am if--

Mayor Rasmussen: Mr. Hamilton, you've heard the question of Mr. Nicholson, that he feels that because of being on the Board of the organization which may or not be subject to tax, it would be improper for the Councilman to vote on the issue. Could you, I know that the Council has not had the time to digest this very comprehensive brief that you have here, I would ask you this. I note on Page 3 of the opinion rendered on Sept. 12, 1961, it says, "I think it is appropriate to make one additional comment and that is that you are precluded from representing any client who has any matter pending before the Planning Commission." This was in the case of a member of the Planning Commission. How would that relate, where a member of the Council is on the Board of an organization. Would it relate the same way that a member of the Planning Commission could not represent a client in a matter pending.

Mr. Hamilton: Well, Mr. Mayor, you may recall, you and members of the Council, that in 1961 the State Legislature adopted the Code of Ethics for Municipal Officers' contract interests, and I believe I previously furnished this to you. In any event, RCW 42.23.040 relates to Remote interests, and provides as follows: "A municipal officer shall not be deemed to be interested in a contract within the meaning of RCW 42.23.030, if he has only a remote interest in the contract and if the fact and extent of such interest is disclosed to the governing body of the municipality of which he is an officer and noted in the official minutes or similar records of the municipality prior to the formation of the contract, and thereafter the governing body authorizes, approves or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer having the remote interest. As used in this section "remote interest" means: (1) That of a nonsalaried officer of a nonprofit corporation, which I believe is Mr. Murtland's capacity.

Now, insofar as the challenge to Mr. Bott is concerned, I don't quite understand where there is a conflict there. There is nothing involving the Jesse Dyslin's Boys Ranch or whatever the organization is, before the Council at the present time.

City Council Minutes - Page 13 - March 11, 1969

It may well be that at a future time, there may be a similar proceedings, but there is certainly no interest of that organization which the Council is acting upon at the present time, and I don't see the conflict there, Mr. Mayor.

Mayor Rasmussen: Thank you, Mr. Hamilton. Your opinion would then indicate that those members where the question was involved would not be entitled to vote. And, I think the State Attorney General also rendered the same thing in the case of Seattle's Mayor, where the person on the Council would not be able to vote for himself for that position.

Mr. Johnson: Is that what he said, Mr. Mayor.

Mayor Rasmussen: I'm asking for a clarification.

Mr. Hamilton: Insofar as Mr. Bott is concerned, I see no prohibition against his entering into the discussion or voting to the fullest. Insofar as Mr. Murtland is concerned, he may participate in having only a 'remote interest', with the one exception that he may vote, but the vote of the membership has to be sufficient without counting his particular vote.

Mr. Bott: Since my name was brought up, we've reached a new low now in Council critics. Yes, I'm a member of the Dyslin's Boys Board Ranch, and I have been since 1938 and I'm so proud of it. This is a home for boys from broken homes and it is sustained by the U. G. N., and they now have a store out in South Tacoma. And, I'll do a little advertising now, since I have the opportunity; it's called Value Village, where you can donate your cast-offs and they are sold, and the proceeds of the sale go to the Jesse Dyslin's Boys Ranch.

I'm very, very proud of that, but I see where it has no connection with this whatsoever, because we are talking about the Goodwill, the Salvation Army, St. Vincent DePaul and Y. M. C.A. So, this is just another example of just harassment that we get from some of these perennial Council critics, who have been defeated in previous elections, that are trying to make this a campaign ground. And I thank him for the compliment in letting the people know that I belong to this organization of which I am very, very proud of. Anytime I can help some boys from broken homes, I'll be happy, even if it constitutes a conflict of interest in his mind or anybody else's.

Mr. Nicholson: May I answer the gentleman. I would like to point out that the organization that he is so highly recommending is a private business, and right at this very moment they are in violation of the City codes of the State and of the City of Tacoma. And, Mr. Bott as a member of the Board of Directors of Dyslin's Boys Ranch entered into a contract with these very people. And this is a matter of record, and I do not appreciate the Councilman's remarks.

Mr. Bott: This organization is not in violation, they pay their B & O tax, they pay the sales tax. They have paid that since the beginning of their business. There is another point, I see, this gentleman is trying to bring up that is questionable, but there is no proceeding presently against this organization.

Mr. Johnson: I demand the previous question.

Mayor Rasmussen: The previous question has been demanded.

Mr. Patterson: May I address the Council.

Mayor Rasmussen: Not until we decide the question of the previous question.

City Council Minutes - Page 14 - March 11, 1969

Mr. Patterson: Thank you.

Mayor Rasmussen: The question is, shall the demand for the previous question be sustained. All those in favor say Aye. Opposed No. The Ayes have it. The demand for the previous question is sustained. The question before the body,-

Mr. Hamilton: Mr. Mayor, may I make one correction. In hurriedly reading this over, I misconstrued the statute. The remote interest, of course, as I indicated previously, refers only to interest in contracts which a municipality may have.

No, the Council itself has the authority and right to determine whether or not a Council member may or may not be, in a conflict of interest insofar as other matters are concerned. And I apologize for my error on the thing, but it does relate only to contracts.

Mayor Rasmussen: And at that time, Mr. Hamilton, does that preclude the Councilmen from voting on the issue, on the question of conflict of interest.

Mr. Hamilton: Even on the contracts, Mr. Mayor, a Councilman is not precluded from voting on the issue.

Mayor Rasmussen: The question is on the adoption of the amendment as proposed by Mrs. Banfield. Roll call--

Mr. Hamilton: Mr. Mayor, I wonder if I might make one other suggestion insofar as the amendment is concerned. Now, this in fact, I think that it would be advisable to correct some of the Whereas recitations in the resolution should the Council see fit to adopt this particular resolution as amended. Otherwise, the recitals will be inconsistent with the body of the resolution.

Mayor Rasmussen: I think that was the intent of the sponsor of the amendment. That the resolution be adjusted to read just for the four-year statute of limitations, as following your suggestion in your legal brief.

Mr. Hamilton: May I suggest then, that in Paragraph 2 on the first page, after the word organizations, 'were advised informally' be added, and strike the words 'new or should have known'. So that it will read, 'That said organizations were advised informally at the inception of the ordinance in the year 1951, and etc., that they were not subject to the taxing provisions of the ordinances of the City of Tacoma. The word 'not' be inserted on the third line after the words 'were'; so it will read, 'that they were not subject.

Mayor Rasmussen: Restate that again, Mr. Hamilton.

Mr. Hamilton: As I would suggest. "That said organizations were advised informally at the inception of the ordinance in the year 1951, and during all effective dates thereafter, including the amendment of 1965, that they were not subject to the taxing provisions of the ordinances of the City of Tacoma.

And then, Mr. Mayor and Council with reference to Paragraph 3, 'That said charitable organizations have, I would suggest striking the 'not', so that it will read, 'That said charitable organizations have established a defense to the imposition of taxes and particularly, have not established by a preponderance of the evidence submitted that they are entitled to the benefits of the doctrine of equitable estoppel.'

Then I would suggest that Paragraph 4 be stricken.

City Council Minutes - Page 15 - March 11, 1969

Mrs. Banfield: May I ask why.

Mr. Hamilton: You have already said that in the first paragraph, that no specific exemption exists.

Mrs. Banfield: Oh, all right.

Mr. Hamilton: And, then at the top of Page 2, if I might make a further suggestion, after the words 'date of' insert 'Jan. 1, 1964, all as provided by 6.68.370 of the official code of the City of Tacoma.

Mr. Murtland: Wouldn't that be Jan. 1, 1965, I wonder.

Mr. Hamilton: Mr. McLennan tells me its 1964, plus the current year.

Mayor Rasmussen: Does the Council understand the proposed changes as suggested by Mr. Hamilton, City Attorney.

Mr. Cvitanich: Mr. Mayor, I have a question in terms of it being the second---

Mr. Murtland: I think the previous question has been called for.

Mayor Rasmussen: You are quite right and the demand was sustained and our City Attorney has suggested these changes to agree with the opinion of the Council. The question now, is on the adoption of the amendment as suggested by our City Attorney and offered by Mrs. Banfield, seconded by Mr. Cvitanich. Roll call: Ayes 9: Banfield, Bott, Cvitanich, Finnigan, Herrmann, Johnson, Murtland, Zatkovich and Mayor Rasmussen. Nays 0: Absent 0.

Mayor Rasmussen: The amendment is adopted and you now have before you the Resolution as amended, and the appropriate wording will be put in by our City Attorney. Do you wish to speak on the resolution, Mr. Patterson. You have the floor.

Mr. Patterson: Mr. Mayor, I wanted to speak for just a moment to clarify a statement that was just made. I think that we would certainly be remiss if we let certain irregularities creep into our minutes. One of the Councilman just made the remark that he was going to do a bit of advertising. Let me say this, the store that is in question happens to be the Salvage Management Corporation with headquarters in Burlingame, Calif. It has no connection with Dyslin's Boys Ranch whatsoever. Dyslin's Boys Ranch by contract, and the gentleman that stated they operated a store, said that the Ranch operated the store. They have an existing contract whereby Salvage Management Corporation --

Mr. Murtland: Point of order, Mr. Mayor.

Mayor Ramussen: State your point of order.

Mr. Murtland: Point of order, is that I do not believe that he is talking to the particular resolution. I don't believe it has anything to do with the subject matter of the resolution.

Mr. Patterson: I'm trying to clarify, Mr. Mayor, if you please, an untruth that has been uttered by one of the Councilman here and I certainly want to clear it up because I don't want it to appear in the minutes.

City Council Minutes - Page 16 - March 11, 1969

Mr. Murtland: Mr. Mayor, it is irrelevant, immaterial to the resolution that is before us.

Mayor Rasmussen: I think your point of order is well taken, and I think Mr. Patterson, you've cleared the matter up in regards to that particular organization. Thank you, Mr. Patterson.

Mr. Murtland: I demand the previous question.

Mayor Rasmussen: The previous question has been demanded. The question before the Council is, shall the demand for the previous question be sustained. All those in favor of the previous question say Aye; opposed No; The Ayes have it, and the previous question is sustained.

You now have before you Resolution 20085 as amended. Roll call: Ayes 4: Banfield, Cvitanich, Zatkovich and Mayor Rasmussen. Nays 5: Bott, Finnigan, Herrmann, Johnson and Murtland. Absent 0. What is the tally.

Mrs. Melton: Four Ayes and five Nays.

Mayor Rasmussen: Resolution 20085, as amended, has failed by a vote of four to five.

Mayor Rasmussen: Further resolutions.

Mr. Bott: Mr. Mayor.

Mayor Rasmussen: There is nothing before the body, Mr. Bott.

Mr. Bott: There will be in a minute if you give me the floor.

Mayor Rasmussen: Resolution--further resolutions.

Mr. Bott: I demand the right to defend my, -

Mr. Cvitanich: Point of order, Mr. Mayor.

Mayor Rasmussen: State your point of order.

Mr. Cvitanich: There is nothing before us but another resolution. Mr. Patterson wasn't extended the opportunity to present his point of view, so why should Mr. Bott.

Mayor Rasmussen: The Clerk will read.

Mr. Bott: You mean, he can make a statement that I said something, I can't correct it.

Mayor Rasmussen: Mr. Bott, you don't have the floor.

Mr. Bott: know I don't, but then---

Mayor Rasmussen: The Clerk will read the resolution.

Mr. Murtland: Mr. Mayor, I demand the previous question.

City Council Minutes - Page 17 - March 11, 1969

Mayor Rasmussen: The question before the house is, will the previous question be sustained, a demand for the previous question. All those in favor say Aye, opposed No. The demand for the previous question is sustained. What did you demand the previous question on.

Mr. Murtland: This particular resolution.

Mayor Rasmussen: There is nothing before the body at the present time.

Mr. Murtland: Very well.

Mayor Rasmussen: The Clerk will read.

Resolution No. 20083 (postponed from the meeting of March 4, 1969)

Setting forth the findings of the City Council that license fees for The Salvation Army, Goodwill Industries, Y. M. C. A. and Society of St. Vincent DePaul should not be imposed until the year 1968.

Mr. Finnigan: Move the adoption, Mr. Mayor.

Mr. Johnson: Second the motion.

Mayor Rasmussen: Moved by Councilman Finnigan, seconded by Councilman Johnson that Resolution 20083 be adopted.

Mr. Zatkovich: Mr. Mayor, I might just save a little time. I think that for those on the five to four, we might as well go on down the line like this, without any further arguments because you know where it is going to wind up. And, I think we'd save a lot of time. The lines are drawn, it is quite obvious to me, how it is going to wind up, so I would say; let's just go on down the line and forget about any more arguments on this.

Mr. Cvitanich: I don't agree with my colleague. If you have a point of view, I think you ought to hang in there and hang tough, Tony. So it's cut and dried five to four, I don't know how the majority of five can sleep with themselves tonight, quite frankly.

On the one particular resolution, we had one extreme on the left and on this particular instance, we have one on the right, it's all the way over. A little ridiculous because there are members of this Council who in 1965 re-worked the ordinance and I think our responsibility, those of us who came on in 1960, were confronted with from '65 to date. In terms of the earlier resolution that was defeated, I didn't agree with a portion of it.

Mr. Rowlands knew of this, he admitted it to the members of the Council. And, the amendments the City Attorney proposed, certainly took him off the hook very beautifully in terms of responsibility. The Council is only aware of those things that the City Manager wants us to know. Now, good or bad, we who oppose the passage of these two resolutions will be cast in the lot of those who are opposed to helping people, the charitable organizations, etc. that's not the point, contrary to how it will be used, and several references were made earlier in terms of my campaign for the coming election. I find that extremely ridiculous after listening to the bleeding heart on my right, and the impassioned pleas he gives in terms of fairness, etc. But, I quite agree with Mr. Zatkovich, although I'm really tempted to filibuster for

twenty-five minutes at least on it.

Mr. Zatkovich: Let's go George.

Mayor Rasmussen: The Mayor would like to speak to this issue, just briefly. We just had by City Council action a unanimous vote, saying that yes, our City Attorney was right. He gave us the opinion that any court which may review its decision would be hard-pressed to find that its determination was arbitrary or capricious. I don't know the position of the Councilmen that voted for the amendment as offered. They indicated, yes, that the City Attorney was right.

I would point out that in the Lemley letter that was addressed to the Council as an explanation of why we are in the mess we're in at the present time; and it isn't pleasant to tax any organization, charitable or non-charitable, taxes hurt. But, Mr. Lemley had consulted, not with his City Attorney at that time; he had consulted with employers to making the decision, then he had consulted with other elected officials, rather than getting a formal legal opinion.

We have for the Council a formal legal opinion that I think it behooves every Councilman to follow, and it is the only way that we, who are not trained in law, can act. You have Councilmen here, Mr. Bott voted for the law, putting the tax on. Dr. Herrmann voted for the law and many other Council members sitting here tonight, voted for this law. And they said that this tax was to apply equally to all people engaged in business. And, all people except certain organizations paid the tax through the statute of limitations.

Our attorney suggested that we merely make it to apply for four years, and I agree because I agree with the statement made by Mr. Cvitanich, that though the City Manager knew of this since 1959, and that the City Manager advised Mr. Bott of the circumstances, the rest of the Council members did not know of this.

Mr. Bott: This is your opinion.

Mayor Rasmussen: And, it wasn't until we reviewed the report of our auditor Knight, Vale and Gregory, that were hired to make an audit; and they made a point of putting it in their audit, and said, this matter should be cleared up, and the taxes should be imposed. And further, in consultation with the auditors, they said that this report was going in the audit and it wasn't suggested that it be put in the audit by any department up here. This is why we hire auditors, so they make the report to the Council directly.

Now, I can't blame the people, the membership on the Board and the Heads of the organizations for not paying the tax. But, I do blame our departments that have known of this, such as Mr. Rowlands stated. And I don't know how many other taxes may be excused, or may have been excused in the past. But, I do know this, that the people in the City of Tacoma, expect when a law is passed by this City Council, that it would apply equally across the Board to everybody. And this, I think is the main question. Are we going to do as our City Attorney has said, that we have the legal obligation to do, or are we going to say no, we will pay no attention to the opinion of our City Attorney.

I might point out that even the Governor of the State of Washington, when his Attorney General rendered an opinion, he governs himself by that opinion. That's all I have to say. The Councilmen that voted for the amendment and said that four years was proper, I don't know how they are going to reverse their position now.

Mr. Murtland: I think you made one of the rashest statements I've ever heard you make just a few minutes ago when you said, we members of the Council voted unanimously for the four-year statute of limitation, therefore must have agreed with our legal counsel. I'm certain you are enough of a politician to know that sometimes you take the lesser of two evils. In this particular instance, I was in favor of the

City Council Minutes - Page 19 - March 11, 1969

amendment because, certainly, if there was any way in which we could take and hold the line, as it were, four years is better than nothing.

I'm certain that many times in the Legislature, and probably also here, Mr. Mayor, you have voted for an amendment, although you may vote against the initial resolution itself. And, so I don't think you should probably speak for five of us; you might be able to speak for one of the five, but you certainly can't speak for all of us. Because, although I respect Mr. Hamilton, as far as his opinion is concerned, his opinion certainly goes a lot farther than that and doesn't say, this is the only way, and this is the only part of it. That, we certainly have the right So, to consider the full opinion, and not just pick out the one part that considers the four-year statute of limitations.

Dr. Herrmann; I think there are a couple of points here. The first, is in 1965 when this ordinance was passed. It isn't as though this taxing ordinance came out of the blue. In 1965 there was an existing ordinance and what we did in 1965, was to up date some of the penalty clauses, etc. It was not a new ordinance. It isn't as though there was no ordinance prior to that, that we suddenly were made aware of an ordinance. That's one point.

The second is, that two weeks ago, when presentations were made on behalf of these organizations, we heard legal opinions at that time, which was in conflict with some of the legal opinion that Mr. Hamilton presented to us. And, I'm satisfied that even Mr. Hamilton would admit that his opinions aren't handed to us on tablets of stone, that this is his best considered opinion. And that this is the reason you have courts, that if one attorney disagrees with another, they say, let's run it up the pole and see if the judge salutes; and so, they go to court and present their opposing legal points of view.

Now, two weeks ago we sat here as a judicial body and listened to the hearing. The hearing was conducted and I'm certain that everyone who wanted to make a presentation had a fair opportunity to make a presentation. And my judgment is being based on, not what Mr. Lemley did, or the policy and so on, but that these factors all were weighed into the presentations that were so ably presented to the City Council two weeks ago. And, if at that time, as I mentioned then, I don't wear the judges hat very easily, it's not comfortable, but if I have to make an opinion based on the presentation that was made by the attorneys for these organizations two weeks ago, and I think that all of this talk about the statute of limitations and whether what Mr. Hamilton says is fine, and whether you are four good boys or bad boys; all these things are sort of irrelevant. And that the decision on what sort of imposition of taxes is to be made, in my opinion should be based primarily on the presentations that were made two weeks ago at the time of the hearing.

Mr. Finnigan: I demand the previous question.

Mayor Rasmussen: Mr. Finnigan has demanded the previous question.

Mr. Cvitanich: Roll call.

Mayor Rasmussen: The question before the house, before the Council is, shall the demand for the previous question be sustained. Roll call has been asked for. A vote Aye is a vote to sustain the previous question. Ayes 5: Bott, Finnigan, Herrmann, Johnson and Murtland. Nays 4: Banfield, Cvitanich, Zatkovich and Mayor Rasmussen. Absent 0. The demand for the previous question has been sustained.

Mayor Rasmussen: The question before the body is the adoption of Resolution 20083.

City Council Minutes - Page 20 - March 11, 1969

Mr. Cvitanich: Roll call.

Mayor Rasmussen: Roll call has been demanded. Roll call, please. Ayes 5: Bott, Finnigan, Herrmann, Johnson and Murtland. Nays 4: Banfield, Cvitanich, Zatkovich and Mayor Rasmussen. Absent 0.

Mayor Rasmussen: What is the tally.

Mrs. Melton: Five to four in favor.

Mayor Rasmussen: Resolution 20083 is adopted by a vote of five to four.

Mayor Rasmussen: Further resolution.

Mr. Johnson: Mr. Mayor, I move that the next resolution be removed from the agenda.

Dr. Herrmann: Second.

Mayor Rasmussen: It has been moved by Mr. Johnson and seconded by Mr. Herrmann that Resolution 20084 be removed from the agenda. Is there any discussion.

Mr. Cvitanich: Well, earlier in the discussion, when you were referring to these two resolution, Resolution 2083 and 20084, a good deal of light was made about the fact that they are altogether different, that one pertained to one particular segment of the taxes and the other, another. I wonder if, perhaps, the mover of that motion could explain them to me, so it would be clear in my mind.

Mayor Rasmussen: Mr. Cvitanich---

Mr. Cvitanich: Mr. Mayor, I requested the mover of the resolution---

Mayor Rasmussen: Would you clarify the resolution to remove it from the agenda, for Mr. Cvitanich, Mr. Johnson.

Mr. Cvitanich: As opposed to the prior one that was adopted.

Mr. Johnson: I didn't make any statement about that.

Mr. Cvitanich: I say, some member of the Council did, on the majority side of five.

Mayor Rasmussen: Any member of the Council could explain.

Mr. Cvitanich: There was a quite a joke made about it, that you didn't know where you were reading, so maybe they can clarify it for us.

Mayor Rasmussen: Mr. Cvitanich, I think it was quite apparent that there was some double talk. I raised the question on the amount, the dollar amount, because there was quite a lot of difference. I would point out that in answer to Dr. Herrmann, and Dr. Herrmann seemed to make very much of a statement that he had other legal opinions; there were a number of attorneys that appeared before the Council at the hearing and presented very good arguments and they did an excellent job for their clients. There was also a client that said, Yes, we owe the tax, Yes, we would be very happy to pay back for two years. I think that every member of this Council could recall the attorney that was here. I think it was Mr. Lynch. At that time, he said, obviously

City Council Minutes - Page 21 - March 11, 1969

we have had a court decision where the Supreme Court said, the tax was due, and this was all nine members of the court. So I think, on the basis of the legal opinion you received from Mr. Lynch, Dr. Herrmann, that you maybe have a very short memory.

Mr. Cvitanich: I'm still waiting for an answer in response to my question in terms of the difference between the two resolutions. Some member of the Council made the statement and they made light of your position, if necessary we can recess fifteen minutes and replay the tape and get it verbatim. So, I'm waiting here for an explanation from some member of the majority of five whoever made it or knows it.

Mr. Zatkovich: Let's hear it.

Mayor Rasmussen: Mr. Zatkovich there is a strange silence.

Mr. Bott: There is no obligation on anybody's part.

Mr. Zatkovich: As long as no one is going to answer that, I just have a couple of more little excerpts here. First, one Councilman on my right made the remark that he doesn't always go by the City Attorney's decision. That's well and good. He also made the remark that he should have made--have his mind made up so to speak, two weeks ago when he heard other attorneys give their explanation. He forgot that these other attorneys have plenty of time to prepare their case. Our attorney did not know what they were going to come up with; so they in turn went to research and briefing. And do you mean to tell me, ladies and gentlemen, that this is going to be a complete waste of time. You absolutely ignore this. This is hours and hours of work here. Very seldom will our office, our legal department, come out the way they do, except in something like this here unless they were sure.

So all I have to say, somebody thought, and I do, the majority had, they had to get someone off the hook, and to me it's just a rubber stamp vote. Like I say, it's a waste of time, but I'm going to help waste it, as long as everybody insists on it.

Mrs. Banfield: I just want to ask one question. Do you five gentlemen really think that this is good, clean, honest government.

Mr. Cvitanich: I merely request that when the Clerk's office is in the process of typing the minutes I would like verbatim that portion pertaining to the two resolution, when the Mayor was being ridiculed about it, and maybe we will get clarification on it.

Mayor Rasmussen: I would extend that further and ask that the discussion on all of these resolutions relating to taxes be verbatim so that the story will be clearly in the minutes.

Mr. Cvitanich: Mr. Mayor, carrying it a step further I certainly trust that no member of the Council will criticize any member requesting verbatim and go into a long dissertation about the great deal of work involved, when we have (22) pages of legal opinion from our legal staff that we just casually glance at and throw down.

Mayor Rasmussen: I would point out, Mr. Cvitanich, that we have an additional legal opinion here from the staff with (19) pages regarding conflicts of interest, so the staff has done an outstanding job.

Dr. Herrmann: Some of this paper waving. Many of these legal opinions were some

City Council Minutes - Page 22 - March 11, 1969

that have been dragged out of the archives; there is one here that goes back to Sept. of 1961; they are from 1962, they are from 1955; so it isn't as though someone were drafting this this year; George knows it as well as I do, and I don't know why we're waving these papers around and trying to---let's get on with the business of the City.

Mr. Cvitanich: The point I was making is that I don't think anybody should criticize the Mayor or anybody else requesting information verbatim in terms of the work involved.

Dr. Herrmann: I will still maintain the privilege of criticizing verbatim requests. The minutes are here to reflect the actions of the Council and what oratory went on, has nothing at all to do with the actions that were taken, and with the Clerk's office being overburdened as it is, it is an imposition and it accomplishes nothing, and maybe some of the people who have tape recorders would be happy to tape some of these orations and transcribe them so that they could be passed onto your grandchildren, and so on, but I don't see that they serve any useful purposes of the City's business.

Mr. Cvitanich: The portion pertaining to the attempted ridicule of your position on those two resolutions will reflect in the minutes and somebody who made the comment, who evidently knew what they were talking about the two resolutions, but somehow failed to remember what they said or what they meant will be reflected in the verbatim minutes, and I think this is the proper utilization of it.

Mayor Rasmussen: The Mayor would like to state Dr. Herrmann, that if the same ridiculous attitude that you have toward the law, pervades the medical field, God help the patients.

I wanted to say that the one opinion that was brought before you was nine Supreme Court judges setting en banc and you will never find the Mayor laughing at an en banc decision of the Supreme Court of the State of Washington, You may do that, but God help the patients in the medical field.

Dr. Herrmann: If all Mayors acted like you do, God help the cities in the United States.

Mayor Rasmussen: Touchee, and I'm not a patient of yours and you're not one of my clients.

Mr. Finnigan: Mr. Mayor, it is quite obvious that a lot of these wild comments are made in the heat of battle, and under deep emotion apparently. I've heard this kind of reaction before. We don't have minutes of the last meeting, we're behind about three to four weeks now in the minutes, I understand, and if we keep asking for these verbatim things because some of these people spontaneously ask for their verbatim in the heat of battle, I think it is ridiculous to allow that sort of thing to take place. And, we know that this is what actually happens. By the time we get the blomin' minutes we can hardly remember what happened during that occasion anyway. You couldn't put all these things back together to the point of making them worthwhile, so let's use a little propriety here for a change.

Mayor Rasmussen: Thank you, Mr. Finnigan. It would take the Council's permission to allow these people to speak any more; the question--

Mr. Murtland: Say something, Mr. Mayor, maybe it's all right.

Mayor Rasmussen: The question before the body is the motion to remove Resolution 20084 from the agenda without reading it. All those in favor.

Mr. Cvitanich: Roll call.

Mayor Rasmussen: Roll call has been demanded. Ayes 2: Bott and Johnson. Nays 7: Banfield, Cvitanich, Finnigan, Herrmann, Murtland, Zatkovich and Mayor Rasmussen.

Mayor Rasmussen: What is the tally.

Mrs. Melton: I have 2 Ayes and 7 Nays.

Mayor Rasmussen: The motion to remove Res. No. 20084 from the agenda has failed. You now have before you Resolution No. 20084.

Resolution No. 20084 (postponed from the meeting of March 4, 1969)

Setting forth the business and occupational tax liability of the Salvation Army, Goodwill Industries, Y. M. C. A. and Society of St. Vincent DePaul commencing with the second quarter of the year 1968.

Mr. Finnigan: I move the adoption, Mr. Mayor.

Mr. Murtland: Second.

Mayor Rasmussen: Moved by Councilman Finnigan and seconded by Councilman Murtland, that Resolution 20084 be adopted.

Mr. Murtland: May I call on Mr. McLennan. I think he had a question on this resolution I didn't quite understand, to ask him for a comment.

Mayor Rasmussen: Mr. McLennan, Director of Tax & Licenses.

Mr. McLennan: Well, now as I understand this, let's go back to Resolution 20083, is this the intent of Council to assess this liability of what we're talking about, of \$97.53 or not.

Mayor Rasmussen: What was your question.

Mr. Cvitanich: Mr. McLennan is answering my questions, here.

Mr. McLennan: I would like to go back to Resolution No. 20083, and whether or not it is the intention of Council to remove the small liability of \$97.53. Is that all right. All right, how about No. 20084, then; the one that you're talking about here on (84) is the current liability that we're talking about. We're talking about current liability from the period of April 1st, of 1968, in some instances, up through December 31st. Number (83) is your general licenses and (84) is your business and occupation tax.

Mayor Rasmussen: It is quite obvious the Council didn't know what they were voting on, those that voted Aye. Do you wish to discuss your resolution further, this is your resolution, Mr. Johnson.

City Council Minutes - Page 24 - March 11, 1969

Mr. Johnson: (can't hear response)

Mayor Rasmussen: Well, the reason the Mayor was asking for an explanation and the reason the Mayor said it was being removed from the agenda for no reason whatsoever is, apparently the people that sponsored the resolution did not know what was in it. And, I was not in favor of the resolution because I'm following our legal staff in their opinion. Is there further discussion on the resolution.

Mr. Zatkovich: Mr. Mayor, I would just like to make one comment. Again, we're wasting time; it was obvious these votes were counted long before this Council meeting, so let's go on.

Mr. Murtland: You are so right.

Mayor Rasmussen: I have a question, Mr. Hamilton. On Resolution 20083, Mr. Hamilton, what would be the effective date of this resolution.

Mr. Hamilton: It relates back, Mr. Mayor to April 1st, 1968; the second quarter of 1968. Are you asking about (83) or (84), Mr. Mayor.

Mayor Rasmussen: I am asking about (83); what is the effective date of--

Mr. Murtland: We passed that one.

Mayor Rasmussen: This is correct. I'm asking what is the effective date of Resolution No. 20083.

Mr. Hamilton: The amounts, Mr. Mayor, as I understand it are computed as of April 1, 1968, but there is no effective date set forth in that ordinance for the reason that the ordinance relates to taxes and licenses, rather than a continuing type business and occupation tax, therefore, the Council under the administrative code has the authority to adjust claims so the amounts are set forth specifically and only.

Mayor Rasmussen: This relates directly to my question. We have Resolution 20083 already adopted which under normal procedure, without any effective date in the ordinance, would say that the dollar amount would be in effect as of ten days from now, when the ordinance becomes effective, is this right.--I mean resolution.

So Resolution 20083, says that this is the total amount that can be imposed as of tonight, and it has already passed. Then how can we pass Resolution 20084 and say that we go back to April of 1968 and collection of additional amount of monies when we have specified the dollar amount in this resolution, without a date. And the effective date becomes effective on its passage.

Mr. Hamilton: Resolution No. 20083, as I indicated relates specifically to delinquent license fees, which should have been obtained in prior years and were not. Now, that's an obligation but not a continuing sort of obligation. And so the all past due liability of the charitable organizations with reference to the imposition of license fees and taxes, as contained in the assessments on file in this proceeding are established as of tonight at such and such an amount. Now with reference to the business----

Mayor Rasmussen: Let's get this cleared up. In the paragraph above the stated amount of the said liability of \$10.00, where it says, Be It Further Resolved that

City Council Minutes - Page 25 - March 11, 1969

the past-due liability of said charitable organizations with reference to the imposition of license fees and taxes; and it states taxes, which would also include the B & O tax or any other tax that--

Mr. Hamilton: Where is it.

Mayor Rasmussen: It just states, taxes.

Mr. Hamilton: Some place in here, Mr. Mayor, there is a recitation to the effect that this covers only those, exclusive of 6.68

Mr. Bott: Mr. Hamilton, the rest of that paragraph above the amounts, says 'as contained in the assessments on file in this proceedings; so it has the relationship to the license, does it not.

Mayor Rasmussen: Mr. Bott, I want to remind you that the assessment on file in this proceedings were brought up by Mr. McLennan, the total amount.

Mr. Bott: These are separate proceedings.

Mr. Hamilton: This is a specific exemption here.

Mayor Rasmussen: Mr. Murtland.

Mr. Murtland: If you look at the last "Whereas", it more or less brings together all the prior whereases; somewhere in those whereases, it mentions that there is a business and occupation tax liability. It also mentions a specific chapter having to do with admission tax liability and-----

Mayor Rasmussen: Would you point out where the whereas is, Mr. Murtland.

Mr. Murtland: Yes, the last Whereas is on Page 2, the second full paragraph down; "Whereas, it appears to the Council to be in the best interest of the City at this time to determine the liability of said charitable organizations with reference to delinquent and unpaid license fees, if any, and to establish the amount due therefor, if any, Now, Therefore; then it goes on and mentions about that, until it comes out on page 3 with the liability of this, this and this for the various organizations.

Mr. Hamilton: Excuse me, Mr. Mayor, I have what I was looking for. On Page 1, a recitation, "Whereas, the Council of the City of Tacoma, by separate resolution adopted this day, provided for the determination of the tax liability with reference to the Business and Occupation Tax."

Mr. Murtland: Number (84) is the one they are referring to, in the Whereas.

Mr. Cvitanich: Mr. Mayor, I appreciate the clarification on that. You clarified it as Mr. Bott and several others were unaware of it, I guess.

Mr. Murtland: Who was unsure. Speak for yourself, Mr. Cvitanich.

Mr. Cvitanich: Well, I requested whoever made the statement to give me the information, and I think I repeated it and I didn't hear a thing.

Mr. Finnigan: Point of order, Mr. Mayor, this has nothing to do with---

City Council Minutes - Page 26 - March 11, 1969

Mr. Bott: You didn't request, you demanded.

Mr. Cvitanich: As the sponsor--

Mayor Rasmussen: Will the Council be in order and let one person speak at a time. I still have Mr. Hamilton I'm talking to, gentlemen. Thank you.

Mr. Hamilton, where is the Council of the City of Tacoma by separate resolution, adopted this day, provided for the determination of the tax liability with reference to the business and occupation tax--and if I were a court officer and a Judge looking at this, and I would say, what resolution and how would you determine it from this resolution; then I would further on Page 3, which is specifically the paragraph above the dollar amount, which would be the governing factor in my reading of the resolution, it says 'Be it further resolved that the past-due liability of said charitable organizations with reference to the imposition of license fees.' All right, that is one category 'and taxes' which is stated separate. Then, 'as contained in the assessments on file, and then it says the dollar amount.

Mr. Hamilton: In the first place, license fees, license taxes, are used interchangeably. Secondly, on the last Be it further resolved, 'that any and all claims for additional amounts arising out of said assessment by the Director of Tax and License pertaining to license fees imposed pursuant to Title 6 of the Official Code of the City of Tacoma, with the exception of Chapter 6.68, be and the same are hereby cancelled, written-off and compromised, and merged in the foregoing amounts'. So, under your Be it resolved part, you have a specific exemption there relating to the business and occupation tax.

Mayor Rasmussen: Thank you, Mr. Hamilton, as long as you know what Mr. Rowlands wants; the sponsor of the resolution, Mr. Johnson, didn't know what the resolution did, and he wanted it removed from the agenda. I'll be satisfied with your opinion. You have before you a motion to adopt Resolution No. 20084.

Mr. Cvitanich: Roll call.

Mayor Rasmussen: A roll call is requested. Ayes 5: Bott, Finnigan, Herrmann, Johnson and Murtland. Nays 4: Banfield, Cvitanich, Zatkovich and Mayor Rasmussen. Absent 0.

Mayor Rasmussen: Five to four, the resolution is adopted.

END OF VERBATIM

Resolution No. 20089 (postponed from the meeting of March 4, 1969)

Requesting the City Council to make all the necessary arrangements for the securing of a report by certified public accountants based upon an audit of all of the financial transactions of the City of Tacoma.

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

Mr. Cvitanich explained that the City Charter specifically states where the audit should take place and the need for an audit in general government. He hoped the resolution would be passed.

Mr. Johnson explained he was in favor of an audit but he wished it to be a

meaningful audit that would also include the Utility Dept. as well as the General Government. He suggested that the first "Whereas" of the resolution be amended to add at the end of the paragraph, 'except the audit made by the Washington State Auditor'. As the auditor from the State of Washington does audit the books of the City every year.

Mr. Murtland felt as far as the Charter is concerned, it certainly includes the Utility Dept, as they are a department of the City. If there is an audit the Utility Department must be included.

Dr. Herrmann noted that at the meeting of the City Council and the Utility Board last night, the Council was informed that the Utility Dept. had an internal audit very similar to the General Government audit. They also said they were using Mr. Gaisford, Finance Director, as the outside auditor. He felt that the City has sufficient controls for checks and balances in the financial operations and would be opposed to spending any money for such an audit.

Mr. Finnigan stated over the years there has always been an audit of various departments each year, and he felt if these reports are studied they give sufficient information and the present procedure is adequate.

Mr. Murtland moved to amend the first Whereas of the resolution, adding after the word year, the following words, "except the audit of the Washington State Auditor". Seconded by Mr. Bott. Voice was taken. Motion carried.

Mr. Murtland moved to amend the first paragraph under Be It Resolved by the Council of the City of Tacoma, and at the end of the paragraph add, after the word Tacoma, the following words, "including the Department of Public Utilities." Seconded by Mr. Johnson.

Mayor Rasmussen felt that Section 7.14 of the City Charter is a protective provision because it calls for, not only a running audit of all accounts and books of the city by a firm of certified public accountants who are in no way connected with the city government, but also an annual report on the financial condition of the city which shall be submitted to the Council and open to public inspection.

Mayor Rasmussen pointed out also Section 4.14 of the City Charter which relates to Utilities and states, The Board shall maintain such billing, cost and general accounting records as may be necessary for effective utility management or required by State law. Expenditure documents shall be subject to pre-audit by the central fiscal agency of the city government. The City Treasurer shall be responsible for the receipt, custody, and disbursement of all utility funds. The Board shall submit such financial and other reports as may be required by the Council. He noted audits that had been made of the City departments within the last seven years.

Mayor Rasmussen suggested that this resolution be passed unanimously.

Mr. Bott asked what would be the approximate cost of this audit operation.

Mr. Cvitanich explained it would probably be approximately \$125,000.00.

Mr. Zatkovich mentioned he had attended the meeting last evening with the Utility Board and he felt they would not oppose such an audit.

After further discussion, voice vote was taken on Mr. Murtland's amendment that the Department of Public Utilities be included in the audit. Voice vote was taken. Motion carried.

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

Ayes 6: Banfield, Bott, Cvitanich, Johnson, Zatkovich and Mayor Rasmussen.

Nays 3: Finnigan, Herrmann and Murtland. Absent 0.

The Resolution was declared passed by the Chairman.

Resolution No. 20090

Authorizing the proper officers of the City to award, sell or deliver project

notes, project loan notes or other evidence of indebtedness consistent therewith and implementing Section 507 of the Housing Act of 1968.

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

Mayor Rasmussen asked Mr. Wright, Director of Urban Renewal, to explain who handles the selling or delivery of such project notes.

Mr. Wright explained the bids for these notes were opened today at 10 A. M. The Department is satisfied with the bids received on the \$4,105,000 on the project notes for 1969. The two successful bidders were the Bank of California, bidding on \$2,700,000 at an intrerest of 4.56% and the National Bank of Washington on \$1,000,000 at 4.50% interest rate. He noted that the office of HUD was notified of these bids and they concurred with the Department's decision and the awards were made just before the City Council meeting.

Mr. Wright further explained, this is the normal procedure which has already been approved by Council action a number of years ago, relative to the project notes. The Department works under letters of instruction from the Regional HUD office in San Francisco.

Mayor Rasmussen felt that the Urban Renewal Department should come before the City Council each time such notes are to be prepared as he did not feel that federal funds should be handled separately from City Government funds as the Urban Renewal Dept. is a department of City government.

Mr. Wright read the report in part from Knight, Vale and Gregory's Management Audit of 1963-1964. He noted the auditors had stated that the Urban Renewal Dept. undertakes a new function of the general government and this relatively new function places the City in a new position in relation to all levels of government and private organizations. There is a re-evaluation and the purpose of the central government to encourage the development of the City through its own efforts. He also noted that the auditors had stated, all expenses appear proper in respect to the purposes of this department.

Mrs. Banfield asked how the Urban Renewal Dept. keeps their records straight if they have federal funds and city funds paying for different items.

Mr. Strikich, Urban Renewal Auditor, explained, that any expenditures made by the City of Tacoma are reimbursed on a current basis; this involves mainly the payrolls and the payroll checks are issued by the City of Tacoma. The payroll is prepared by the Urban Renewal Dept. showing the exact amount paid by the City of Tacoma which is done at the end of each payroll period. Other items related to Urban Renewal work are paid by the City, but those items are charged through a clearing account and a statement is presented monthly to them from the Finance Department. Mr. Strikich further added, the Department has two or three clearing accounts on the city books as recommended by the Management Audit report. No items are paid out of City funds, chargeable to Federal funds that do not appear in the expense accounts of the City. He also explained that interest expense is chargeable against the project budget, which is a federal activity.

Mrs. Banfield asked, what the procedure would be if the Council decided that all urban renewal projects should cease to exist.

Mr. Wright explained, that the City is under contract in the three projects and if the contract is broken, the City would be placing itself in jeopardy, and he believed the federal government would then take over the projects and charge all costs to the City as a direct City cost.

Mr. Hamilton, Acting City Attorney, stated, this would be the procedure.

Mr. Wright explained, that the Center Street project is being closed out at this time and it is hoped by June of 1969 a report will be submitted to the Council on the federal and summary audits for the full project ; then just two projects will

left in Tacoma. He further explained that the "R-14" project, Downtown Tacoma, is expected to be closed out in 1972 and the Fawcett St. project in 1970 or 1971.

Mr. Wright explained that resolutions which follow on the agenda, Nos. 20096, 20097, 20098 and 20099, all relate to the Urban Renewal Dept. This resolution, No. 20090, provides that prior to the completion of any such transaction, the City shall have received from the United States of America written waivers or consent in connection therewith, implementing Section 507 of the Housing Act of 1968. The Congress had foreseen the difficulties of the money market, and that the resolution states that the government guarantees to pay the difference between the private and contract interest rates.

Mr. Wright explained that Resolution No. 20096 is the master resolution which authorizes the Urban Renewal Dept. to follow the same procedure in going into the private market for project notes. Resolutions No. 20097, 20098 and 20099 will set up a one-time escrow note which authorizes the federal government to, each year, place in escrow the amounts of money to cover the amount of loans for that year.

Mayor Rasmussen asked Mr. Hamilton if the Council should not have the dollar amount spelled out in the resolutions.

Mr. Hamilton, Acting City Attorney, felt that these notes are in lieu of a direct grant or loan from the federal government which is guaranteed to the City as a local public agency and not as a city, under the terms of the loan and grant agreement. The loan and grant agreement provides that the federal government during the course of an Urban Renewal project or projects, will advance or pay to the City so much money, which is the grant, at the termination of the project.

During the working out of the project itself, it will make available funds which the City may borrow from time to time to proceed with the project. Apparently the federal government has decided, rather than loaning its own money to urge the agencies that are participating in its programs to go into the private money market and borrow on interim financing from institutions willing to loan it, and the federal government will guarantee those loans or notes.

Mr. Hamilton, explained further, that the general faith and credit of the City is not at stake here.

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

Ayes 6: Bott, Finnigan, Herrmann, Johnson, Murtland and Zatkovich.

Nays 3: Banfield, Cvitanich and Mayor Rasmussen. Absent 0.

The Resolution was declared passed by the Chairman.

Mr. Bott moved to suspend the rules to consider Resolutions No. 20096, 20097, 20098 and 20099 at this time as they relate to what has just been discussed. Seconded by Dr. Herrmann. Voice vote taken. Motion carried.

Resolution No. 20096

Authorizing the sale issuance and delivery of project notes and the execution of requisition agreements.

Mr. Bott moved that the resolution be adopted. Seconded by Mr. Murtland. Roll call was taken on the resolution, resulting as follows:

Ayes 6: Bott, Finnigan, Herrmann, Johnson, Murtland and Zatkovich.

Nays 3: Banfield, Cvitanich and Mayor Rasmussen.

The Resolution was declared passed by the Chairman.

Resolution No. 20097

Authorizing the issuance of Project Loan Notes in connection with Urban Renewal Project No. Wash. R-1.

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

Mayor Rasmussen moved to amend the resolution on Page 2, under Section 4 by striking the word "Manager" on the first line, and inserting the word "Council". Seconded by Mr. Cvitanich.

Mr. Rowlands, City Manager, explained that the City Manager had been authorized by resolution of the City Council as the Local Public Agency. The discussion this evening has been centered on the administration of this program. He explained that an inventory is taken each year as to how much land is to be purchased, how much is anticipated to be sold and estimates of the progress submitted. The income from the land that has been sold is deducted from the other totals, then that is the total that shows how much money is needed for the coming year. The funds have all been encumbered and set aside and these resolutions are merely the normal administration of the program.

Dr. Herrmann felt that Section 4 deals with an administrative matter and the Mayor is given the right to sign all matters, therefore, he felt the amendment was redundant.

Roll call was taken on the amendment proposed by Mayor Rasmussen, resulting as follows: Ayes 3: Banfield, Cvitanich and Mayor Rasmussen. Nays 6: Bott, Finnigan, Herrmann, Johnson, Murtland and Zatkovich. Motion Lost.

Mayor Rasmussen requested an opinion from the Acting City Attorney in regard to all these Urban Renewal resolutions which allow the City Manager to file documents, etc. for the City of Tacoma.

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

Ayes 6: Bott, Finnigan, Herrmann, Johnson, Murtland and Zatkovich.
Nays 3: Banfield, Cvitanich and Mayor Rasmussen. Absent 0.
The Resolution was declared passed by the Chairman.

Resolution No. 20098

Authorizing the issuance of Project Loan Notes in connection with Urban Renewal Project No. Wash. R-3.

Mr. Johnson moved that the resolution be adopted. Seconded by Dr. Herrmann.
Roll call was taken on the resolution, resulting as follows:

Ayes 6: Bott, Finnigan, Herrmann, Johnson, Murtland and Zatkovich.
Nays 3: Banfield, Cvitanich and Mayor Rasmussen.
The Resolution was declared passed by the Chairman.

Resolution No. 20099

Authorizing the issuance of Project Loan Notes in connection with Urban Renewal Project Wash. R-14.

Mr. Murtland moved that the resolution be adopted. Seconded by Mr. Johnson.
Roll call was taken on the resolution, resulting as follows:

Ayes 6: Bott, Finnigan, Herrmann, Johnson, Murtland and Zatkovich.
Nays 3: Banfield, Cvitanich and Mayor Rasmussen.
The Resolution was declared passed by the Chairman.

Mayor Rasmussen said the Council will now revert back to the regular procedure of the agenda and take up Resolution No. 20091.

Resolution No. 20091

Amending Rule 1 of the rules of the Government of the City Council for the regular Council meetings to adjourn at 9 P. M.

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

A number of citizens spoke against the proposed amendment to Rule 1 of the Council rules.

Mayor Rasmussen moved to add a proviso to the resolution as follows: "that the provisions of this proposed rule change shall not preclude the public from speaking under communications". Seconded by Mr. Zatkovich.

Mr. Murtland explained this resolution was not presented to stop the public from speaking, however, he did feel time is wasted at the Council meetings on inquiries of the staff that should have been taken care of before the meeting.

Mr. Zatkovich felt this resolution would be almost impossible to follow.

Roll call was taken on the amendment to the resolution, that the public would not be precluded from speaking, resulting as follows: Ayes 4: Banfield, Cvitanich, Zatkovich and Mayor Rasmussen. Nays 5: Bott, Finnigan, Herrmann, Johnson and Murtland. Motion Lost.

After further discussion, Mayor Rasmussen stated, Resolution No. 20091, according to Council Rules will be set over for one week.

Resolution No. 20091 was set over for one week, until March 18, 1969.

Resolution No. 20092

Adopting regulations governing and limiting transfers between items within a class in the budget by the chief administrative or finance officer.

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

Mayor Rasmussen explained this resolution was prepared by a number of Council members who felt the Council should not be transferring funds two months after the budget has been adopted. He noted that the Director of Finance has been able to proceed in this manner because there has been no direction by the Council as to how they wished the transfers handled.

Mr. Johnson submitted a substitute resolution.

Mr. Cvitanich asked that Mr. Johnson explain the substitute resolution.

Mr. Johnson explained he felt that any cash amount in the original resolution should be deleted. Whereby the substitute resolution provides that any major sum should be the approval of the City Council, when it exceeds \$5,000.

Mr. Murtland moved that Substitute Resolution No. 20092 be adopted. Seconded by Mr. Johnson.

Mayor Rasmussen requested that Mr. Hamilton explain Regulation No. 1 and Regulation No. 2 of the original resolution.

Mr. Hamilton, Acting City Attorney, explained that Regulation No. 1 requires formal action by resolution of the Council. The resolution, as drafted required that all transfers, however, small or however large, must come before the Council; but the break down is in reference to the formality of the Council action. For example, if the Council used the figure of \$5,000 in the blank space, it would mean that any time a transfer exceeded \$5,000 the Council would approve it by resolution.

He added, in Regulation No. 2, if the figure were less than \$5,000 then Mr.

Gaisford, Finance Director, could report to the Council and it could be approved by motion or some informal action.

Mr. Hamilton further explained that every transfer between items within a class would require Council approval.

Mayor Rasmussen felt this resolution would take care of funds in excess of the budgeted amount.

Mr. Hamilton explained this was just on transferring of funds within a class.

Mayor Rasmussen stated, his concern was that under Mr. Johnson's substitute resolution, the Finance Director would be permitted to make transfers outside the budget that has been authorized by the City Council. His desire is that the resolution state, when the Council budgets a certain amount, it should not be exceeded, unless it is brought to the Council for an emergency appropriation as provided by State law.

Mr. Hamilton, Acting City Attorney, explained they are talking about two different things. One, a total budget, and secondly about a departmental budget.

Mayor Rasmussen stated, the Council wishes to maintain some control over the departmental budgets and if they must exceed their budgets, they will have to have approval of the Council to exceed their departmental budget.

Mr. Hamilton explained, he felt the Mayor had construed the State statute too tightly, even under the existing budget law, within the budget itself, the Finance officer, unless restricted by regulation, has the authority to make those transfers. He does not need an emergency appropriation because the budgeted funds are still there and they are merely being shifted within the same fund.

Mayor Rasmussen felt Mr. Johnson's substitute resolution would destroy what the original resolution was intended to do.

Mr. Hamilton felt that Mr. Johnson's resolution would be setting \$5,000.00 amount. There cannot be any transfers over that amount without Council approval. Less than that, then there could be transfers made by the Finance Director without coming to the Council. Mr. Hamilton continued, the only time that the Director of Finance can transfer funds is between items in the same class where there are available budgeted funds.

Mr. Cvitanich moved that the figure of \$5,000.00 be changed to \$1500.00. Seconded by Mr. Zatkovich.

Mayor Rasmussen requested that the resolution be worded to tie the amount of money down so that it can be used for one transaction for one particular fund. He also requested that the necessary words be added so that the Council would have to receive notice in resolution form.

Mr. Cvitanich moved to postpone the resolution for one week, until Mar. 18, 1969, until the language can be studied and worked out. Seconded by Mr. Zatkovich. A voice vote was taken. Motion was unanimously carried.

The Resolution was postponed until March 18, 1969.

Resolution No. 20093

Authorizing the proper officers of the City to transfer the sum of \$5,258.30 from the Expert Services Account, M & O Category of the Administrative Division of the Fire Dept. to its Salaries & Wage Category.

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

Mr. Cvitanich was excused at this time, 11:45 P. M.

James Reiser, Fire Chief, explained that the Fire Dept. has consolidated their files as far as they could without any professional help. In 1968 the sum of \$4800.00 was budgeted so that a professional file survey could be conducted, to draw up a manual for use by the clerical staff. After securing the help of Remington Rand and a file technician, it was found that sufficient funds were not available for a technician to complete the survey so it was decided that the regular clerical personnel of the department would follow the recommendations of the file technician; but in order to properly achieve this, temporary help is needed to relieve the normal clerical personnel. Therefore, it was necessary to transfer moneys from the M & O in the Expert Services category to the Salaries and Wages account in the sum of \$2,358.30.

Chief Reiser further explained, the other portion of the resolution is in relation to the maintenance at the Fire Station Headquarters. In previous years the Fire Dept. used two floors and the firemen themselves maintained the upstairs level. However, in the new Fire Station Headquarters, the amount of \$3300.00 has been budgeted for a maintenance crew to clean the upper floor. The Department has attempted to contract for this service, but find that the service is too costly and not at all adequate. Therefore, the Personnel Dept. was contacted and they recruited two part time cleaning women who are doing a fine job. In order to pay these women a transfer of funds should be made, again from the M & O Fund, Expert Services Account to the Salaries and Wages account.

Chief Reiser also stated that the money is already appropriated and it will not cost the City additional funds.

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

Ayes 8: Banfield, Bott, Finnigan, Herrmann, Johnson, Murtland, Zatkovich and Mayor Rasmussen.

Nays 0: Absent 1, Cvitanich.

The Resolution was declared passed by the Chairman.

Resolution No. 20094

Authorizing the purchase of eleven Packer Containers from Truckweld Equipment Company for the total cost of \$5,690.03 and waiving competitive bidding requirements.

Mr. Johnson moved that the resolution be adopted. Seconded by Dr. Herrmann. Voice vote was taken on the resolution, resulting as follows:

Ayes 8: Banfield, Bott, Finnigan, Herrmann, Johnson, Murtland, Zatkovich and Mayor Rasmussen.

Nays 0: Absent 1, Cvitanich.

The Resolution was declared passed by the Chairman.

Resolution No. 20095

Appointing Herman Walker as the Model Cities Director.

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

Mayor Rasmussen stated, that a communication was received by the Council from the City Manager relative to the appointment of Mr. Herman Walker as the Model Cities Director. Mayor Rasmussen explained that he was not in agreement with Mr. Rowland's statements because the Model Cities Director would be subject to the Council only, as set out in the Model Cities Application.

Mr. Rowlands, City Manager, explained to the Council that this was discussed

at the study session yesterday and his letter reflected the thinking of the seven Council members present.

Mayor Rasmussen said he wanted Mr. Walker to know that the agreement with HUD specifically states that it is the City Council's responsibility for the program.

Mr. Walker said he felt his duties would be to find the needs of the people in the Hilltop area and present those needs to the City Council with possible solutions.

Mrs. Banfield read an article relative to the Model Cities Program in which it expressed doubt the program would succeed. She further stated, she would have to vote 'no' on this resolution as she was against the Model Cities program.

Mayor Rasmussen felt, if Mr. Walker were appointed as the Model Cities Director, he would have to expand himself to obtain complete representation as nearly as possible from the community within the Model Cities area. He knew that the City Council would work with him on a sound program.

Mr. Zatkovich asked Mr. Walker what his thoughts were toward militant groups and if he could negotiate with them.

Mr. Walker stated, he thought all groups have the right to be heard, even though they do not appear to be reasonable. He noted that the intent of the program is to increase the potential or better the way of life for the persons who live in the Model Neighborhood. The problems of housing, health, transportation and employment must all be considered.

Mrs. Banfield wondered how large a staff is considered for this program.

Mr. Rowlands explained, in the proposal they anticipated approximately ten members, including City staff members. He also mentioned that there must be full cooperation between the Citizens' Advisory Committee and the City Council.

Mayor Rasmussen stated it was the clear intention of the Council that this is to be established within the General Government, and they are not establishing it as a separate department outside, and the budget would be approved by the City Council as well as any appointments to the staff.

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

Ayes 7: Bott, Finnigan, Herrmann, Johnson, Murtland, Zatkovich and Mayor Rasmussen.
Nays 1: Banfield. Absent 1: Cvitanich.
The Resolution was declared passed by the Chairman.

Resolution No. 20100

Approving assignment of real property in the New Tacoma Urban Renewal Project Wash. R-14 between Commonwealth Title Ins. Co. and Commonwealth Title Co.

Mr. Murtland moved that the resolution be adopted. Seconded by Mr. Johnson. Voice vote was taken on the resolution, resulting as follows:

Ayes 7: Bott, Finnigan, Herrmann, Johnson, Murtland, Zatkovich and Mayor Rasmussen.
Nays 1: Banfield; Absent 1: Cvitanich.
The Resolution was declared passed by the Chairman.

FIRST READING OF ORDINANCES:

Ordinance No. 18767

Appropriating the sum of \$2,540.00 or so much thereof as may be necessary from the General Fund of the City for the purpose of paying increased salaries, wages and fringe benefits to the Municipal Judges of the City of Tacoma.

The ordinance was placed in order of final reading.

Ordinance No. 18768

Appropriating \$97,500.00 or so much thereof as may be necessary from the Building Demolition Fund No. 153 and authorizing a temporary loan in the amount of \$72,500.00 from the General Fund to provide working capital to carry on said demolition program.

The ordinance was placed in order of final reading.

Ordinance No. 18769

Appropriating the sum of \$25,000.00 or so much thereof as may be necessary from the General Fund to the Non-departmental Fund for the purpose of paying the City's participation in needed public improvements within the New Tacoma Urban Renewal Project.

The ordinance was placed in order of final reading.

FINAL READING OF ORDINANCES:

Ordinance No. 18763

Vacating the alley between 24th & 25th Sts. N. E. and from 64th Ave. N. E. approximately 320 feet west. (petition of Robert Singleton)

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

Yeas 8: Banfield, Bott, Finnigan, Herrmann, Johnson, Murtland, Zatkovich and Mayor Rasmussen.
Nays 0: Absent 1; Cvitanich.
The Ordinance was declared passed by the Chairman.

Ordinance No. 18764

Vacating East 38th St. and George St. from "A" to East "B" Street. (petition of Bethlehem Lutheran Church et al)

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

Yeas 8: Banfield, Bott, Finnigan, Herrmann, Johnson, Murtland, Zatkovich and Mayor Rasmussen.
Nays 0: Absent 1: Cvitanich.
The Ordinance was declared passed by the Chairman.

Ordinance No. 18765

Vacating East 35th St. from East "D" St. to approximately 125 feet west. (petition of Schwinkendorf-Sousa)

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

City Council Minutes - Page 36 - March 11, 1969

Ayes 8: Banfield, Bott, Finnigan, Herrmann, Johnson, Murtland, Zatkovich and Mayor Rasmussen.

Nays 0: Absent 1: Cvitanich.

The Ordinance was declared passed by the Chairman.

Ordinance No. 18766

Amending Chapter 13.06 of the official code by adding a new section 13.06.067-8 to include property on the east side of Mildred Street between 6th Ave. and North 9th St. extended in an "R-4-L-PRD" District. (Forrester Realty & Mortgage Co.)

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

Ayes 8: Banfield, Bott, Finnigan, Herrmann, Johnson, Murtland, Zatkovich and Mayor Rasmussen.

Nays 0: Absent 1: Cvitanich.

The Ordinance was declared passed by the Chairman.

UNFINISHED BUSINESS:

The Public Works Director presents the assessment roll for the cost of the following improvements:

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

L I D 3672 for sanitary sewers in Ferdinand from So. 56th to 58th and So. 58th from Mullen to Ferdinand St.

Mrs. Banfield moved that Monday, April 28th, 1969 be set as the date for hearing on the assessment rolls for the above L I D's. Seconded by Mr. Finnigan. Voice vote taken. Motion was unanimously carried.

Mr. Murtland moved that any City Council members who may wish to attend the Congressional City Conference in Washington, D. C. on March 30, 31 and April 1st be permitted to do so with the usual expenses paid by the City and that the City Manager also be authorized, if he wishes to attend, with expenses paid by the City. Seconded by Dr. Herrmann.

Mayor Rasmussen felt it would not be necessary for all members of the City Council and the City Manager to attend the conference in Washington, D. C. He felt the Council should delegate one member to attend such a conference.

Roll call was taken on the motion, resulting as follows: Ayes 5: Bott, Finnigan, Herrmann, Johnson and Murtland. Nays 3: Banfield, Zatkovich and Mayor Rasmussen. Absent 1: Cvitanich. The motion was declared passed by the Mayor.

REPORTS BY CITY MANAGER:

Mr. Rowlands submitted a report relative to the State Audit Report of the Sewer Utility.

Placed on file.

Mr. Rowlands said that MC 575, entitled, Use of Transit Buses for Ski Charter, which was submitted to the Council in their agenda, is an excellent resume of how effective the bus program has been for the City.

Mr. Rowlands explained that under MC 576, entitled, Highway Safety Act and Omnibus Crime Control and Safe Streets Act Grant Applications, explains that the State of Washington has become eligible to provide financial assistance to local communities in the areas of highway safety and law enforcement, and requested authority to prepare and submit grant applications for these purposes.

Mr. Rowlands mentioned the copy of the Senate Resolution 1969-23 passed by the State Legislature of the State of Washington, that had commended all citizens who were engaged in the recognition of the needs of the black community during the Mr. Lincoln campaign in Tacoma.

Mr. Rowlands explained that he would like to make one comment in answer to the Mayor as far as the Washington State and Federal funds are concerned. During the last eight years, the City of Tacoma, through the efforts of former City Councilmen, the Mayor and staff members, has enabled this City to receive in State and Federal funds approximately \$54 to \$55 million dollars, where the City has contributed approximately \$10,400,000.00. It was also through the efforts and assistance of the City of Tacoma that the Port of Tacoma received a three and one-half million dollar program to develop the Port. He felt that the small amount of money that has been paid out to consummate these contracts to work with persons at both the State and Federal levels have paid tremendous dividends for all of the citizens of the City of Tacoma.

COMMENTS BY MEMBERS OF THE COUNCIL:

VERBATIM REQUEST BY MAYOR RASMUSSEN:

Mayor Rasmussen: Mr. Rowlands, I thought you were going to produce a report on your regulations regarding the bingo operations, rather than memorials or resolutions that were passed by the----Did you forget that item, that you were going to report on, Mr. Rowlands.

Mr. Rowlands: No, Mr. Mayor, I haven't forgotten that. You're familiar and the Council members, with the policies that have been set on that subject; and if you and the Council members want to change that policy, that should emanate from the Council, not from the City Manager's office.

Mayor Rasmussen: Mr. Rowlands, would you produce that report on the policy in written form for the information of the Council.

Mr. Rowlands: The information has been made available to the City Council, and I would ask the direction of the City Council on that point.

Mayor Rasmussen: Mr. Rowlands, the Mayor is making a direct request. You have said that the Council has established a policy.

City Council Minutes - Page 38 - March 11, 1969

Mr. Rowlands: That, you're familiar with, Mr. Mayor.

Mayor Rasmussen: This policy must be in writing if it is established by the Council. Would you produce the written copy of the policy as established by the Council.

Mr. Rowlands: Mr. Mayor, I'm not going to argue with this point. A year ago when your office was in 354, that was reviewed and discussed with you and the other members of the City Council present. If you want that policy changed, you make the change and make the recommendation.

Mayor Rasmussen: Mr. Rowlands, this is a direct request from the Mayor, that you bring in a written policy statement that you have established then, apparently, because this has never appeared before the Council nor been adopted by the Council.

Mr. Rowlands: Mr. Mayor----

Mayor Rasmussen: Would you produce your version then for the information of the Council, if you cannot produce the Council's version.

Mr. Rowlands: Mr. Mayor, I'm just answering you directly; you are familiar with the policy that was set and I'm going to await the direction of the City Council in this matter.

Mr. Murtland: Mr. Mayor.

Mayor Rasmussen: Mr. Murtland, I'll recognize you as soon as I get an answer from Mr. Rowlands.

Mr. Rowlands: You have my answer, Mr. Mayor. That's my answer.

Mayor Rasmussen: You're flatly refusing a request for information as provided in the Charter, and if requested in public meetings that you, the City Manager, furnish the information that the Mayor has requested.

Mr. Rowlands: I have not refused the information, but you and the Council members---

Mayor Rasmussen: Will you put this portion verbatim, Mrs. Melton.

Mr. Rowlands: If you, Mr. Mayor, want to change that policy, I think it should emanate from you and the Council members, not from the City Manager. It is your policy, you're familiar with it; you act as though you never heard of it.

Mayor Rasmussen: Mr. Rowlands, a gentleman by the name of Mr. Fulgham appeared before this City Council and informed the Council that he had contacted the Police Chief and the Police Chief would give him no satisfaction. He contacted the City Manager, and the City Manager would give him no satisfaction and he appeared before the Council, asking for the Council to make the determination on what rules and regulations were established for the operation of bingo. The Mayor is now asking you once again, Mr. Rowlands; the Council, I have researched the ordinances, there is nothing in the ordinances specifying Council's policy. Now, if you have, Mr. Rowlands, in your office a written policy would you produce that for the information of the City Council.

City Council Minutes - Page 39 - March 11, 1959

Mr. Rowlands: I'm saying to you, Mr. Mayor, you know the policy, so if you want to change, you let me know.

Mayor Rasmussen: Mr. Rowlands, this was an absolute refusal on your part then to produce information as requested by the Mayor.

Mr. Rowlands: You're the one that has set the policy; you're setting the policy in this matter and you know what the policy is, Mr. Mayor. Let the City Council make that decision.

Mr. Murtland: Mr. Mayor.

Mayor Rasmussen: Reproduce that verbatim, Mrs. Melton, please.

Mayor Rasmussen: Mr. Murtland.

Mr. Murtland: I move that the City Manager be not required to inform the City Council as to an alleged toleration policy at regular City Council meetings, but that if the Council requests such a report that same be given at either a regular study session or an executive meeting of the Council, as shall be decided by the Council.

Mayor Rasmussen: Do I hear a second.

Mr. Finnigan: I second the motion.

Mr. Bott: Mr. Mayor, I amend that.

Mayor Rasmussen: It has been moved by Mr. Murtland and seconded by Mr. Finnigan that the City Manager be directed not to answer the Mayor's inquiry.

Mr. Murtland: That isn't the word I used.

Mayor Rasmussen: Would you restate your motion.

Mr. Murtland: That the City Manager be not required----

Mayor Rasmussen: Would you re-state the whole motion.

Mr. Murtland: To inform the City Council as to an alleged toleration policy at regular City Council meetings, but that if the Council requests such a report that same be given at either a regular study session or an executive meeting of the Council, as the Council shall decide.

Mayor Rasmussen: You have heard the motion as stated by Mr. Murtland, is there any discussion.

Mr. Bott: I'd like to make an amendment to that.

Mayor Rasmussen: Mr. Bott, you may offer your amendment.

Mr. Bott: That if such a report be given, it be an oral report and not a written report.

City Council Minutes - Page 40 - March 11, 1969

Mr. Murtland: Second.

Mayor Rasmussen: Mr. Bott has moved that any report that the City Manager gives to the City Council be an oral report,--

Mr. Bott: That's not right--this is relevant to the toleration policy, not any report.

Mayor Rasmussen: You have heard the amendment to the motion, all those in favor of the amendment to the motion say Aye--Roll call, please: Ayes 5: Bott, Finnigan, Herrmann, Johnson and Murtland. Nays 3: Banfield, Zatkovich and Mayor Rasmussen. Absent 1: Cvitanich. What is the tally.

Mrs. Melton: Five ayes, three nays.

Mayor Rasmussen: Five to three, the amendment by Mr. Bott is adopted. We now have the motion by Mr. Murtland before you as amended, that the City Manager be directed not to issue a report to the City Council, and as amended by Mr. Bott---

Mr. Murtland: Wait a minute, at regular City Council meetings, let's get it all in, Mr. Mayor.

Mayor Rasmussen: Will you re-read the motion, Mrs. Melton.

Mrs. Melton: I move that the City Manager be not required to inform the City Council as to an alleged toleration policy at regular City Council meetings, but that if the Council requests such a report, that same be given at either a regular study session or an executive meeting of the Council, as the Council shall decide and shall be an oral report and not a written report on the tolerance policy.

Mayor Rasmussen: You have all heard the motion, as amended. Mr. Zatkovich.

Mr. Zatkovich: Speaking on the motion. I don't know how these motions come into being, etc., but everyone wants to make a motion to do something, one way or the other. Now, what is tolerance. It might be quite broad. I spoke of this before, but as long as it is brought out into the open, maybe we ought to take a second look.

I told you before that I'm for bottoning it up, if that's what the people want. That's the way I'm going to do, I'm going to abide by all the laws. Not only the laws of the City Charter itself, but the others if that's what they want, as long as it is brought out into the open, that's my position.

Mayor Rasmussen: Further discussion on the motion.

Mr. Murtland: Question.

Mayor Rasmussen: Let me say, that I didn't think that I would ever see the day that the City Council, would say, we're going to take something that the public is vitally concerned with, and bury it in an executive session, when the law provides; the law very clearly provides, that action must be taken at a public meeting, open to the public.

Mr. Bott: We've taken action.

Mr. Murtland: Action, Mr. Mayor, you used the right word.

Mayor Rasmussen: And, I'm shocked beyond words, this Council that would be swayed by people, by a lame duck Councilman, that evidently has been covering up for years. Now, I personally have no particular objection to bingo as played in churches.

Mr. Murtland: All right, let's start right there Mr. Mayor.

Mayor Rasmussen: But, let me say this, that in the legislature at the present time there is a bill, introduced by the Attorney General, that has all the provisions that apparently is worrying some Council members. I have the bill some place, I don't bother looking for it, and if the Council members feel if they would desire to have that bill passed, we most certainly should pass a resolution, advocating its passage to the Attorney General at this session of the Legislature. What I think is a bad situation as far as Government is concerned, is that duly elected officials are afraid to bring out before the public whatever policy that has been established; and apparently now there is no policy by the Council, there must be a policy by the administrative staff.

Mrs. Banfield have you ever had any policy discussed with you in regards to gambling tolerance; you're a new member of the Council.

Mrs. Banfield: No Sir, Mr. Mayor.

Mayor Rasmussen: I don't recall that the Mayor has ever had any gambling policy discussed with the Mayor.

Mr. Bott: The Mayor was there.

Mayor Rasmussen: Let me say this, that there was some attempt to bring the subject up in the office, but the Mayor is not about to listen to any backroom attempt to discuss a policy that can't be discussed out in the open with the public. It has been my policy for some twenty-five years of my political life, and I'm not about to change it at this time, when I'm the Mayor of the City of Tacoma, that I am proud to call my home and it has been my home for fifty years. And I think this is one example, that many Councilmen are going to live to rue the day that they have refused to set public matters that are public business.

You have the motion by Mr. Murtland before you, as amended by Mr. Bott. Is there further discussion. Roll call on Mr. Murtland's motion, for a secret session.

Mr. Murtland: Mr. Mayor, that is not so, and I would like to repeat that motion. It happens to say in there----

Mayor Rasmussen: Would you restate the motion.

Mr. Murtland: At a regular study session or an executive meeting of the Council as the Council shall decide.

Mayor Rasmussen: Is that the motion as you have it, Mrs. Melton.

Mr. Murtland: It certainly is.

Mayor Rasmussen: All right, you have the motion as stated by Mr. Murtland. Roll call: Ayes 5: Bott, Finnigan, Herrmann, Johnson and Murtland. Nays 3: Banfield, Zatkovich and Mayor Rasmussen. Absent 1: Cvitanich.

Mayor Rasmussen: What is the tally, Mrs. Melton.

Mrs. Melton: Five to three.

Mayor Rasmussen: Five Ayes.

Mrs. Melton: Yes.

Mayor Rasmussen: Three Nays.

Mrs. Melton: Yes.

Mayor Rasmussen: The motion as stated by Mr. Murtland and amended by Mr. Bott is passed.

Mrs. Banfield asked Mr. Lynn Hodges, Human Relations Director, what he knew about the Court C-Coffee House discussion forum.

Mr. Hodges said he felt any questions about the coffee house had nothing to do with City business. He stated he would be glad to discuss the matter of the coffee house after his office hours.

Mrs. Banfield also asked Mr. Hodges if he recently excluded a member of the minority group from the coffee house.

Mr. Hodges, said he knew nothing about it and it also had nothing to do with City business.

Mrs. Banfield said she had an article from the Chicago Tribune regarding sensitivity training, that she would like to read.

Mayor Rasmussen suggested that the hour was late and perhaps, this could be read at the next Council meeting.

Mrs. Banfield requested that Mr. Hodges be at the Council meeting next week.

Mayor Rasmussen reported for Mr. Cvitanich, the Legislative Committee Chairman, that the committee attended the Legislature last Wednesday and heard debates on the appropriations Bill. They were successful in getting \$30,000,000.00 included in the budget for the cities and it is a coincidence that this is the amount the Mayor had suggested that could possibly be achieved. He noted that the formula for distribution has been somewhat changed, but he is hopeful that as a result it will mean more money for Tacoma and also hopes that the Transit Tax can be removed when this money is received from the State.

Mr. Murtland raised a point of order, stating that a quorum is not now present. Mayor Rasmussen felt that what was left on the agenda did not require a quorum.

CITIZENS COMMENTS:

Mr. Reed residing at 4815-115th SW Court, Lakewood Wash. spoke in favor of a fire protection program for the greater Tacoma area. He hoped that a plan could be worked out.

Mr. John Frai residing at 1423 So. 43rd St., requested that the City Council stop Radio Station KAYE from broadcasting the City Council meetings until their employees belong to a Union.

Mr. Frai also hoped that some of the funds that Tacoma is to receive from the State, will be used to take care of the side streets.

Mr. Frai also mentioned the Utility Department's Storeroom Appliance Stores. Mayor Rasmussen asked that he come back to another meeting as it was so late.

Mayor Rasmussen then requested that Mr. Zelenak and Mr. Nicholson speak at the next Council meeting as the hour is late.

ITEMS FILED IN THE OFFICE OF THE CITY CLERK:

- a. Minutes of the City Council Study Session of Feb. 24, 1969.
- b. Minutes of the Trainee Corps of March 5, 1969.
- c. Report of Traffic Activities for the month of Dec. 1968 from Traffic Division.
- d. Citizen's Information & Services Bureau report for Feb. 1969.
- e. City Planning Department report for Feb. 1969.
- f. Tacoma Employees Retirement System report for Feb. 1969.
- g. Traffic Violations & Court Cases during the month of Feb. 1968 & 1969.
- h. Report on Bails and Penalty from the Municipal Court of June 1968.
- i. The City Clerk advising the 30-day period for filing protests expired on March 6, 1969 for L ID 4839, 4851, 4877 and 4879.
- j. The Bridgebuilder publication for March 1969.
- k. Director of Finance report for December 1968.

Placed on file.

Mrs. Banfield moved to adjourn the meeting. Seconded by Mayor Rasmussen. The meeting was adjourned at 1:30 A. M., March 12, 1969.

A. L. Rasmussen

A. L. RASMUSSEN, MAYOR

ATTEST: *Josephine Melton*
JOSEPHINE MELTON, CITY CLERK